



## **Submission of Civic Trust Auckland**

### **Heritage New Zealand Draft Statutory Policies**

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Civic Trust Auckland (CTA) is a non-profit public interest group, incorporated in 1968, with activities and interests throughout the greater Auckland region.

The aims of the Trust include protection of natural landforms and the preservation of heritage, in all its aspects.

This submission is on the following policies:

- Administration of the archaeological provisions of the Heritage New Zealand Pouhere Taonga Act 2014
- Management and use of historic places owned, controlled or vested in Heritage New Zealand
- Administration of the NZ Heritage List/Rārangi Kōrero
- Administration of the National Historic Landmarks List/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu
- Statutory role of advocacy for historical and cultural heritage

## **1. General Policy on the Administration of the Archaeological Provisions of the Heritage New Zealand Pouhere Taonga Act 2014**

### **Introduction**

The majority of heritage values currently recognised on the List may well reside in built heritage. As an archaeological discipline, buildings' archaeology is relatively new and not well understood. While this may be implicit in Policy 1.3, which acknowledges that "*Heritage New Zealand takes into account all relevant ... disciplines as part of the archaeological authority process*", it would be helpful if this was articulated more explicitly, either in the introduction, as an additional policy under Objective 1, or under Objective 5 in relation to archaeological research.

### **Objectives and Policies**

#### **Purpose and Principles**

Policy 1.10 states: "*When undertaking the archaeological authority process, Heritage New Zealand will take into account the significance of places which are identified as a National Historic Landmark/ Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu*".

It is appropriate that the *archaeological authority* process take into account the significance of *all* places on the List.

#### **Working with affected parties**

Objective 3 states: "*The interests of landowners, applicants and affected parties are considered when making a determination*".

While affected parties will be different in each circumstance, it would be helpful to articulate the general nature of factors on which Heritage New Zealand bases its determination as to which parties are deemed "affected".

#### **Relationship with Resource Management Act 1991**

In relation to Policy 8.2, Heritage New Zealand should work with local government to achieve agreed processes for alignment of HNZPTA 2014 with both the RMA, and, at a more detailed level, the individual plans implemented by individual local authorities under the provisions of the RMA.

## **2. General Policy for the Management and Use of Historic Places Owned, Controlled or Vested in Heritage New Zealand**

### **Introduction**

Since its property portfolio represents the significant balance sheet item, and Heritage New Zealand is likely to remain financially constrained for the foreseeable future, "*imbalance between the property management responsibility of HNZ and the resources available to carry them out*" will continue to constrain the attainment of other objectives.

Notwithstanding the imperative to consider the heritage values of Heritage New Zealand's property portfolio, it is important that the *affordability* of the portfolio be assessed in the context of property fundamentals independent of those heritage values, and be informed by appropriate expertise from within the property sector.

## Objectives and Policies

### Protection and Conservation

Policy 5.13 states that: *“If necessary, for a proper use of the building, completion of more extensive spatial and functional parts should reflect contemporary architecture”*.

The imperative for contrasting style of addition should not be adopted as an absolute. The General Building in Auckland (Heritage New Zealand List Item # 106 <http://www.heritage.org.nz/the-list/details/106>) provides an example of an addition in keeping with the original design which has accommodated successive sympathetic adaptation, including a new retail entrance, without detracting from the building’s significance. Careful detailing clearly distinguishes old and new fabric.

### Adaptation, Development and New Construction

Development and new construction may help facilitate the conservation of a place, but it may also result in the loss of some heritage values.

Policy 6.4(iv) appears to prescribe that new constructions and development be *“readily distinguishable from the heritage fabric so as not to falsify the heritage values or confuse the public understanding of the place”*.

Further to comments above in relation to Policy 5.13, while contemporary and contrasting new constructions and development may be appropriate, the design in each case should be determined on its individual merits. The public has enough intelligence to appreciate well-articulated detail that expresses the transition from old to new fabric without the need for subjective or absolute design prescriptions.

### Access and Use

Objective 7 states that: *“Historic places owned and managed by Heritage New Zealand are made accessible to the public, and provide for the appreciation and understanding of New Zealand’s historic and cultural heritage”*.

There could usefully be greater policy provision made for emerging media. Policy 7.4(iii) states that: *“In cases where physical access is restricted Heritage New Zealand will endeavour to provide interpretation and presentation off-site”*. Heritage New Zealand could usefully strengthen this policy commitment to provide more permanent access to heritage places it owns and manages through some form of internet-based presence and/or interaction.

### Interpretation at Historic Places

Policy 9.3(i) states that Heritage New Zealand will: *“Link Heritage New Zealand properties with other historic places within heritage landscapes or related by themes”*. This is to be commended and these links could usefully be made accessible on a digital platform and include all entries on the Heritage New Zealand’s List.

### Disposal

Heritage New Zealand currently has a respectable but not fully representative portfolio of the country’s significant heritage assets. The organisation is responsible for multiple heritage outcomes, and it should not be obliged as a matter of policy (Policy 15.4) to commit sale proceeds to property activities, but rather, that decision should take into account all the organisation’s priorities at the time of any disposal.

### 3. New Zealand Heritage List / Rārangī Kōrero Policy

#### Objectives and Policies

#### Access to Information

Objective 3 states that the *"New Zealand Heritage List is an easily accessible source of information about New Zealand's significant historical and cultural heritage"*.

The more information that is accessible online, the more comprehensive will be the heritage resources available to various communities of interest. On the basis that Policy 1.6 recognises identification for the purpose of inclusion on the List has been fully researched and documented, Policy 3.5 could usefully commit further than making List reports available upon request to making them available online. Since the items are already on the List, this would not be a project of an urgent nature and one that could be integrated, resources permitting, into an ongoing process of List reviews.

#### Relationship with the Resource Management Act 1991

The text states that: *"We may advocate for the retention of heritage values for New Zealand Heritage List entries in both statutory and non-statutory processes"*. Given that the purpose of the HNZPT Act 2014 is *"to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand"*, while there may be discretion to **advocate for retention** of identified heritage values, there is wide expectation that Heritage NZ will meaningfully engage in relevant processes to **advocate against loss** of such identified heritage values.

If Heritage New Zealand elects as a matter of policy not to advocate in particular cases, it should help facilitate the involvement of other communities of interest in relevant processes. It could, for example, usefully notify local heritage groups interested in Category II items that are the subject of consent applications within their locality if Heritage New Zealand elects not to advocate on behalf of those List items.

#### Scope of the New Zealand Heritage List

Policy 6.4 states: *"Heritage places owned or managed by Heritage New Zealand should be considered for entry on the New Zealand Heritage List, recognising the contribution that they make to the historical and cultural heritage of New Zealand"*.

Only properties that make a contribution to the historical and cultural heritage of New Zealand should be owned by Heritage New Zealand. All properties in its portfolio therefore should **be entered** on the List rather than simply **considered** for entry on the List. If properties are of insufficient heritage or cultural value to justify entering on the List then they should be disposed of.

#### The application process

The introduction to this part of the policy states that: *"Any person can apply in writing to nominate a historic place, historic area, wahi tupuna, wahi tapu or wahi tapu area for entry on the New Zealand Heritage List"*.

To enable Heritage New Zealand to carry out its statutory functions, s.67(1) of the HNZPT Act 2014 states that: *"Heritage New Zealand Pouhere Taonga or any other person may apply to Heritage New Zealand Pouhere Taonga to enter a historic place or historic area on the New Zealand Heritage List/Rārangī Kōrero"*. The wording from the Act should be adopted in the policy to clarify that besides property owners or

members of the public, Heritage New Zealand generates its own applications for entries onto the List.

Policy 7.11 identifies the desirability of generating agreement and support in prioritisation of applications. Heritage values exist independent of an owner's agreement as to the existence of those values. Heritage New Zealand's prioritisation of applications should not give undue weight to an owner's agreement to any application that would result in risk to significant heritage fabric.

Policy 7.13. states: *"Applications should not be progressed as proposals for entry on the New Zealand Heritage List for any property undergoing substantial physical change at the time of application which could impact on an assessment of significance"*.

Plans for heritage places evolve and change, and improved outcomes are often achievable through well-informed discussion and negotiation. The threshold for **"substantial physical change"** therefore should be **consented change** and *not* merely *planned change*.

Policy 8.14 states: *"Heritage New Zealand maintains guidelines for the entry of historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas on the New Zealand Heritage List"*.

It is assumed that, as a matter of process, those decisions are made by the Board of HNZPT upon the recommendation of the Māori Heritage Council.

### Consultation

Policy 9.2 states: *"Heritage New Zealand will consider entry by agreement with the owners and any registered interests in each case, but if there are several owners or registered interests, or if the New Zealand Heritage List entry proposal is of particular interest to the public and it would be of benefit to notify, then public notification will be considered"*.

Explanation could be usefully provided as to the broad principles applied by Heritage New Zealand in assessing whether or not there is a *"particular interest to the public"*.

### Decision making

Policy 12.11 addresses decisions on List proposals. Informing the public of decisions *"by way of notice"* should be extended to encompass such advice on HNZPT's website.

## 4. National Historic Landmarks List/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu

### Introduction

The introduction states: *"The Minister's list of National Historic Landmarks will recognise our places of outstanding national heritage value and assist in setting national priorities for heritage conservation"*. There is some doubt as to whether referring to it as *"The Minister's List"* will encourage the broadest level of support.

The introduction further states: *"Our heritage is at risk from damage or destruction, sometimes caused by natural disasters"*. Notwithstanding that **economic pressures** are generally the most pressing risk, the policy inference is that the purpose of the

National Historic Landmarks List / Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu is to protect places of outstanding national heritage value from natural disasters.

### **Purpose and principles**

Policy 2.3 states that: *"Heritage New Zealand recognises the principle that there is value in central government agencies, local authorities, corporations, societies, iwi and hapū, and individuals working collaboratively to identify, protect and conserve National Historic Landmarks"*.

Such collaboration could enable the National Historic Landmarks List to evolve as a qualification for eligibility for financial incentives funded at central government level.

### **Promotion and engagement**

Policy 5.3 states: *"Heritage New Zealand makes the information about National Historic Landmarks available for public inspection on its Internet site and notes National Historic Landmarks status in the corresponding entry on the New Zealand Heritage List"*.

The words *"public inspection"* might usefully have the words *"and interaction"* added. This could have prioritisation for Heritage New Zealand's website development and be integrated with actions giving effect to Objective 6 policies promoting engagement.

### **Māori heritage values**

It is acknowledged that: *"Places of greatest heritage value to the people of New Zealand will include Māori heritage places or have Māori heritage values"*.

Policy 7.1 states that: *"Heritage New Zealand recognises that National Historic Landmarks may have Māori heritage values or be sites of interest to Māori"*. The policy statement should reflect that, notwithstanding a particular interest by Māori in their own heritage, the policy could usefully comment that Māori heritage is also of value to all New Zealanders.

### **Nomination and Assessment**

Policy 8.4 states that Heritage New Zealand may consider appropriate legal protections to include *"(d) being scheduled in a District Plan in such a way as to provide ongoing protection from demolition or significant modification"*. Since any person can change a plan under the provisions of the First Schedule of the RMA, the Landmarks List should make provision for subsequent plan changes.

Policy 8.5 states: *"Heritage New Zealand may reject nominations for places that are threatened by risks that cannot be adequately managed"*. This policy needs explanation since its meaning and purpose are unclear.

Objective 9 states: *"National Historic Landmarks are a collection of our most significant heritage places ..."* Since owner agreement is required for inclusion on the National Historic Landmarks List, and it is uncertain which owners of heritage places will seek inclusion on that List, it would be more accurate to state: *"National Historic Landmarks are a collection of **some of** our most significant heritage places ..."*

## 5. Statutory Role of Advocacy for Historical and Cultural Heritage

### Introduction

#### What are the challenges in conserving and historical and cultural heritage?

Heritage New Zealand identifies that: *"Our historical and cultural heritage is at risk from natural hazards and under threat from development"* and that *"In some areas, the pressure of development results in demolition of heritage buildings"*.

The pressure of development is significant, as are the costs associated with heritage retention, and the statement *"generating an economic return is important to enable owners to care for the building"* could more usefully be stated as an imperative.

### Background and context

#### What is statutory advocacy?

This advocacy policy states: *"Heritage New Zealand advocates for historical and cultural heritage in a variety of ways including ... where necessary becoming involved in the formal consent process"*.

The *New Zealand Heritage List* includes *"New Zealand's significant historical and cultural heritage"* and there is an expectation that involvement in the formal consent process would be necessary for applications where there is the potential for significant adverse effects on items on Heritage New Zealand's List. Heritage New Zealand's commitment to satisfy this expectation should be made explicit or otherwise.

Heritage New Zealand also advocates by providing *"input to the development of government policy that has implications for historical and cultural heritage"*, and this could usefully include an aspirational goal to develop a National Policy Statement on Heritage.

#### Why publish a policy?

The text suggests that the purpose of the advocacy policy is to set out *"our objectives for the sustainable management of our most significant historical and cultural heritage"*. It is assumed that *"our most significant ... heritage"* means that heritage which is included on the New Zealand Heritage List

#### What does the Statutory Advocacy Policy cover?

The text states that: *"Section 13(1)(c) confers a very broad advocacy role. It is supported by specific sections of the HNZPTA such as the power under section 14(1)(a) to advocate Heritage New Zealand's interests at any public forum or in any statutory planning process"*. Stated this way, the text conveys broad discretion.

Accurately but alternatively stated, section 14(1)(a) empowers Heritage New Zealand to *"advocate its interest at any public forum or in any planning process in which it has standing under an act"* and section 13(1)(c) states one of its functions is *"to advocate for conservation and protection of historic places, historic areas, wāhi tapūna, wāhi tapu and wāhi tapu areas"*. Read this way, it appears there is a greater expectation that Heritage New Zealand will engage in advocacy

## Principles for sustainable management of historic heritage

The principles set out in the text appear generally sound.

Principle 3 (regarding "*Enhancing resilience*") should give adequate weight to the very real risks around adaptive reuse/economic resilience.

Principle 6 (about "*Best practice and sound information base*") should place greater emphasis on the economic ramifications of heritage recognition, and HNZPT should develop its knowledge around that matter.

## Objectives and Policies: How we advocate to conserve historical and cultural heritage

### Promoting the conservation of historical and cultural heritage

Policy 1.1 recognises "*that the identification, protection, preservation and conservation of New Zealand's historical and cultural heritage should ... take account of the cumulative effects of a series of incremental changes*". The policy could usefully state that incremental changes to both places and areas on the New Zealand Heritage List will be considered.

### Addressing the most important issues

Notwithstanding that the policy sensibly notes: "*It is more effective to devote resources to non-adversarial methods*", there could usefully be some policy recognition of the leadership role of Heritage New Zealand in pursuing Environment Court proceedings on matters of principle (such as the Masonic Tavern and Harcourts cases).

Policy 3.1 states: "*We encourage local authorities to provide incentives for heritage protection, including but not limited to rates relief, loans and grants, fee waivers, and relaxation of planning provisions to facilitate adaptive reuse where such a relaxation would lead to a better heritage outcome*". There could usefully be a related policy stating that Heritage New Zealand will develop robust cost-benefit analyses of various incentive options to underpin its promotion of such protection mechanisms.

### Information base for advocacy

Policy 5.2 states: "*We identify gaps in the information needed to assess risks to historical and cultural heritage and methods of improving the resilience of this heritage*". The economic resilience of heritage requires a comprehensive understanding of the costs and benefits of heritage retention at both a site specific and macro-economic level. The policy should direct Heritage New Zealand to become a leading source of well-informed information on the economics of heritage.

## Objectives and Policies: who we work with in advocating for historical and cultural heritage

### Engaging with communities and local groups

Objective 9 identifies the need for: "*Local communities and community groups ... [to] have the skills and information to actively participate in decision-making on how that heritage is managed*". Giving effect to that objective, Policy 9.2 states that Heritage New Zealand will "*provide information on the legislative processes available for protecting historical and cultural heritage ...*" If Heritage New Zealand decides for some

reason not to submit on a proposal with the potential for adverse effect on Listed heritage of local significance, there could usefully be some policy direction on how it will formally engage with local communities or local groups.

### **Working with owners**

The text states that: *"Heritage New Zealand specialists encourage owners to contact them for guidance and support, and in giving advice we are respectful of the interests of the owners and their plans for the property"*. In order to avoid any apparent bias, the word "respectful" might usefully be replaced with "mindful".

### **Working with local government**

Objective 11 states: *"Heritage New Zealand works collaboratively with local authorities to ensure that local planning processes provide for the identification, conservation and protection of historical and cultural heritage"*. A new policy (similar to 11.1) could usefully state: "We work with local authorities to ensure that we are consulted on the heritage components of consent applications at the pre-planning consultation stage".

Policy 12.2 states that: *"We specifically advocate for the recognition and protection of cultural heritage and sites... in RMA plans ..."*. There could usefully be a policy which promoted alignment across RMA plans of methodologies for heritage assessment.

Policy 13.2 states: *"We may submit in opposition to resource consent applications that result in the destruction of significant historical and cultural heritage places, sites or features, where there are reasonable alternatives"*. If there are no reasonable alternatives, it is acceptable that Heritage New Zealand would not submit in opposition. If, however, there are reasonable alternatives, there is an expectation that it may submit in support of those reasonable alternatives or would submit in opposition to the destructive alternatives.

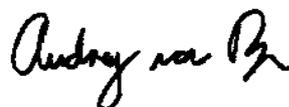
### **Working with central government**

Policy 15.3 states: *"We specifically advocate for the recognition and protection of cultural heritage and sites, in consultation with iwi and hapū, in the objectives, policies, and methods in RMA plans, including encouraging the development of schedules and appropriate rules to protect cultural heritage [see also Policy 5.2]"*.

As commented in relation to Policy 5.2, the economic resilience of heritage requires a comprehensive understanding of the costs and benefits of heritage retention at both a site specific and macro-economic level, and the policy should direct Heritage New Zealand to provide central government with well-informed information on the economics of heritage.

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Signature:



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