

BEFORE THE HEARING COMMISSIONER

**IN THE
MATTER OF**

**The Resource Management Act
1991 (the RMA)**

**IN THE
MATTER OF**

**An application for a resource
consent for the redevelopment
of the former Hamilton Hotel
building and associated site at
170 Victoria Street, Hamilton**

**STATEMENT OF EVIDENCE OF CAROLYN ANNE MCALLEY FOR AND ON BEHALF OF
HERITAGE NEW ZEALAND POUHERE TAONGA**

1. INTRODUCTION

- 1.1 My name is Carolyn Anne McAlley. I hold the qualification of a Bachelor of Planning degree (1993) from Auckland University. I have over 20 years planning experience in local and regional government, in consenting, implementation and policy based roles in Auckland and the Waikato. I am a member of the New Zealand Planning Institute.
- 1.2 I have been employed by Heritage New Zealand Pouhere Taonga (HNZPT) since August 2012 in the Lower Northern area office based In Tauranga in a senior planner role. This office covers the Waikato, Bay of Plenty and Gisborne regions. Part of my role includes providing statutory planning advice in relation to proposals under the Resource Management Act 1991 (RMA) including resource consents and proposals for additions and alterations, adaptive reuse and earthquake strengthening of heritage buildings.
- 1.3 Although this evidence is not prepared for an Environment Court hearing I have read the Environment Court Code of Conduct for Expert Witnesses Practice Note 2014 and have complied with it when preparing this evidence. I confirm that the topics and opinions addressed in this statement are within my area of expertise. I have not omitted to consider materials or facts known to me that might alter or detract from the opinions that I have expressed.
- 1.4 I have undertaken two site visits in relation to this resource consent application, the first visit on 12 of July 2019 and the second visit on 20 August 2019. I have also visited the site on previous occasions in relation to queries and consent applications from the previous owner.

2. SCOPE OF EVIDENCE

- 2.1 HNZPT is New Zealand’s lead heritage agency and operates under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). Included as the purpose of the HNZPTA is: *“To promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.”* HNZPT meets this purpose in a number of ways, including advocacy and active involvement in Resource Management Act 1991 (RMA) processes for heritage.
- 2.2 HNZPT sought a range of matters to be addressed in their submission to the notified application.
- 2.3 In preparing this planning evidence I have relied on the expert statements of my colleagues as follows: Robin Byron in relation to Built Heritage, Makere Rika-Heke in relation to Cultural Values and Consultation and Dr Rachel Darmody in relation to Archaeology.

2.4 In preparing this evidence I have read the section 42A report for the Council and the statements of Evidence of Planning, Project Description and Design, Heritage, Noise and Vibration, Archaeology and Arboriculture from the applicant.

3. LEGISLATIVE FRAMEWORK

3.1 The purpose of the RMA is to “*promote the sustainable management of natural and physical resources*”. Section 5 of the Act states:

“In this Act, sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate which enables people and communities to provide for their social, economic, and cultural well being and for their health and safety.”

3.2 Section 6(f) of the RMA requires that any proposal “*recognise and provide for... the protection of historic heritage from inappropriate subdivision use and development*”.

3.3 In terms of Part 2 RMA matters, historic heritage is part of the environment. Therefore adverse effects on historic heritage must be avoided, remedied or mitigated (as required by section 5).

3.4 The RMA defines historic heritage as:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

(i) archaeological:

(ii) architectural:

(iii) cultural:

(iv) historic:

(v) scientific:

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iv) surroundings associated with the natural and physical resources

4. HNZPT SUBMISSION

4.1 HNZPT made a submission to the notified application that has been summarised within the Planner's report. The submission outlined concerns related to possible adverse effects on Archaeology, Built Heritage and significant trees. Section 5 of this evidence contains a response to the planner's report and a discussion of the matters that are still considered to be outstanding.

- 4.2 In summary, the concerns raised in the submission pertaining to built heritage are considered to be met through the imposition of the recommended conditions of consent subject to several amendments. The concerns raised regarding archaeological matters are still considered to be outstanding, and I consider additional information should be sought to inform the commissioners decision making. I have included a discussion related to cultural values associated with archaeological matters given the archaeological site in question is an Urupa and we await the hearing process to see if any additional information is provided through submitters attending the hearing. HNZPT staff will also discuss other interested parties. With regard to Arboricultural matters it is noted that the s42A report advises that the effects can be mitigated to an acceptable level, therefore I will make no further comment in this regard accepting the advice of experts that the recommended conditions will ensure the retention of these elements of the historic setting.

5. RESPONSE TO PLANNER'S REPORT/RECOMMENDATIONS OF THE PLANNER'S REPORT AND APPLICANT'S EVIDENCE STATEMENTS

5.1 Archaeology

- 5.1a The consideration of archaeology under the RMA, as part of historic heritage, requires local authorities to give effect to Section 6, through District Plans scheduling historic heritage, including archaeological and cultural sites and including related provisions to ensure adverse effects are avoided. Conversely the HNZPTA has a system to require and grant authorities to modify or destroy archaeological sites, and preserve information gained during the modification/destruction process. In a limited number of instances applications for Authorities are declined.

- 5.1b I am concerned that the works proposed as part of this RMA process may result in adverse effects on the Scheduled 8C Group 2 Archaeological and Cultural Sites: Site A123 Hua O Te Atua Urupa (the Urupa). The background to the inclusion of the Group 2 sites within the Hamilton City Council Operative Plan (the Plan) is stated in the Purpose section of the Historic Heritage chapter as:

"19.1.c) Schedule 8C: Group 2 Archaeological sites and Cultural sites in Volume 2, Appendix 8, identify areas where there is higher potential for finding artefacts and archaeological sites."

- 5.1c The non-complying status of this application has allowed consideration of all effects, including on archaeology. An archaeological assessment and Addendum has been submitted as part of the application. The application advises that the consideration of the values of the Urupa have informed the location of works and construction methodology. The Council's archaeologist has accepted the proposal and has relied in part on the recovery of information through the as yet to be obtained HNZPT authority process as mitigation under the RMA.

- 5.1d It is appreciated that the applicant has sought through design measures to minimise the intrusion into the Urupa¹, however as the exact extent and condition of the Urupa does not appear to be able to be defined at this time it is difficult to comment if the design measures are indeed sufficient to ensure the effects are no more than minor on archaeological values.
- 5.1e As Dr Darmody will explain, the assessment, its review by the Council Archaeologist and the additional Archaeological Evidence has not provided any increased certainty that the effects of works within the Urupa will be no more than minor. Dr Darmody has advised that the proposal should avoid the Urupa on the basis of current information². Dr Darmody has also advised that an archaeological field survey of the Urupa should be undertaken for the purpose of mapping to define the extent and to understand the current features and landforms within the Urupa³. Given the sensitive nature of the site and Dr Darmody's concern around the levels of archaeological information I concur with this recommendation and I would recommend this work is undertaken as soon as possible to inform this consent process and the commissioner's decision making.
- 5.2 Cultural values and Consultation
- 5.2a There has been interest in the consultation that has been undertaken with regard to cultural values and interests in this application and the site on which it is proposed to be located in particular the proposed works in the Urupa. HNZPT has a long established view that consultation should be undertaken and provides advice to applicants around this matter. My colleague Makere Rika-Heke is able to talk further on the matter of consultation.
- 5.2b It is acknowledged that the applicant and their agents have undertaken consultation with many parties who are in support of the proposal. The proposed condition Mana Whenua Engagement (proposed condition 9) will assist to ensure that this process of engagement continues as the project develops in the event that it is approved.
- 5.2b. There would be benefit in additional consultation being undertaken with any mana whenua who have expressed an interest in this resource consent proposal. This would preferably be undertaken and the results tabled prior to decision making. In the alternative should the application be approved this same requirement could be a condition of consent.
- 5.2c At the time of writing, the applicant has advised in their Planning Evidence that they have not been able to engage with one of the submitters who opposed the works in the Urupa⁴. It may be that this submitter attends the hearings and we await any comments they may make on this matter.

¹ Statement of Evidence of Mark Allen Vinall on behalf of the Applicant, pg. 35, para 11.69

² Statement of Evidence of Rachel Sarah Darmody for Heritage New Zealand Pouhere Taonga, pg 10, para 43

³ Statement of Evidence of Rachel Sarah Darmody for Heritage New Zealand Pouhere Taonga, pg. 9 and 10, para 43

⁴ Statement of Evidence of Mark Allen Vinall on behalf of the Applicant, pg. 55, para 11.159

5.2d In some instances the requirements for consultation for an archaeological authority may differ from the requirements for an RMA related process. Related to this is the mention in the Applicants Project Description and Design Evidence, in which the authority consultation requirements⁵ have also required the applicant to talk to Mr. Wiremu Puke from Nga Mana Toopu O Kirikiriroa (NaMTOK). At the time of writing I understand that the consultation has commenced and will be ongoing. As I understand it, Mr. Puke instigated the inclusion of the Urupa into the Plan. I understand that he currently opposes the proposed works in the Urupa however Mr. Puke is not a submitter into this RMA process.

5.3 Built Heritage

5.3a The HNZPT submission raised a number of matters with regard to built heritage including an overall concern regarding the level of information and certainty over the potential of conditions to mitigate adverse effects. The reporting planner's recommendation of the built heritage effects being acceptable, at a more than minor effect, is reliant on a reasonable number of conditions as recommended by the council's built heritage advisor.

5.3b Robin Byron, HNZPT conservation architect, in her statement of evidence, is supportive that the recommended conditions address for the most part the matters raised in the HNZPT submission. It is however considered by Ms. Byron that several of the recommended conditions, relating to the stability of the heritage building, the Queen's Suite and Interpretation require refinement to better address the concerns raised by HNZPT. These matters are briefly discussed below with suggested amendments.

5.3c Stability of the Heritage Building

In section "(ii) Staging of Works on the site" of the HNZPT submission, the discussion related in part to the stabilisation of the Heritage Building. While the recommended Scaffold Design (recommended condition 28)⁶ condition is supported, as advised by Robin Byron⁷ the recommended Heritage Construction Management Plan (HCMP) condition (recommended conditions 89-96) should be amended to cross reference to the Construction Noise and Vibration Management Plan (CNVMP) conditions 71-76 with a new clause included to address the potential effects of vibration on the heritage building. The suggested amendments (additions underlined) are as follows;

"Condition 90. The objective of the HCMP is to guide the demolition and construction works in relation to heritage, to ensure that the works are undertaken in accordance with good practice conservation principles and methods, so as to mitigate or remedy adverse effects on heritage values. Measures to protect the heritage building against the effects of vibration from site

⁵ Statement of Evidence of David Wayne Pugh on behalf of the Applicant, para 9.4

⁶ S42A Report, Attachment 1-Recommended conditions of Consent (Clean Version), pg8

⁷ Statement of Evidence of Robin Byron for Heritage New Zealand Pouhere Taonga , pg. 4, para 6.6

works and demolition are included as part of the Construction Noise and Vibration Management Plan conditions 71-76.”

“Condition 74. The objectives of the CNVMP are:

(a) Identify and adopt the Best Practicable Option for the management of construction noise and vibration, including the effects of vibration on the Heritage Building and the remedy of any effects of vibration on the condition of the Heritage Building;”

5.3d The Queen’s suite

In section (viii) of the HNZPT submission the discussion related to the retention of the Queen’s Suite. The salvage of the Queen’s Suite is captured in recommended condition Heritage Construction Management Plan at 91(f)⁸ and its reconstruction in recommended condition Restoration Plan 88 (c)⁹. I concur with Mr. Pugh and Ms. Byron there would be benefit in the salvaged parts of the Queen’s suite being reused within one room if possible. This is a preferred way to tell the story of the Queens visit to Hamilton, with associated interpretation as suggested by Ms. Byron. This would also assist to fulfill the interpretation requirements identified as mitigation and captured at recommended condition 131. I recommend that condition 88 (c) v. is amended to reflect this interest as follows (additions underlined);

“88 (c) v. Timber fixtures and fittings from the area known as the Queen’s Suite on level 2 of the Hamilton Hotel, with the Timber fixtures and fittings from the bedroom to be retained as a group of items within the Heritage Hotel.”

5.3e Interpretation

In section (ix) Interpretation of the Sites History the HNZPT submission anticipated that the consent could show indicative interpretation and locations to reflect the rich history of the site. The Recommended condition 131¹⁰ captures this interest advising that such interpretation would be displayed at three locations within the project. I concur with this recommendation given the complexity of the interpretation required, where discrete locations may be more appropriate to facilitate separate interpretative material that will tell the stories relating to the complex and rich history of the site. For these reasons I cannot support Mr. Vinall’s suggestion that interpretive material is restricted to one location.¹¹ Ms. Byron considers that the user experience of the interpretation could be enhanced with the interpretation being integrated into the proposal as outlined in her Evidence.¹² I therefore consider that recommended condition 131 should be amended as follows (additions underlined);

⁸ S42A Report, Attachment 1-Recommended Conditions of Consent (Clean Version), pg22 & 23

⁹ S42A Report, Attachment 1-Recommended Conditions of Consent (Clean Version), pg21

¹⁰ S42A Report, Attachment 1-Recommended Conditions of Consent (Clean Version), pg35

¹¹ Statement of Evidence of Mark Allen Vinall on behalf of the Applicant, pg. 32, para 11.51

¹² Statement of Evidence of Robin Byron for Heritage New Zealand Pouhere Taonga , pg. 4 &5, para 6.9

“131. The appointed Conservation Architect and Appointed Archaeologist shall, in consultation with HNZPT and Councils Heritage Specialist, undertake a programme of both integrated and story board interpretation to be included and displayed in the new theatre, art gallery and hotel complex as a visual and written record of the development of the place (both the site and its buildings) over time. This shall be completed and installed within 12 months of the completion of the construction works associated with the project”.

- 5.3f Therefore, subject to the recommended conditions, including the minor amendments as sought throughout this evidence, I concur with the reporting planner that the effects of the proposal will be mitigated to an acceptable level with respect to the built heritage aspects of the proposal. With regard to the HNZPT concerns related to certainty of outcome, I concur with Ms. Byron that the substance of the concerns raised by HNZPT have been met as a process to develop, review and agree the detail¹³ has been provided through the recommended conditions of consent, many of which include the involvement of the appointed conservation architect and consultation with HNZPT.
- 5.3g The heritage building is significant for a range of elements, as identified in the Hamilton Hotel heritage inventory form, which include historic qualities, physical qualities, context and group values. The proposal, while involving partial demolition, has acknowledged these qualities with the positive effects of the restoration of the building, enhancing its appearance and maintaining for the most part its contribution to the group of surrounding heritage buildings. The earthquake strengthening and refurbishment of the building will ensure the retention of the heritage values of the remaining part of the building. The new hotel use within the heritage building creates an ongoing link with the history of the site and provides an opportunity for interpretation. The proposal will enable further earthquake strengthening of the building (Policy 19.2.3i), its adaptive reuse (19.2.3g), the protection in part of a significant building (Objective 19.2.3) and its enhancement (Policy 19.2.3c). With regard to the related objectives and policies, I consider that overall the proposal is not contrary to the Objectives and Policies of the Plan and the Waikato Regional Policy Statement with regard to built heritage.

6. CONCLUSIONS

- 6.1 The RMA requires that the protection of historic heritage should be *recognised and provided for the protection of historic heritage from inappropriate subdivision use and development* as a Matter of National Importance (Section 6(f)). As subdivision, use and development have the potential to significantly detract from built and other historic heritage, it is important that in the event that the application is approved that the relevant conditions limit the potential for adverse effects to occur.

¹³ Statement of Evidence of Robin Byron for Heritage New Zealand Pouhere Taonga , pg. 4, para 6.4

- 6.2 With regard built heritage I seek that the recommendations of the reporting planner, subject to the revisions sought in this evidence are retained should the consent be approved.
- 6.3 With regard to archaeological and cultural values I seek that further information is sought prior to decision making in the form of; consultation with any mana whenua who are interested in the proposal; and an archaeological survey and the appropriateness or otherwise of the works in the Urupa is reviewed in light of the information gained from the survey.
- 6.3 I am able to answer any questions that you have relating to this statement.

Dated 7 October 2019

Carolyn McAlley

