

BEFORE THE HEARING PANEL

**IN THE
MATTER OF**

The Resource Management
Act 1991

AND

**IN THE
MATTER OF**

Proposed Plan Change 9 to
the Operative Hamilton City
Council District Plan

**STATEMENT OF EVIDENCE OF ELEANOR JENEEN STURROCK
ON BEHALF OF HERITAGE NEW ZEALAND POUHERE TAONGA
ARCHAEOLOGY**

DATED 22 SEPTEMBER 2023

1 INTRODUCTION

- 1.1 My full name is Eleanor Jeneen Sturrock.
- 1.2 I have a Bachelor of Arts in Archaeology with Honors (2012) and a Master in Anthropology (2013) from the University of Auckland.
- 1.3 I have been actively involved in New Zealand Archaeology for 10 years and a member of the New Zealand Archaeological Association (NZAA).
- 1.4 I am currently employed as an Archaeologist for Heritage New Zealand Pouhere Taonga (HNZPT) for the Lower Northern Area (Waikato, Bay of Plenty and Gisborne) based in the Tauranga office. I have worked as an archaeologist for HNZPT since June 2016.
- 1.5 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 2023 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.

2 SCOPE OF EVIDENCE

- 2.1 HNZPT made a submission and further submissions on Proposed Plan Change 9 to the Operative Hamilton City Council District Plan (PC9).
- 2.2 I have been asked by HNZPT to assist by providing evidence on PC9.
- 2.3 In preparing this evidence I have read the relevant submissions, further submissions, and the Section 42A reports prepared by Council staff and/or consultants. With regard to certain topics, I refer to the expert evidence prepared by Nicholas Matthew Cable.
- 2.4 My evidence addresses:

- i. The role of HNZPT and the requirements under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPT Act) for archaeological authorities.
- ii. Schedules 8B, 8C and 8CA.
- iii. Unrecorded archaeological sites.

3 EXECUTIVE SUMMARY

3.1 One of HNZPT's roles is to regulate the process of permitting modification or destruction of archaeological sites through the issuing of archaeological authorities.

3.2 The ranking of significance of archaeological and cultural sites in Schedule 8B, 8C or 8CA does not necessarily correlate with compliance of the obligations under the archaeological provisions of the HNZPTA including the need to get an archaeological assessment. In my view inclusion of an Advice Note and Alert Layer would aid the Plan User when a site in one of the Schedules located on their property.

3.3 PC9 should include provisions for the addition of unrecorded archaeological sites that have been identified as part of this process to enable evaluation in terms of significance so the sites can be appropriately scheduled.

3.4 I recommend that a Heritage Alert Layer be developed to identify archaeologically sensitive locations (unrecorded heritage) and added to the Operational District Plan (ODP) planning map to assist those using and developing land, and ensure the identification, protection, and appropriate management of effects on heritage prior to the commencement of activities.

4 THE ROLE OF HERITAGE NEW ZEALAND POUHERE TAONGA

4.1 HNZPT is an autonomous Crown Entity constituted under the HNZPT Act, and within the Ministry for Culture and Heritage portfolio. It is governed by a Board and Māori Heritage Council. Its purpose is to provide for the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.

- 4.2 HNZPT is the national statutory authority responsible for regulating modification or destruction of archaeological sites. For the purposes of the HNZPT Act, an archaeological site is defined as any place in New Zealand that was associated with human activity that occurred before 1900, or the wreck of any vessel pre-1900, that may be investigated by archaeological methods.
- 4.3 Section 42 of the HNZPT Act requires that an authority is obtained from HNZPT if there is reasonable cause to suspect that an archaeological site (recorded or unrecorded) may be modified or destroyed in the course of any activity.
- 4.4 This is a statutory requirement regardless as to whether the land on which an archaeological site may be present is designated, a resource or building consent has been granted, or the proposed activity is permitted under the relevant Regional or District Plan.
- 4.5 Where there is no evidence to suggest that there may be archaeological features in the same location as any earthworks, in other words that the threshold in section 42 is not met, then it is appropriate for the activity to proceed under an Accidental Discovery Protocol (ADP).

5 SCHEDULES 8B, 8C and 8CA

New Schedule 8CA

- 5.1 As the Council have chosen to include all the recorded archaeological sites in the NZAA ArchSite database within PC9, I agree with Mr. Cable's recommendation to create a new group for scheduled sites that is for information purposes only (8CA - Group 3). In my view however, it still needs to be made very clear that regardless of the significance level assessment and grouping, that consultation should be undertaken with HNZPT to determine whether further assessment needs to be undertaken.

Criteria Assessment

- 5.2 I have reviewed the criteria that Mr Cable sets out in his evidence that was used to assess the archaeological sites into their respective Groupings.
- 5.3 In terms of the definitions of Group 1, 2 and 3 in relation to the assessment of archaeological and cultural sites, in my view, the condition criteria for the different rankings of significance provides a clear distinction between each Group in respect of archaeological features. Group 1 is for sites where there are visible surface archaeological remains. Group 2 is where sites have no visible surface features but is likely to contain subsurface archaeological remains. Group 3 is where all previously recorded archaeological features have been destroyed by development of investigation or there is no clear archaeological context.
- 5.4 However, in my view due to the application of the other criteria, the assessment rankings do not accurately reflect the significance of archaeological values, instead it appears that the significance rankings are based on a wider application and assessment of heritage values as a whole.
- 5.5 For example, Mr. Cable has recognised in his Post-Notification Assessment Review (Annexure 3) that the rankings of Group 1 Sites A107, A115, A119, A152, A153, A155, A156, A176 reflect cultural significance rather than archaeological significance and/or are of low archaeological significance. This means that the definition in relation to condition criteria is nullified in some instances and the need for an archaeological assessment required by the ODP rules may not always be appropriate.
- 5.6 This is somewhat remedied by the use of the heading “Archaeological and Cultural sites” rather than a clear list of solely archaeological sites.
- 5.7 However, in my view this makes things confusing in respect of obligations and requirements under the HNZPT Act, in respect of archaeological sites.
- 5.8 As I have stated above, the HNZPT Act has requirements in relation to when an activity may modify or destroy an archaeological site. The first step is an

archaeological assessment to determine likelihood of encountering archaeological features through works. This assessment is often triggered through reference to or inclusion in a District Plan. Some of the sites included in the proposed Schedules would not trigger this initial assessment, as there is no likelihood of archaeological features being present, and the works can proceed under an ADP.

- 5.9 Therefore, it may be that the requirement to consider the archaeology and commission an archaeological assessment may only arise under the District Plan, rather than pursuant to the statutory obligations under the Heritage New Zealand Pouhere Taonga Act 2014.
- 5.10 Whilst I do not consider that an authority is the only mechanism by which to assess and consider adverse effects on historic heritage values, specifically archaeology, I also do not consider it is necessary to undertake an archaeological assessment when the visibility and potential for archaeological features to be present is negligible.

Sites included in the Schedules

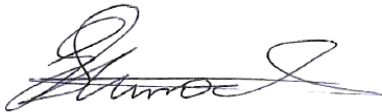
- 5.11 HNZPT submitted regarding the extent and ground-truthing of values of some of the sites proposed for inclusion in the Schedules. Mr Cable further assessed the archaeological sites for the purpose of inclusion and significance rankings for the Schedules. In the event that a proposal may generate adverse effects on the scheduled sites then the inclusion in the ODP that may trigger the requirement for a more fulsome assessment of the archaeology and potential and actual effects of a proposal.
- 5.12 I note in Mr. Cable's evidence (Annexure 3) in some cases the sites were assessed as out of scope and that ranking reflects cultural significance rather than archaeological significance so no changes were recommended.
- 5.13 In accordance with the proposed group rankings, based on the results of the post-notification assessment review I agree with Mr. Cable's recommended changes for those sites currently in Group 2 to be removed and retained within Group 3 for information purposes only.

6 UNRECORDED ARCHAEOLOGICAL SITES

- 6.1 The Archaeological Investigations for Hamilton City District Plan Change report prepared by WSP for HCC as Appendix 10 to the PC9 section 32 report identified in Table 3 and 4 that there were potentially archaeological sites not recorded in ArchSite within the study area. These sites were identified as outside the scope of Mr. Cable's evidence.
- 6.2 The exclusion of unrecorded archaeological sites that have been identified within Hamilton City from the schedules within the ODP may result in landowners and developers being unaware of the heritage values and therefore a lack of consideration of how any proposed activities may affect the site and consequently the management of any adverse effects.
- 6.3 Operating under an Accidental Discovery Protocol based on the absence of a scheduled site may not comply with the statutory requirements under the HNZPT Act 2014. Those using or developing land in accordance with the ODP need to be aware that the lack of a scheduled sites at a particular location does not necessarily reflect an absence of archaeological evidence. There have been incidences in Hamilton City where previous developments have encountered unrecorded archaeological sites e.g.: Sites A172 (SRF No. S14/258), Site A173 (SRF No. S14/259) and A181 (SRF No. S14/496). These sites now being scheduled were recorded in the New Zealand Archaeological Association's ArchSite database as a result of the discovery of archaeology during development activities. This means that there may be future developments and land uses where it is recommended that an archaeological assessment is completed prior to the commencement of onsite works to appropriately consider how any proposed activities might affect archaeological values and the possible need to obtain an authority from Heritage New Zealand Pouhere Taonga.
- 6.4 I recommend, that as part of this planning process to update the District Plan schedules, the unrecorded archaeological sites identified by the WSP report are evaluated in terms of significance so the sites can be appropriately scheduled.

- 6.5 Additionally, a Heritage Alert Layer should be developed to identify archaeologically sensitive locations and added to the ODP planning map to assist those using and developing land, and ensure the identification, protection, and effects on heritage are managed appropriately prior to the commencement of activities.

Eleanor Sturrock

A handwritten signature in black ink, appearing to read 'Eleanor Sturrock', written in a cursive style.

22 September 2023