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*Transmittal via e-mail*

Tēnā koutou,

**HEARING ON THE PROPOSED WAITOMO DISTRICT PLAN  
TABLED STATEMENT ON BEHALF OF HERITAGE NEW ZEALAND POUHERE TAONGA (HNZPT)**

HNZPT is an autonomous Crown Entity with statutory responsibility under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) for the identification, protection, preservation and conservation of New Zealand's historical and cultural heritage.

HNZPT lodged a submission on the Proposed Waitomo District Plan (the Plan), being submission Nos # 3, # FS16 related to the historic heritage (cultural, archaeological, built and structures and places) related aspects of the Plan.

HNZPT advises that representatives will not attend the hearing for tranche 2, commencing Wednesday 27 November 2024. It notes that HNZPT's position and feedback on the s42A Reports can be adequately addressed through the tabling of the main issues that remain in contention to assist the Hearing Panel.

HNZPT has reviewed Council's s42A Historic Heritage and Sites and Areas of Significance to Māori (SASM) Reports and the recommendations contained therein that relate to their comprehensive 170 submission points and the 43 Further Submissions.

With regard to submission points where we have not accepted or accepted in part only, the assessment and recommendations of the reporting planner and the matters raised are of particular concern to HNZPT, then our statement of response is made as follows:

**SECTION 42A OFFICERS REPORT AND RECOMMENDATIONS: CHAPTER 24 – HISTORIC HERITAGE**

Sub #	Relief Sought by Heritage New Zealand Pouhere Taonga	S42A Recommendation
03.71	HNZPT seeks that HH-12 be amended as follows:	Reject <sup>2</sup>

<sup>2</sup> Historic Heritage – Submission points in order of plan provision - 03.71.

<p>Part 4. Analysis and recommendations.</p> <p>Topic 1: Buildings and structures</p>	<p>“Buildings or structures should not be relocated unless:</p> <ol style="list-style-type: none"> <li>1. Alternatives to relocation have been investigated, and</li> <li>2. There is significant community benefit, and the building is restored; and/or</li> <li>3. The building or structure has fallen into significant disrepair and will be restored on its new site because restoration is not economic on its existing site; and/or</li> <li>4. Relocation of the building or structure allows for improved longevity or structural safety; and</li> <li>5. Relocation of buildings and structures within the same community, and <del>occurs where possible.</del></li> <li>6. Development post relocation will be completed in a reasonable timeframe.”</li> </ol> <p><b>Discussion</b></p> <p>In relation to this issue, the s42A Planner’s Report provides the analysis and justification for its recommendations.</p> <p>HNZPT does not accept the Planner’s Report reasoning that: <i>it is not appropriate to restrict relocation to within the same community particularly given the other option is demolition. As it is beneficial that the heritage item is restored whether that be within the same community or not, removing barriers (within reason) increases the likelihood of a heritage item being restored and its values retained.</i><sup>1</sup></p> <p>HNZPT maintains that the further away an item is relocated the less significance it has the further away it is from its original historic and cultural landscape and this ultimately diminishes its historic and cultural values.</p> <p>To retain the HNZPT Submission Point 5. Relocation of buildings and structures within the same community, and <del>occurs where possible.</del> (03.71) will simply assign a Non-Complying Activity status that is appropriate and not an insurmountable barrier to being granted, given the number of non-complying applications that are granted, should relocation not occur within the same community.</p> <p>We continue to seek the approach as per the original HNZPT submission.</p>	
<p>03.63</p> <p>Part 4. Analysis and recommendations.</p> <p>Topic 1: Buildings and structures</p>	<p>HNZPT seeks that HH-P4 be retained but amended as follows:</p> <p>“Recognise benefits from earthquake strengthening, fire protection and accessibility upgrades whilst ensuring the appearance including views of and through windows, and external heritage features and values of the buildings and structures are not <del>unduly</del> compromised. Designs which consider complimentary materials and detailing and do not screen architectural features are preferred.”</p> <p><b>Discussion</b></p> <p>In relation to this issue, the s42A Planner’s Report provides the</p>	<p>Reject <sup>4</sup></p>

<sup>1</sup> Section 42A Report: Topic: Chapter 24 - Historic heritage. 4. Analysis and recommendations Topic 1: Buildings and structures 26.-27. pp.8-9.

<sup>4</sup> Historic Heritage – Submission points in order of plan provision - 03.63.

	<p>analysis and justification for its recommendations. HNZPT requests that: <i>HH-P4 is amended to remove the word 'unduly'. It is considered that removal of the word 'unduly' would make the policy too absolute.</i> <sup>3</sup></p> <p>In relation to this issue, in HNZPT's opinion the use of 'unduly' serves to dilute the meaning of the Policy and undermines decision-making through unnecessary language. The activity status provides for consideration regardless. As such, the s42A Planner's Report recommendation is not supported in that it could be improved.</p>	
<p>03.64</p> <p>Part 4. Analysis and recommendations. Topic 1: Buildings and structures</p>	<p>HNZPT seeks that HH-P5 be retained but amended as follows:</p> <p>HNZPT seeks the retention of HH-P5 subject to the following amendments: "Provide for additions and external alterations to buildings and structures where they are: 1. Consistent with the scale, detailing, style, materials and character of the heritage item; and 2. Retain cultural and heritage values; and 3. Does not <del>unduly</del> compromise the site or surroundings of the building or structure including the contribution the building or structure makes to the streetscape. Whilst recognising the benefits gained from the addition or alteration to the improved functionality and/or liveability of the building or structure."</p> <p><b>Discussion</b> In relation to this issue, the s42A Planner's Report provides the analysis and justification for its recommendations. HNZPT HH-P5 provides for: <i>additions and external alterations that are consistent with the cultural and heritage values of the features and do not compromise the site or surroundings, including the contribution the heritage feature makes to the streetscape. Similar to the above paragraph, HNZPT have sought removal of the word 'unduly'. For the same reasons above, this change is not recommended. It is not the intention of the provisions to restrict external alterations that are sympathetic or protective of a feature's heritage values.</i> <sup>5</sup></p> <p>Again, as per above in HNZPT's opinion the use of 'unduly' serves to dilute the meaning of the Policy and undermines decision-making through unnecessary language. The activity status provides for consideration regardless. Second Generation Plans (2GP) avoid unnecessary complexity and verbiage. As such, the s42A Planner's Report recommendation is not supported in that it could be improved.</p>	Reject <sup>6</sup>

<sup>3</sup> Section 42A Report: Topic: Chapter 24 - Historic heritage. 4. Analysis and recommendations Topic 1: Buildings and structures 19. p.7.

<sup>5</sup> Section 42A Report: Topic: Chapter 24 - Historic heritage. 4. Analysis and recommendations Topic 1: Buildings and structures 19. p.7.

<sup>6</sup> Historic Heritage – Submission points in order of plan provision - 03.64.

<p>03.79</p> <p>Part 4. Analysis and recommendat ions. Topic 1: Buildings and structures</p>	<p>HNZPT opposes the HH-R3 Activity Status as follows:</p> <p>“That the controlled activity status is amended to a restricted discretionary activity with appropriate matters to which restrict discretion.”</p> <p><b>Discussion</b></p> <p>In relation to this issue, the s42A Planner’s Report provides the analysis and justification for its recommendations.</p> <p><i>HH-R3 provides for external alterations for earthquake strengthening, fire protection and accessibility upgrades or internal alterations for earthquake strengthening, fire protection and accessibility upgrades that obstruct views of and through windows. It applies to both Category 1 and 2 items as a Controlled Activity. HNZPT request the activity status is changed to Restricted Discretionary. It is considered that the matters of control are sufficient to ensure that any adverse effects on heritage values are avoided, remedied or mitigated. No change is recommended.</i> <sup>7</sup></p> <p>Controlled Activity status is rejected by HNZPT. Strengthening provisions can have a significant impact on the visual appearance of heritage building and structures. Controlled Activity status, where consent must be granted, is not considered to be appropriate. Restricted Discretionary Activity status is appropriate given s6 (f) whereby historic heritage of the RMA is a matter of national importance.</p>	<p>Reject <sup>8</sup></p>
<p>03.86</p> <p>Part 4. Analysis and recommendat ions. Topic 1: Buildings and structures</p>	<p>HNZPT opposes the HH-R10 Activity Status as follows:</p> <p>That HH-R10 is amended to a restricted discretionary activity as follows:</p> <p>“Any new building, new transportable building, or second hand relocated building located within the same site OR any new building, new transportable building, or second hand relocated building located within the same surroundings (general rural zone, PREC3 Aerodrome Precinct, and open space zone).”</p> <p>Matters over which discretion is restricted</p> <p>(a) Effects on the heritage values, context and the extent of setting of the historic heritage item; (b) Location, design, size, materials and finish; (c) Landscaping; and (d) The relationship of the historic heritage item with its extent of setting.”</p> <p><b>Discussion</b></p> <p>In relation to this issue, the s42A Planner’s Report provides the</p>	<p>Reject <sup>10</sup></p>

<sup>7</sup> Section 42A Report: Topic: Chapter 24 - Historic heritage. 4. Analysis and recommendations Topic 1: Buildings and structures 19. p.9.

<sup>8</sup> Historic Heritage – Submission points in order of plan provision - 03.79.

<sup>10</sup> Historic Heritage – Submission points in order of plan provision - 03.86.

	<p>following analysis and justification for its recommendations.</p> <p><i>HH-R10 applies when it is proposed that a building is added to the site or surroundings of a heritage item. The activity status is permitted for small buildings no more than 15 m<sup>2</sup> in area and no more than 3 m high where these are located behind a heritage item and are not visible from a public place. Otherwise, for both category 1 and 2 items the status is restricted discretionary. HNZPT request the activity status is amended from permitted to restricted discretionary with an additional matter of discretion regarding the relationship of the historic heritage item with its extent of setting.</i><sup>9</sup></p> <p>Permitted Activity status is rejected by HNZPT. The cultural and historic curtilage can be very important in the round and surroundings may also be an archaeological site. Restricted Discretionary Activity status is appropriate given s6 (f) whereby historic heritage of the RMA is a matter of national importance.</p>	
<p>03.164</p> <p>Topic 3: Schedules</p>	<p>HNZPT opposes the extent of the following scheduled item HH19 – Waitomo Caves Hotel and requests that the scheduled item is enlarged to better reflect the HNZPT Listing # 4176 of the place known as “Waitomo Hotel”.</p> <p><b>Discussion</b></p> <p>In relation to this issue, the s42A Planner’s Report provides the following analysis and justification for its recommendations.</p> <p><i>In regard to these sites, the judgement in Redmond Retail Ltd v Ashburton District Council<sup>11</sup> (Redmond Retail) provides some useful clarity on the application of heritage values to sites. The Court in Redmond Retail held it is reasonable to expect the heritage listing to apply to the building / area or part thereof that has the heritage values. In this case the Council had applied the listing to the whole building when the heritage values were only present in the original part of the building.</i></p> <p><i>Waitomo Caves Hotel - The listing by HNZPT also includes Hauturu East 21. This allotment contains outbuildings associated with the Waitomo Caves Hotel. The outbuildings do not have heritage values, as they do not form part of the Waitomo Caves Hotel. For this reason, it is considered that Hauturu East 21 should not be included within HH19 in SCHED 1.</i><sup>12</sup></p> <p>Given its position and siting, HNZPT continue to seek an amended extent that better reflects the place’s townmark / landscape values, setting, and outlook.</p>	<p>Reject<sup>13</sup></p>

<sup>9</sup> Section 42A Report: Topic: Chapter 24 - Historic heritage. 4. Analysis and recommendations Topic 1: Buildings and structures 19. p.10.

<sup>11</sup> [2020] NZEnvC 078.

<sup>12</sup> Section 42A Report: Topic: Chapter 24 - Historic heritage. 4. Analysis and recommendations Topic 3: Schedules 63. pp.17-18.

<sup>13</sup> Historic Heritage – Submission points in order of plan provision - 03.164.

**SECTION 42A OFFICERS REPORT AND RECOMMENDATIONS: CHAPTER 25 – SITES OF SIGNIFICANCE TO MĀORI (SASM)**

Sub #	Relief Sought by Heritage New Zealand Pouhere Taonga	S42A Recommendation
<p>03.169</p> <p>SCHED 4-Sites and Areas of Significance to Maori - Wahi Tapu and associated Mapping</p>	<p>HNZPT seeks that the current recognition in SCHED 4 of the HNZPT Wahi Tapu within the Waitomo District Council area is amended to fully recognise the extent, as Listed with HNZPT, of all of the following HNZPT Listings to enable these sites to be correctly mapped and subject to the protective rule framework:</p> <ul style="list-style-type: none"> <li>• Pehitawa-HNZPT Listing # 7332,</li> <li>• Uekaha-HNZPT Listing # 6713,</li> <li>• Pa-HNZPT Listing # 6113,</li> <li>• Ruakuri-HNZPT Listing # 6721,</li> <li>• Te Anaureure-HNZPT Listing # 6722,</li> <li>• Ngakuraho-HNZPT listing # 9788, Te Pua o Te Ata-HNZPT Listing # 7606,</li> <li>• Pukeroa-HNZPT Listing # 9822, and</li> <li>• Proposed Listing; Kākāmorā, Hangatiki (proposed List no. # 9859)</li> </ul> <p><b>Discussion</b></p> <p>HNZPT seeks that all HNZPT listed items are included in the heritage schedules of plans to afford them protection. HNZPT supports in part the way in which the HNZPT wahi tapu have been included in Schedule 4 of the Plan. HNZPT is concerned that not all of the HNZPT wahi tapu are included in the Schedule and therefore will not be mapped and subject to the associated Rule framework.</p> <p>Listings or Scheduling with Sites and Areas of Significance to Māori (SASM), are often not discreet isolated places but a collection of places with spaces between the places capturing the ancestral footprint. All of these sites / places have been listed by HNZPT as worthy of protection having been nominated by Mana Whenua and approved by the Māori Heritage Council.</p> <p>The s42A Planner's Report recommends no change to the HNZPT submission.</p>	<p>Reject <sup>14</sup></p>

<sup>14</sup> Section 42A Report: Sites and Areas of Significance to Māori – SASM. Proposed WDC District Plan. Topic 2: Schedules 3 to 5, p.21

	<p>Council has undertaken consultation with mana whenua on all of the sites listed in Schedule 4 and have mapped them based on the guidance provided by mana whenua, and as such the boundaries are considered correct by WDC as per the S42A.</p> <p>However, HNZPT considers that where there are discrepancies its extents should be considered given the thorough research and process into extents that has been undertaken by HNZPT. Please see below.</p>	
<p>FS16.42</p> <p>Sched 3-Sites and Areas of Significance to Māori (SSM099-A), And SCHED 4-Sites and Areas of Significance to Māori-Wahi Tapu</p>	<p>HNZPT seeks that the extent of the SASM site (SSM099-A) in Schedule 3-Sites and areas of Significance to Māori and the associated planning maps is amended to be the same extent as the HNZPT listing of the same.</p> <p>Specifically, HNZPT seeks that the HNZPT Wahi Tapu, known as Kākāmorā (#9859) is included into SCHED 4-Sites and Areas of Significance to Māori-Wahi Tapu and the associated Planning Maps with its extents in accordance with the Listing by HNZPT.</p> <p><b>Discussion:</b></p> <p>The Kākāmorā (#9859) scheduled Proposed Plan extent is larger than that undertaken by HNZPT despite a thorough HNZPT process of discussion with the landowner, mana whenua and notification followed by approval by the Māori Heritage Council.</p> <p>Ultimately Waitomo District Council will make its own decision on extents. However, correlation with the HNZPT extent would ensure consistency under s74(b)(iia) of the RMA.</p>	Reject <sup>15</sup>

<sup>15</sup> Section 42A Report: Sites and Areas of Significance to Māori – SASM. Proposed WDC District Plan. Topic 2: Schedules 3 to 5, pp.15-16

Thank you for the opportunity to Table an Organisational Statement on the Waitomo Proposed District Plan.

Please contact the Lower Northern office in the first instance should you have any queries.

Yours sincerely



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