



The Voice of Heritage for New Zealand

Patron: Dame Anne Salmond, DBR, FRSNZ, FBA
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SUBMISSION TO HERITAGE NEW ZEALAND POUHERE TAONGA **5 POLICY DOCUMENTS**

- Administration of the archaeological provisions of the Heritage New Zealand Pouhere Taonga Act 2014
- Management and use of historic places owned or 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

General Comments

1. This submission is made by Historic Places Aotearoa Inc. (HPA) which welcomes the opportunity to comment on the 5 policy documents.
2. The reasons for making this submission are that HPA promotes the preservation of historic places in Aotearoa New Zealand. HPA also has an interest to promote the education of the public in the appreciation of heritage values. HPA is a key stakeholder in the consultation process and answerable to its affiliated regional member societies and their associated membership.
3. HPA has reviewed the policy documents and considered the impact of the proposed policies on the identification, protection, preservation and conservation of the historical

and cultural heritage of New Zealand as administered by Heritage NZ under the Heritage New Zealand Pouhere Taonga Act 2014. (HNZPTA)

4. HPA has reviewed the policy documents and considered the impact of the proposed policies with respect to heritage protection under the Resource Management Act 1991 (RMA).
5. In reading the five documents we wish to make the following general comments
 - a. The order of the contents needs to be reconsidered. The sections / chapters relating to “Interpretation” should follow directly after the Contents. This would aid in the general reading of the documents.
Two of the policies should have a section on Interpretation added for consistency.
 - b. Words that are defined in the glossary should be highlighted within the documents. This will aid those that are not familiar with heritage terms in reading the policies and highlight words which have a very specific meaning.
 - c. Many of the documents are slanted towards Maori protocols or values. There are two reasons for this.
 - i. HPA believes that this approach would benefit the better identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand and not just specifically Maori Heritage.
 - ii. Working in the communities we believe that there is currently a negative connotation related to Maori Heritage issues especially those relating to Maori Archaeology. If the Policies for dealing with Heritage was the same and as near to being the same for all heritage then there would not be a us and them mentality developed.
6. HPA submits that Heritage New Zealand Pouhere Taonga should be consistent with the Act in the use of name for the entity. The Act does not abbreviate the name to Heritage New Zealand and neither should the organisation in formal documents such as the 5 policies.

Specific comments relating to each of the Policy Documents follow.

Yours faithfully
Historic Places Aotearoa Inc



James Blackburne
President

SUBMISSION ON POLICY DEALING WITH GENERAL POLICY ON THE ADMINISTRATION OF THE ARCHAEOLOGICAL PROVISIONS OF THE HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014

1. This submission from Historic Places Aotearoa is in general agreement with the Objectives and Policies as outlined in the Heritage New Zealand Pouhere Taonga (HNZ) Draft General Policy on the Administration Of The Archaeological Provisions Of The Heritage New Zealand Pouhere Taonga Act 2014
2. The Policy is heavily slanted towards Maori Archaeological Sites and this has the likely consequence to perpetuate the concept that New Zealand only contains Maori Archaeology or that only Maori Archaeology is important.
HPA submits that the protocols and policies that have specifically been written relating to Maori Archaeology should be adapted where possible for all archaeological sites and were possible there is limited on no differentiation between the Chinese, European, etc site and Maori sites.
3. This policy contains many terms with specific meanings and in some instances have been abbreviated without clarification. An example being in paragraph 2 of the Legislative Context chapter. The second sentence states *“It requires that modification or destruction needs an authority...”* This is the first time that the word authority is mentioned and in this context it means an Archaeological Authority as defined in the glossary and used in full through the balance of the Policy.

Objectives and Policies

4. HPA submits that a Policy should be added under Objective 1 to state the HNZPT will encourage central government agencies and local authorities to role model the protection and avoidance of archaeological sites.
5. HPA submits that in the first sentence of the section on Koiwi Tangata that it be amended to read... *“as a result of natural processes such as coastal erosion, archaeological work or general earth disturbance from construction.”*
6. HPA submits that under Policy 7.1 that *“and landowners / authority holders”* should be added after iwi and hapu. While landowners / authority holders rights to any archaeological material and taonga tuturu is covered by the Protected Objects Act 1975, they should be consulted with as the person paying for the archaeological work.
7. Under the section regarding the Relation with the Resource management Act 1991, HPA submits that the wording of the first sentence needs to be amended to remove the words *“new legislation”* as while this refers to the new HNZPTA, this may become confusing in future years if the RMA is amended.
8. HPA submits that under Policy 8.2 the should be amended to read:
“Heritage New Zealand will work with local government to achieve agreed processes for the alignment of the district plans and HNZPTA.”

This is effectively advocacy by HNZPT but this is not reflected in the Advocacy document.

9. Under Policy 9.4 there is reference to “pa”. HPA submits that a definition should be provided in the glossary for clarity.
10. HPA submits that Policy 10.1 should be more positive in its language and should read:
“ Heritage New Zealand will require that where modification of sites is unavoidable that it will be minimised.”

SUBMISSION ON POLICY DEALING WITH MANAGEMENT AND USE OF HISTORIC PLACES OWNED OR CONTROLLED OR VESTED IN HERITAGE NEW ZEALAND

1. This submission from Historic Places Aotearoa is in general agreement with the Objectives and Policies as outlined in the Heritage New Zealand Pouhere Taonga (HNZPT) Draft Management and use of historic places owned or controlled or vested in Heritage New Zealand.
2. As an initial comment, HPA finds the policy to be bureaucratic in nature, with little element of a strategic or proactive approach. At the same time HPA notes that the policy is comprehensive and that it essentially constitutes an updated version of the policy of the former NZ Historic Places Trust so that it provides a sound rule basis for day to day operation.
3. The policy initially states that it deals only with management and use of properties. This would appear to exclude acquisition and correctly so, because Section 16(1) of the HNZPTA refers to policies for “*management, administration, control and use*”. It is another Section, 14(c) which empowers acquisition. The draft policy does have Sections dealing with acquisition and disposal of properties, but in that respect may go beyond the mandate of Section 16(1) in respect of the policy to be prepared. HPA considers that the two aspects of acquisition and management are inextricably linked and that it is desirable that they not be placed in isolation.
4. HPA queries whether there is likely to be publication by HNZPT in the future of a strategic plan dealing with properties. HPA would like to know the HPT attitude towards more acquisitions. The policy suggests that acquisition is a last resort when at para 14.1(1) it describes acquisition as the only appropriate method to protect an historic place. HPA would prefer to see a more ambitious and expansive policy regarding acquisition.
5. There are opportunities with tax deductions, philanthropy, sponsorship etc in the acquisitions area which can be considered. It is not seen as satisfactory to have this matter as a tail piece on the management policy as in most cases the properties need to pay their way. HNZPT has the opportunity to show leadership with respect to adaptive reuse and upgrading of heritage properties. While this is unlikely to be appropriate with many of the current properties owned by HNZPT there should be consideration for the acquisition of new properties to educate the public on how heritage buildings can made relevant for modern life via modification based on best practice.
6. There is also the issue of Government owned heritage buildings and the relationship of HNZPT with those Agencies such as the Department of Conservation, Defence, Justice and Education. It would seem that properties are regarded as liabilities rather than as assets. HPA accepts this may be the case unless they are:
 - a) Endowed;
 - b) Have an assured income; or
 - c) Are particularly significant properties that must be safeguarded and the policy covers these points or

- d) Are upgraded using best practice to make them relevant to modern uses.
7. HPA is unclear about the financial outcome arising from the current HNZ ownership of 48 properties. The policy has a theme throughout of scarcity of resources. While some properties may provide a surplus, there are no doubt budgetary constraints.
 8. HPA notes that 15 of the 48 properties are staffed. HPA understands that volunteers work at many of the properties. HPA considers that many of these are likely to be former Regional Committee Members now aligned with HPA following Regional Committee disestablishment. HPA is interested in seeing policies seeking to retain that vital volunteer support.
 9. The policy appears to contemplate a “*frozen situation*” as far as further acquisitions are concerned and if that is so, the policy should say that.

As far as management and use are concerned, the priority must be preservation. HNZPT is not primarily in the cultural tourism business, although as is acknowledged in Section 14(g) public access is important. Access is a subsidiary purpose and it is acknowledged that access and use can provide funding for conservation, but in the event of a conflict, preservation and conservation must prevail over access as a priority.

10. The more extensive use of Covenants may be a method of management which enables the better use of scarce resources.
11. The HNZ Act in Section 10 refers to its Board as being a governance body which suggests to HPA that the policy reflects a wish for tidy administration rather than a growth of activities. The introduction to the new policy speaks of leadership and direction from the Board, but the statutory suggestion is one of passive governance. Good management is certainly most important, but so is engendering a passion for and knowledge of the heritage sector. We note that the statutory objectives of HNZ include promotion, yet the policy would appear to do little to achieve this.
12. On several other minor matters, HPA notes that there is no express mention of the Treaty of Waitangi or its principles under the heading of “*Maori Heritage Values*”.
13. It also finds slightly unusual the wording of Objectives 10 and 11 of the policy which appear to be a statement of a view rather than an attainable objective. It may simply be a matter of changing the word “*supports*” to “*should support*”.

SUBMISSION ON POLICY DEALING WITH ADMINISTRATION OF THE NZ HERITAGE LIST/RĀRANGI KŌRERO

11. This submission from Historic Places Aotearoa is in general agreement with the Objectives and Policies as outlined in the Heritage New Zealand Pouhere Taonga (HNZ) Draft New Zealand List/Rarangi Korero Policy (hereon referred to as the “List” in this submission.)
12. We understand that many of the Objectives and Policies are drafted in response to the relevant Heritage New Zealand Pouhere Taonga Act (2014) and will not be able to be changed without amending the act.
13. This HPA Submission will provide comment on specific Objectives and Policies where we believe they require modification, elaboration, development or reconsideration.

Purpose of the policy

14. The document makes no reference to adopting international best practice in regards to The List. One assumes HNZ will be benchmarking its “inclusive” List to those used overseas and adopting innovative and relevant Objectives and Policies as it deems appropriate.

Legislative Context

15. There is no reference to the importance of the List in any actions undertaken under the RMA or when advising Territorial Authorities (TA) in regard to inclusion of Historic Places for protection under their District Plans and related advocacy. Both of these areas have legal status and the List and the Objectives and Policies must meet certain criteria before it can have any affect.
16. There is no reference to the Building Act 1993, which requires TA’s to notify HNZPT about consents with respect to Listed Properties.
17. We note there is no comprehensive description of the Category 1 & 2 and no indication what is “significance” or meaning of “special or outstanding”. All heritage is intrinsically local so if a community has a very “special or outstanding” cultural and historical attachment to a heritage building would it qualify as Category 1? If not –why not?
18. There is no reference or explanation of how The List Categories 1 & 2 relate to the following Policy 1.1

HPA notes “*nationally*,” “*regionally*” and “*locally*” “*significant*” are not defined in the Glossary.

HPA contends that there are sites in New Zealand are “internationally” significant and this should be considered in any policy.

Objectives and Policies

19. Objective 1: *The New Zealand Heritage List is inclusive in its identification of New Zealand's significant historical and cultural heritage.*

If the List is to reflect “New Zealand’s distinctive society” then it must be comprehensive or a representative sample. HPA has been informed that there are 3 times more listed buildings on Territorial Authority District Plans than on the List so it is not comprehensive.

Our research suggests that there are around 5708 sites listed by HNZPT as follows:

- Category 1: 997
- Category 2: 4431
- Historic Areas: 120
- Wahi Tapu: 101
- Wahi Tapu Areas 59

There are approximately 17,000 Historic Places scheduled in the relevant Territorial Authority (T.A.) District Plans.

HPA submits the List to be “comprehensive” the majority of the heritage listed in the T.A. District Plans needs to be considered for inclusion on the List.

20. In Policy 1.6 HNZPT recognises the principle that heritage on the New Zealand Heritage List has lasting value in its own right and provides evidence of the origins of New Zealand’s distinct society.

Nearly all heritage places have a strong cultural and historical connection with its respective local environment and this ensures their distinctiveness is retained and developed.

HPA submits that using the sole phrase “*New Zealand’s distinct **society***” implies a uniformity that is not representative of our Historic Places and the regions, towns etc they inhabit.

Maori Heritage Values:

21. HPA commends the actions of HNZPT in the recognition of iwi and hapu and the development and practical implementation of its Policy.

HPA commends HNZPT for developing the Policy and processes for Tangata Whenua and submits that such a Policy and processes would be of benefit for all heritage, not just Maori heritage.

We submit these Objectives and Policies and their practical implementation with appropriate and suitable modifications should be used as the basis for all List Policies.

Access to Information

22. HPA commends that HNZPT recognised the importance of its website to promote and make the List so accessible.

HPA would make the general statement there is a clear need for a Copyright Policy. We would encourage where possible that HNZ adopt the Creative Commons license where images and text are available for non-commercial use and any images and text used for commercial work be licensed.

14. HPA submits that Policy 3.8 should be modified and should state a commitment to ensuring the levels of service are developed and improved. Consideration should be given for a Policy where service delivery falls short.
15. HPA submits that Policy 3.9 should be modified to include a statement that HNZ will operate with openness where possible in the spirit and ethics of the Official Information Act (1982) when dealing with enquiries etc.

Relationship with the Resource Management Act 1991

16. Objective 4:
HPA recognises the difficulty of dealing with numerous T.A.'s and their varied District Plans. However the List is not comprehensive as noted previously, HPA understands that there are 3 times the number of listed Heritage Places in District Plans than there are on the List. Such a large discrepancy limits the effectiveness of HNZ in its role of informal and formal advocacy.

If the above Objective is to be attained then the Objective and Policies need to reflect the discrepancy in the number of Heritage Places on the TA District Plans and the List. There needs to be a Policy that seeks to achieve parity and allow HNZ to be able to use phrases such as "authoritative", "respected" and "comprehensive".

17. Policy 4.2 and 4.3
HPA submits that working with TA's with respect to Listing is a two way process and HNZPT should have a Policy that seeks to promote agreement between the T.A.'s and HNZPT that the criteria for the District Plan and List are similar. This might enable T.A.'s to actually provide documentation that is acceptable for a Heritage Place to be included on the List. This would start addressing the discrepancy outlined above.
In addition this means HNZ is aiding the T.A.'s which might not have the expertise and resources to ensure their built heritage has the required protection under their District Plan.
18. HPA notes there is no attempt at reconciliation with the Objective 5, Policy 5.1 and ultimately the Statutory Advocacy Policy. – Refer to our submission relating to the Statutory Advocacy Policy for comment.

Scope of the New Zealand Heritage List.

19. HPA fully supports the intention that the List, under Objective 6, be inclusive and reflect the themes, cultures and traditions that contribute to New Zealand's heritage but the Policies do not define how HNZPT intend to ensure that the List is a full representation of the full range of heritage items in New Zealand.
20. HPA submits that "thematic studies" is not defined in the Glossary and needs to be added.
21. HPA submits the Policies are unclear if geographical spread is to be a factor to be taken into account in the Thematic Studies.
22. HPA supports that HNZPT accept applications from external authorities who have conducted the relevant studies assuming the work is equivalent in quality to that undertaken by HNZ.
23. HPA considers that the HNZPT policies and hopefully subsequent Guidelines, should actively encourage such work as it conserves NZHPT resources and encourages T.A's. to work with HNZPT etc. in their assessments of Heritage etc. - Refer our submission comment 17.

The Application Process

24. HPA acknowledges that HNZPT receives more applications than can be processed annually.
If the process is constrained then the Policy should commit to informing the relevant stakeholders (including HPA) the reasons for not including a Heritage Place etc. on the List if it is due to a lack of HNZPT resources.
A broader summary of analysis of why there has been a delay or decline to add a Heritage Place etc. would be useful to HPA and related NGO's and T.A.s which could advise and ensure any application they are aware of, for seeking inclusion fulfils the requirements.
25. Just because a place is not formally recognised as a Heritage Place on the List or Register does not mean that it is not so.

HPA considers it crucial that the catch up required to ensure the List is comprehensive does not constrain HNZPT adding Heritage Places to the List which have not been assessed before and are also not listed on any District Plans. There have been examples of buildings not being scheduled by T.A's or registered by HNZPT being protected with Heritage Orders by the Environment Court.
26. HPA submits that Policy 7.7 is potentially limiting as while a site may not be significant to the iwi or hapu that has mana whenua it does not mean that an earlier history and associated significance with another iwi or hapu was not important and warrant Listing the site. It needs to be recognised that such a Listing may go against the wishes of the iwi or hapu with mana whenua. The Archaeological Policy appears to consider this

possibility and is worded to appropriately with respect to potential conflict between those with mana whenua and those with an historical connection.

27. The Policies do not reflect what happens if there is a dramatic change in circumstances e.g. the Canterbury Earthquakes where there was an immediate and subsequent loss of Heritage. Heritage Places for example that were deemed to be of less importance will need to be reassessed as to their importance and significance. What was not considered important previously may have changed due to the destruction of heritage during and as a result of post disaster action.

Assessment of Proposal

28. HPA wholeheartedly endorses 8.10 and submits the same process this should occur in Policy 8.9. The HNZPT can seek Consultation- it is surely not forbidden in the Act though. Indeed the HNZ Board should seek a change in the Act to ensure the Community(ies) are involved
29. HPA notes Consultation is not defined. Consultation is a formally defined process with legal obligations. HPA has noticed a laxity in the use of the word consultation recently by Government Bodies when used to describe a process in which they are seeking “engagement” or “public opinion”. These do not have the same level of legal constraint and public accountability as “consultation”.
30. Refer HPA comment 26 relating to HNZPT Policy 8.22.

Wāhi tūpuna

31. HPA endorses this section and submits that Policy 8.15 its values and intentions, which reflect the Act, should apply and be part of HNZPT’s core values and apply to all policy, processes, decision making whether it is specifically required by the Act or not.
32. HPA submits that the approach adopted in Policy 8.26 should be adopted by HNZPT when dealing with heritage gardens, Public Realm and character areas.

Consultation

33. HPA submits that the Policies should reflect the existence of NGOs and Community Stakeholders and Groups who have an interest in conserving our heritage and as such they should be informed (where practical) of any processes, i.e. recommendations to T.A. for heritage protection of a Heritage Place etc.

HPA realises that HNZPT does this often as a matter of course and endorses the actions of the HNZPT Staff who have undertaken these actions. However it is time this practice was formally mandated in the Policy.

34. HPA submits that NGOs and Community Stakeholders and Groups who have an interest in conserving our heritage, should be advised (where practical) of proposals for inclusion on the List are turned down.
35. HPA submits that a Community Assessment be carried out as well as seeking opinion from individuals. A Community Assessment may identify a living cultural attachment that is not documented. As commented/submitted above the HNZ regularly performs a similar process for Iwi and Hapu and were possible with suitable modification principles used for Maori should be consistently applied to all heritage.
36. HPA submits some sort of Community input that is not written or academic is important when appropriate. 9.5 says this is an “administrative process”. HPA submits that seeking information on a Historic Place etc. is not an “administrative process” and individuals and the Communities should not be precluded because they have not produced a document written in the HNZ predefined format. HPA submits HNZ should be more flexible in its interaction when it seeks information, opinion, research etc.
37. HPA submits HNZ should apply the following Policy 10.2 (with appropriate modifications) in all its “Consultation” and not restrict it to Iwi and Hapu :
10.2 Heritage New Zealand takes an inclusive approach to consultation with iwi or hapū interests in a proposed entry on the New Zealand Heritage List, but has particular regard to the views of those with mana whenua, particularly if asked to consider the interests of iwi or hapū who do not, or no longer have, mana whenua there.

Decision Making

38. HPA submits that an appropriate comparative analysis outline in this Policy needs to be balanced by a recognition of the importance and relevance of the Historic Place etc to the Community. (An analysis of the connection needs to be carried out.).
39. HPA submits that any entry for consideration for inclusion on the List include evidence of Consultation with the stakeholders in the Community equivalent to Policy 11.8.

SUBMISSION ON POLICY DEALING WITH ADMINISTRATION OF THE NATIONAL HISTORIC LANDMARKS LIST/NGĀ MANAWHENUA O AOTEAROA ME ŌNA KŌRERO TŪTURU

Objectives and Policies

1. HPA submits that Under Policy 2.3 and 3.1 that consideration be given to adding consultation being carried out with qualified heritage professionals i.e. engineers, conservation architects, historians, rather than covering these professionals under the general title of “individuals”.

Nomination and Assessment

2. HPA submits that “except in extraordinary cases.” Should be added to the end of Policy 12.3 (c) as there will be times when an owner for various reasons do not wish to have a site recognised as a Landmark but it is in the Nations interest that the site is recognised.

An example may be some of the sites around the conflicted “Cook National Historic Reserve” which are owned by the local authority or the port. These sites are of international significance, but are currently compromised.

Monitoring and Review

3. HPA submits that “and demolition through neglect (man made disasters)” is added to the end of the Objective 14
4. HPA recommends that some form of wording be included to cover under what circumstance landmark status would be removed in Objective 15 and associated Policies.

Such removal should also be subject to wide consultation depending on the circumstances. For example if a building has been completely razed in a fire then consultation would not be necessary.

5. With respect to Policies relating to Ministerial initiated reviews and Owner initiated reviews, HPA submits that such reviews should be treated the same as for ‘All other Reviews’. If this is the intent of Policies 15.4 to 15.6 this is not clear.

HPA submits that a further Policy relating to Policies 15.1 and 15.2 should be added:
Heritage New Zealand invites public submissions on review proposals and has regard to any submissions received in writing within the prescribed timeframe.

SUBMISSION ON POLICY DEALING WITH STATUTORY ROLE OF ADVOCACY FOR HISTORICAL AND CULTURAL HERITAGE

Legislative Context

1. The Policy does not contain any reference to the Legislative Context under which it is published and in particular the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA) and the Resource Management Act 1991 (RMA)

Section 3 of the HNZPTA states as its general purpose:

To promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.

Section 13 gives HNZPT the following functions in relation to advocacy:

- a) *to identify, record, investigate, assess, list, **protect, and conserve** historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas or enter such places and areas on the New Zealand Heritage List/Rārangī Kōrero, or to assist in doing those things, keeping permanent records of that work, and providing support for persons with a legal or equitable interest in such places and areas:*
- b) *to continue and maintain the New Zealand Heritage List/Rārangī Kōrero:*
- c) *to **advocate** the conservation and protection of historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas*
- i) *to act as a heritage protection authority under Part 8 of the Resource Management Act 1991 for the purposes of **protecting**—*
 - (i) *the whole or part of a historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area; and*
 - (ii) *land surrounding the historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area that is reasonably necessary to ensure the protection and reasonable enjoyment of the historic place, historic area, wāhi tūpuna, wāhi tapu, or wāhi tapu area*

Section 14 gives HNZPT the power to:

- a) ***advocate** its interests at any public forum or in any planning process in which it has standing under an Act:*

The Resource Management Act also gives HNZPT special roles where heritage matters are considered.

Likewise the Building Act requires TA's to advise HNZPT about consent which relate to Heritage Places as listed by the HNZPT.

HPA submits that the Policy should contain reference to Legislative Context as per all the other Policies.

2. Under the Archaeological provisions of the NZHPTA there is a legal obligation for the HNZPT to advocate for archaeological sites. While this is commented on in the

Archaeological Policy there is no clear link between the two documents. This document appears to focus more on advocacy relating to Listed sites with particular emphasis on Category 1 and 2 places and does not address other advocacy matters.

Policy Environment

3. HPA recognises that there are limits to HNZPT's resources and that consequently HNZPT needs to prioritise the cases it participates in and the actions it takes. To maintain credibility HNZPT needs to develop clear criteria for its decision-making.

There are strong public expectations of the role HNZPT will play in the protection of New Zealand's Heritage. At the same time, constraints on financial and staff resources, and the expectations of Government, may limit HNZPT's scope of action.

HPA submits that the present draft policy does not adequately address how HNZPT will seek to reconcile these conflicting expectations.

The approach of the Draft General Statement

4. Under the heading "*What is statutory advocacy*" (page 8), the draft states:

Our key advocacy role is giving advice. However, in some cases heritage protection measures may restrict the uses owners can make of a property and our advice may not be well-received.

The bullet points in the following paragraph emphasise the provision of advice and non-regulatory methods of heritage conservation. The only mention of statutory advocacy is in the third point, which speaks almost as an after-thought, of:-

Where necessary, becoming involved in the formal consent process.

This playing down of statutory RMA-type advocacy is carried on to later stages of the draft. Under the heading "*Addressing the most important issues*" (page 17), two key statements are made:

The majority of our advocacy work focuses on providing information and advice...Adversarial methods such as submitting against proposals and appealing decisions should be a last resort.

Overall the statements in this section are extremely cautious and qualified. Summing them up:

- HNZPT has to establish clear priorities for its advocacy work
- To determine significance, the criteria for the Heritage List "can be used".
- Non-adversarial methods are more effective
- Adversarial methods such as submissions against proposals and appeals should be a "last resort".

HPA submits that these limited statements are not in accordance with HNZPT's statutory functions in section 13 and should be more aligned to the full intent of the Act.

It should also be kept in mind that, while larger local authorities tend to employ heritage professionals for their RMA work, smaller councils often rely on HNZPT's staff advice.

5. The policy has no reference to educating the general public about the role of HNZPT and the relevance of protecting New Zealand's historical and cultural heritage. At present there are many misconceptions relating to the work of HNZPT, what it means for a building to be scheduled, funding etc. This can create issues for owners of heritage buildings in terms of getting insurance, obtaining mortgages and selling properties.

HPA submits that HNZPT has a role to play in making sure that the general public of New Zealand are well informed about the heritage that is Listed, the implications and the work of the organisation and this should be added to the Policy.

Prioritising involvement – the role of the NZ Heritage List

6. HPA is concerned at the apparent playing down of the role of the Heritage List, in particular what seems to be an attempt to sidestep the List when addressing HNZPT's involvement in heritage issues.

The New Zealand Heritage List is based on an earlier four-part classification system for heritage buildings, which was first developed by the Historic Places Trust in the early 1970s. That system was first given statutory recognition in the Historic Places Act 1980. In 1993 this was replaced (by the Historic Places Act of that year) with a two-category Register of Historic Places. This has been in turn replaced by the New Zealand Heritage List in the present Act.

The List and its forerunners have been based on thorough research and a large amount of work by heritage professionals and volunteers over 45 years. It has credibility and has become a key part of our heritage system.

Despite this, the draft policy downplays the List and avoids acknowledging its key role in judgements of heritage value. Objective 2, Policy 2.2 states that "Assessment of significance **takes account** of the criteria used to determine significance when entering items onto the NZ Heritage List." This is a surprising statement. It suggests that HNZPT will pick and choose what places it finds significant, "taking account" of the List criteria. One would expect that any significance assessment would look first and foremost at whether or not the item had List status, and in which category.

This downplaying of the List is a consistent theme throughout the policy. In fact, it never states outright that List status will be a criterion for advocacy action. There is no mention of the List categories and how they might influence HNZPT decisions on its advocacy roles.

An assumption seems to be developing that HNZPT will in future not advocate for or take protection action on Category Two places. Yet this policy avoids stating that prioritising will

be based on List status. The downplaying of Category Two places may well be implied, but to avoid the issue in a detailed policy statement of this type is not credible.

The importance of List status in the RMA system is illustrated by the decisions of the Environment Court in the case of Harcourts Building. The Category One status of that building was a key factor in the decisions of the Court to deny consent to demolish. One has to ask whether HNZPT would in future devote resources to fighting this case through the RMA system.

Similarly with the issuing of a Protection Order for the No9-11 Building in Gisborne which as a Category 2 building.

7. When determining when advocacy for a heritage place is warranted HNZPT needs to recognise that not all heritage places are registered or listed. This occurs for a number of reasons, including a lack of resources by HNZPT. When a community identifies a potential heritage site as being in imminent threat HNZPT should undertake a review as to the significance of the site. In the decision of the Environment Court, *Donnelly v Gisborne District Council A013/99*, relating to the issuing of a Heritage Order for the protection of the Peel Street Toilets in Gisborne, the judge noted the words of Judge Sheppard in *Decision No A83/94* that the determination of heritage is based on “the view of a reasonably ordinary person who is well informed and representative of the community at large”. i.e. not whether something is on a list or not.
8. HPA understands that HNZPT may decide to make a practical decision to provide considerably less resources for advocacy (formal and informal) to the List’s Cat 2 Historic Places etc. HPA submits this is in direct conflict and undermines HNZPT general List Policy of making it *authoritative*, comprehensive and of lasting value.

HPA submits that the List is not comprehensive and reducing resources to supporting only Cat 1 would severely inhibit the activities of HNZPT in the advocacy and protection of Heritage.

HPA is of the opinion that in view of the disproportionate number of listings in Category 2, which if a decision were made to reduce support for Cat 2 listing it will be popularly perceived that HNZ is abdicating its responsibility for the advocacy and preservation of Heritage and the List.

The Voluntary Sector

9. If HNZPT moves to further reduce its involvement in advocacy, much of the load will inevitably be transferred to voluntary community heritage groups. Following the dissolving of the old Branch Committees these groups are trying to find their feet and are under pressure to grow and develop. Post-earthquake Christchurch is an extreme example of this, but demands are large in many other centres. Participating in RMA and similar processes places a large demand on volunteer effort. This cannot completely replace the role of HNZPT, particularly if it lessens its role in Category Two places.
10. We urge HNZPT to consider adopting a partnership approach whereby it would work together with voluntary groups to achieve common aims. The benefits would be mutual.

HNZPT should also not overlook its own membership, which could be a valuable resource for volunteer input.

It is disappointing that the policy does not even mention the voluntary heritage sector, let alone how the two might work together. HNZPT might consider the example of the Department of Conservation, which has adopted a partnership approach with voluntary and community groups. The Department acknowledges that it cannot achieve its strategic aims without this approach.

Some ways in which such a policy might work for HNZPT are:

- Information sharing on issues and strategies
- Consultation on submissions
- Practical and moral support from HNZ to groups, e.g. staff advice

Conclusion

11. HPA urges HNZPT to modify the draft policy to:

- Clarify and strengthen HNZPT's role in statutory advocacy
- Strengthen the role of the NZ Heritage List as the basis for decisions on advocacy action
- Recognise and involve the voluntary heritage sector in its advocacy work.