

## HERITAGE NEW ZEALAND POUHERE TAONGA DRAFT STATUTORY POLICIES (3 February 2015)

### COMBINED CANTERBURY COUNCILS' SUBMISSION

17 April 2015

1. This submission has been prepared in a joint process of Canterbury local authorities, and is supported by the following councils: Environment Canterbury, Kaikōura District Council, Hurunui District Council, Waimakariri District Council, Selwyn District Council, Ashburton District Council, Timaru District Council, Waimate District Council and Mackenzie District Council.
2. The Canterbury councils thank Heritage New Zealand Pouhere Taonga (HNZPT) for the opportunity to provide comment on the five draft *Statutory Policies*. We look forward to further engagement to help develop practical responses to help achieve effective measures for management and protection of Canterbury's unique historic heritage.
3. The following submission is offered on the basis of the Canterbury councils' roles, functions and responsibilities under a number of statutes including the Resource Management Act 1991 (the RMA) and the Local Government Act 2002 (the LGA).
4. Our submission addresses some matters specific to a particular draft *Statutory Policy*, and other more general matters:
  - Alignment with RMA planning and consenting processes: *Draft General Statement of Policy: Statutory Advocacy*
  - Archaeological sites: *Draft General Policy on the Administration of the Archaeological Provisions under the Heritage New Zealand Pouhere Taonga Act 2014*
  - Site Vulnerability Index proposal: *Statutory Advocacy and Archaeological Policies*
  - Matters requiring clarification: *general*
  - Implications of proposed changes to the RMA: *Statutory Advocacy Policy*.

#### ***Alignment with RMA planning and consenting processes:***

5. The Canterbury councils strongly support the ethic established in the draft *Statutory Advocacy Policy* Principle 9 (p 12), that HNZPT will work collaboratively with local authorities and others (including heritage owners, tangata whenua and communities). We endorse the integration of this ethic of collaboration:
  - through the draft *Statutory Advocacy Policy*, both specifically as for example in Objective 11, and more broadly in Objectives 7, 8, 9 and 10 and the Policies underpinning them
  - through the other draft *Statutory Policies* – for example Policies 1.7 and 1.8 in the draft *Archaeological Provisions Policy* (p 8), or Policy 1.5 in the draft *NZ Heritage List Policy* (p 7).

6. We appreciate the importance of establishing effective working relationships at local and regional levels, and having clear frameworks in place to support constructive interactions between HNZPT staff, our councils, tangata whenua and communities. However we note that there have been some differences between individual HNZPT staff in their interpretation of statutory and policy provisions. Such inconsistencies can create confusion, uncertainties and delays.
7. **We recommend** that when the draft *Statutory Policies* are finalised, comprehensive guidance is developed for all involved in the processes (within HNZPT and its regional offices, in local government and other agencies, and other process participants) to ensure consistency and clarity. This guidance should be developed through a process involving local government, tangata whenua and communities as well as HNZPT and the New Zealand Archaeological Association (NZAA).
8. We support HNZPT's commitment to early engagement with councils and others. This is expressed in relation to several different aspects of resource management processes, including:
  - Policy 4.2 (p 18 draft *Statutory Advocacy Policy*), that HNZPT will provide heritage input to local authorities at the early stages of revising policy statements, plans and other policy documents
  - Policy 11.1 (p24 draft *Statutory Advocacy Policy*), that HNZPT will seek consultation with councils on the heritage components of plans at the pre-planning consultation stage.
9. We also strongly endorse the importance of engagement as early as possible with landowners, as in the commitment at Policy 10.3 (p 23 draft *Statutory Advocacy Policy*), that HNZPT will engage with owners early in the consent application process. This is crucial because once a consent application is made, councils are under strict time requirements under Part 6 RMA for processing the application.
10. We note that Objectives 6 and 7 of the draft *Statutory Advocacy Policy* provide for HNZPT to work with iwi and hapū, and to recognise the relationship of Māori and their culture and traditions with and their role as kaitiaki of their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu and other taonga. We point out that many local authorities have strong working relationships with the iwi, hapū and whanau in their areas – for example, the well-established commitment of Environment Canterbury and Ngāi Tahu to our Tuia joint work programme. We note that many iwi and hapū have prepared their own Management Plans for the taonga, resources, sites and landscapes in their takiwā, with their own objectives, policies and kaupapa. Many council plans and policies refer to and are aligned with Iwi Management Plans.
11. **We recommend** that the *Statutory Advocacy Policy* makes specific acknowledgement (possibly under Objective 6) of Iwi Management Plans and any policies and provisions included in those Plans for the historic heritage of the iwi or hapū.
12. We support the efficiency signalled in the commitment in Policies 14.4 and 14.5 of the draft *Statutory Advocacy Policy* of avoiding overlap between the respective provisions of the HNZPTA and RMA, and ensuring close alignment of consenting requirements and processes to reduce costs and time for all concerned.

**Archaeological sites:**

13. The draft *Archaeological Provisions Policy* relies on the information contained in the NZAA Site Recording Scheme, which is to be recognised under Policy 4.1 (p 13) as 'the national inventory of archaeological sites'. The preamble to Objective 4 (p 13) notes the importance of updating these records, and the comment and Policies supporting Objective 5 (p 14) also stress the value of archaeological site recording and research as the foundation of knowledge and appropriate management of New Zealand's heritage.
14. However we note that there are significant problems with the systems for locating archaeological sites, often arising from issues with previous transitions to metric GIS positioning. Uncertainties also arise from the understandable reluctance of iwi and hapū to make highly sensitive or tapū information available for archives over which they have no control. In the experience of the Canterbury councils, lack of precision in the location of sites has contributed to a practice of requiring extensive buffer zones in an effort to 'cover the likely area'. This has created difficulties, delays and significant costs with the requirement for archaeological surveys, which have been major disincentives for important projects such as biodiversity restoration plantings in our region.
15. **We strongly recommend** that HNZPT and the NZAA give high priority to investing in improving the accuracy of the GIS references for archaeological sites.
16. We note that the Policies under Objectives 11, 12, 13 and 14 of the draft *Statutory Advocacy Policy* cover a range of local government activities, and that Objective 8 of the draft *Archaeological Provisions Policy* commits HNZPT to facilitating cooperation and efficiencies to align RMA and HNZPTA processes. However there are a range of activities that do not require consenting (diverse 'permitted activities' under RMA plans), as well as councils' own operational activities, where although there may be no formal consenting process, issues may arise in relation to potential archaeological sites and application for an archaeological authority. We suggest that there is an opportunity, perhaps utilising the Vulnerability Index concept outlined below, for HNZPT to develop practical operational guidelines and/or agreements with local authorities to manage these kinds of situations pragmatically and efficiently.

**Site Vulnerability Index proposal:**

17. In response to some of the operational challenges noted above, Environment Canterbury has begun development of a Site Vulnerability Index system. This aims to establish a standardised risk-based process that is practicable to apply across a range of activities, to assist staff to manage the potential impact of activities on archaeological sites and ensure compliance with the HNZPTA. Central components of the process include:

- determining a response appropriate to the site, archaeological and heritage values, and the proposed activity, using a rating system for different activities and proximity to sites
  - buffer distances linked to the potential disturbance risk of the proposed activity
  - review of all potentially relevant sources of information
  - consultation with local rūnanga
  - application of HNZPT approved Accidental Discovery Protocol.
18. Work will be undertaken to develop and refine the Site Vulnerability Index, in close association with HNZPT and other relevant participants. There are very positive opportunities to use the Index as the basis for proactive initiatives to improve awareness and understanding with contractors, farmers / landowners, council operational staff, and rūnanga, and to improve consistency, certainty and efficiency in the processes followed.
19. **We recommend** that HNZPT are closely involved in the development of the Site Vulnerability Index and its application in the Canterbury region.

***Matters requiring clarification:***

20. A range of different but associated technical terms – including ‘protection’, ‘recognition’, ‘preservation’, ‘conservation’, ‘maintenance’, ‘restoration’, ‘safeguarding’, ‘promotion’, ‘adaptation’ – are used throughout the draft *Statutory Policies*. However it is often not clear what is actually intended or covered by particular terms or combinations of terms in relation to the particular sections of the proposed policies. The Glossary to the draft *Statutory Advocacy Policy* includes the same definition of ‘conservation’ as provided in the HNZPTA section 6. The Glossary to the draft *General Policy for the Management and Use of Historic Places Owned, Controlled or Vested in HNZPT* includes definitions of ‘preservation’, ‘reconstruction’ and ‘restoration’ derived from the ICOMOS NZ Charter. However beyond these definitions, there is no explanation of the distinctions between the technical terms used through the draft policies.
21. Clarification is also required for a range of terms where judgement and/or interpretation will be required. Such terms include: ‘sufficient knowledge’, ‘minor effects’, and ‘reasonable alternatives’. There should be accompanying explanation of how these matters will be determined, against which criteria, and by whom through what processes.
22. **We recommend** that the draft *Statutory Policies* include adequate definitions and explanations of technical terms and terms requiring judgement.

***Implications of proposed changes to the RMA:***

23. We note that the Government is currently proposing changes to the Resource Management Act, in particular changes to sections 6 and 7 (Part 2) which may influence councils' planning and policy. We note the Government's intention to introduce a Bill for passage through the House by the end of 2015, and the timeline for HNZPT to finalise the draft *Statutory Policies* by November 2015. The implications of the proposed RMA amendments should be carefully assessed before the *Statutory Policies* are finalised.

***Recommendations:***

The Canterbury councils offer the following recommendations to Heritage New Zealand Pouhere Taonga:

1. That comprehensive guidance is developed for all involved in the implementation of the *Statutory Policies* (within HNZPT and its regional offices, in local government and other agencies, and other process participants) to ensure consistency in their interpretation. This guidance should be developed through a process involving local government, tangata whenua and communities as well as HNZPT and the New Zealand Archaeological Association (NZAA).
2. That the *Statutory Advocacy Policy* makes specific acknowledgement (possibly under Objective 6) of Iwi Management Plans and any policies and provisions included in those Plans for the historic heritage of the iwi or hapū.
3. That HNZPT and the NZAA give high priority to investing in improving the accuracy of the GIS references for archaeological sites.
4. That HNZPT are closely involved in the development of the Site Vulnerability Index and its application in the Canterbury region.
5. That the draft *Statutory Policies* include adequate definitions and explanations of technical terms and terms requiring judgement.