

IN THE MATTER the Resource Management Act 1991 (“the Act”)

AND

IN THE MATTER of an appeal under Clause 14(1) of Schedule 1 of the Act

BETWEEN **HERITAGE NEW ZEALAND POUHERE TAONGA**

Appellant

AND **SOUTHLAND REGIONAL COUNCIL**

Respondent

**STATEMENT OF EVIDENCE OF DENISE JOYCE ANDERSON ON BEHALF OF
HERITAGE NEW ZEALAND POUHERE TAONGA**

22 February 2019

INTRODUCTION

1. My name is Denise Joyce Anderson. I am the Area Manager Otago and Southland for Heritage New Zealand Pouhere Taonga (HNZPT). I have been working for HNZPT since July 2018, until recently as the Planner in the Otago and Southland office.
2. I hold the qualification of Master of Regional and Resource Planning from the University of Otago and I am a Member of the New Zealand Planning Institute.
3. I have over 30 years' experience as a planner in various roles in a Crown Entity, planning consultancy, multi-disciplinary consulting company and a Regional Council, prior to my current role with HNZPT. In my current position I am responsible for the delivery of services which include planning primarily within Otago and Southland.

CODE OF CONDUCT

4. I confirm that I have read the code of conduct for expert witnesses as contained in section 7.1 of the Environment Court's Practice Note 2014. I have complied with the Practice Note when preparing my written statement of evidence and will do so when I give oral evidence before the Court.
5. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
6. Unless otherwise stated, this evidence is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

SCOPE OF MY EVIDENCE

7. My evidence will address the Topic A matters of Heritage New Zealand's appeal, in particular Objective 9 and Objective 13 of the proposed Southland Water and Land Plan (pSWLP). The policies included in Heritage New Zealand's appeal will be heard at a different time, however the basis for my evidence and views I present with regard to including historic heritage reference in Objectives 9 and 13 will be similar to the evidence I present with regard to the policies.
8. In preparing this evidence I have read and considered the following documents:
 - a. The pSWLP (notification and decisions versions) Region-wide Objectives;

- b. The Report and Recommendations of the Hearing Commissioners, Chapter 16 Historic Heritage;
- c. The Heritage New Zealand Pouhere Taonga Appeal and relevant Section 274 Notices;
- d. The evidence prepared for the Council by Mr McCallum-Clark regarding Objectives 9 and 16;
- e. The Objectives Section of the Initial Planning Statement
- f. Southland Regional Policy Statement 2107 (RPS) Chapter 14: Historic Heritage.

EXECUTIVE SUMMARY

- 9. Heritage New Zealand is primarily concerned at the lack of regard to historic heritage as a matter of national importance in the decision version of the pSWLP.
- 10. There are no Objectives or Policies included in the decision version of the pSWLP in relation to historic heritage and in my opinion this omission means that in relation to historic heritage, the decision version of the pSWLP is not in accord with the provisions of Part 2 and does not give effect to the RPS.
- 11. In my opinion, if Objectives 9 and 13 included reference to historic heritage, they would be in accord with Part 2 and would give effect to the RPS. This reference to historic heritage could be achieved by reverting to the notified version of the objectives, or similar wording.

BACKGROUND

- 12. Heritage New Zealand submitted in support of notified Objectives 9 and 13 which recognised that certain activities relating to the use of water and land have the potential to adversely affect historical and cultural heritage values, and that appropriate management of these values is necessary.
- 13. These submissions were rejected and all references to historic heritage values have been removed from the pSWLP. Heritage New Zealand has, among other things, appealed this and seeks reinstatement of Objectives 9 and 13. In addition to these Objectives, Heritage New Zealand is also seeking a policy framework in order to implement the objectives insofar as they relate to historic heritage. The relief sought in the appeal includes the reinstatement of Policies, 20, 24 and 28 and an amendment to Policy 29. This statement is limited to the lack of historic heritage Objectives in the pSWLP.

STATUTORY FRAMEWORK

14. Historic heritage is a matter of national importance under Part 2 of the Resource Management Act 1991 (RMA) and all regional plans must be in accordance with s66(1)(b) and have regard to s66(1)(c). Historic heritage¹ is a broad term as defined in the RMA.

Functions of Regional Councils under the RMA

15. When preparing their plans, regional council functions for giving effect to the RMA include under s30(1)(a) and (b), to prepare objectives, policies and methods in relation to the integrated management of natural and physical resources, and to any actual and potential effects of the use, development, or protection of land which are of regional significance: this includes historic heritage. The RMA defines historic heritage as 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: archaeological: architectural, cultural, historic, scientific, technological; and includes— historic sites, structures, places, and areas; and archaeological sites; and sites of significance to Māori, including wāhi tapu; and surroundings associated with the natural and physical resources.

16. The RMA also states regional plans must give effect to national policy statements, national planning standards and regional policy statements.²

¹ Historic heritage -

- (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

² Section 67(3) RMA

Southland Regional Policy Statement

17. The RPS contains strong direction that historic heritage is to be protected, through objective HH.1, Policy HH.2 and Method HH.1 that state:

Objective HH.1 - Protection of historic heritage, requires that historic heritage values are identified and protected from inappropriate subdivision, use and development.

Policy HH.2 - Protection of Historic Heritage is to avoid, mitigate and where appropriate, remedy adverse effects on historic heritage values from inappropriate subdivision, use and development. It provides, on a case by case basis to take into account factors such as the significance of heritage values, financial cost and technical feasibility when making decisions relating to the protection of historic heritage.

Method HH.1 - District and regional plans is directive in that it includes a statement that local authorities will establish and maintain provisions in regional and district plans that include a requirement to identify and provide for the protection of historic heritage from inappropriate subdivision, use and development and includes a number of mechanisms that may be included.

OBJECTIVE 9

18. As notified, Objective 9 read:

(a) The quantity of water in surface waterbodies is managed so that aquatic ecosystem health, life-supporting capacity, outstanding natural features and landscapes, recreational values, natural character, and historic heritage values of surface waterbodies and their margins are safeguarded; and

(b) Provided (a) is met, water is available both instream and out-of-stream to support the reasonable needs of people and communities to provide for their social, economic and cultural wellbeing.

19. The decision version separates Objective 9 into two separate objectives and adds a new Objective 9B:

Objective 9

The quantity of water in surface waterbodies is managed so that aquatic ecosystem health, life-supporting capacity, outstanding natural features and landscapes and natural character are safeguarded.

Objective 9A

Surface water is sustainably managed to support the reasonable needs of people and communities to provide for their social, economic and cultural wellbeing.

Objective 9B

The effective development, operation, maintenance and upgrading of Southland's regionally significant, nationally significant and critical infrastructure is enabled.

20. In my opinion, the decision version of Objective 9 is inadequate as the deletion of historic heritage from the objective means that it fails to give effect to the RMA and does not give effect to the RPS.
21. Mr McCallum-Clark's evidence contains a discussion on Objectives 9 and 9A starting at paragraph 70. I agree with paragraph 87 of Mr McCallum-Clark's evidence that the inclusion of historic heritage within objectives and policies is legally justifiable.
22. Mr McCallum-Clark's evidence also outlines the numbers of parties who have appeals which relate to these Objectives and the larger number of s274 parties with a range of different outcomes sought. Whilst Heritage New Zealand sought the retention of the objective as notified, this appeal point would also be met by an appropriately worded objective that protected historic heritage from inappropriate subdivision, use and development.

OBJECTIVE 13

23. As notified, Objective 13 read:

Enable the use and development of land and soils, provided:

the quantity, quality and structure of soil resources are not irreversibly degraded through land use activities and discharges to land;

the discharge of contaminants to land or water that have significant or cumulative effects on human health are avoided; and

adverse effects on ecosystems (including diversity and integrity of habitats), amenity values, cultural values and historic heritage values are avoided, remedied or mitigated to ensure these values are maintained or enhanced.

24. The decision version of Objective 13 is separated into three separate Objectives:

Objective 13

Enable the use and development of land and soils to support the economic, social, and cultural wellbeing of the region.

Objective 13A

The quantity, quality and structure of soil resources are not irreversibly degraded through land use activities or discharges to land.

Objective 13B

The discharges of contaminants to land or water that have significant or cumulative adverse effects on human health are avoided.

25. In my opinion the decision version of Objective 13 is unbalanced as the words "historic heritage" have been deleted from the Objective and it therefore fails to protect historic

heritage from inappropriate subdivision, use and development. I note Mr McCallum-Clark's paragraph 156 and supports the last three sentences of that paragraph, in particular the final sentence where he states that *"there may be merit in exploring the reinstatement of clause (c) as requested directly or indirectly by all appellants."*

26. Also Mr McCallum-Clark at paragraph 87 mentions that Council in its capacity as consent authority, may also consider adverse effects on matters within its land use functions under s30(1)(c), including adverse effects on historic heritage. Mr McCallum-Clark goes on to state that some objective or policy guidance may be helpful if this does occur; I support these statements

CONCLUSION

27. In my opinion, including provisions to recognise and protect historic heritage in the pSWLP is imperative in order to ensure that the pSWLP is consistent with the SRPS and achieves the purpose as set out in Part 2 of the RMA.

Dated this 22nd day of February 2019



Denise Anderson