

BEFORE THE MACKENZIE DISTRICT PLAN HEARINGS PANEL

UNDER

the Resource Management Act 1991

AND

IN THE MATTER OF

**Proposed Mackenzie District Plan –
Stage 4**

**STATEMENT OF EVIDENCE OF MITZIE ESPOLTERO BISNAR
ON BEHALF OF HERITAGE NEW ZEALAND POUHERE TAONGA**

Dated 9 May 2025

INTRODUCTION

1. My full name is Mitzie Espoltero Bisnar.
2. I hold a Bachelor of Science Degree (BSc) in Environmental Science and Geography from the University of Canterbury.
3. I am employed as a planner at Heritage New Zealand Pouhere Taonga (HNZPT), and I am responsible for the delivery of heritage planning advice within Canterbury and the West Coast regions. I have held this position since August 2024.
4. I have over two years' experience in the planning sector. Prior to my current role, I was a Consents Planner at the Waikato District Council. I am an associate member of the New Zealand Planning Institute (NZPI).
5. I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 (the Code). I have complied with the Code in this evidence. I have not knowingly omitted to consider material facts known to me that might alter or detract from the opinions I express.

EXECUTIVE SUMMARY

6. HNZPT is supportive of many aspects of the proposed Mackenzie District Plan. The submissions it lodged relate to areas of the District Plan where a strengthening of the proposed provisions would result in better outcomes in management and protection of historic heritage. In particular, the submission opposed the proposed status for demolition of scheduled items which are Category 2 Historic Places listed on the New Zealand Heritage List / Rārangī Kōrero (the List).
7. I agree with majority of the s42A report writer's recommendations, however there are two key areas where I do not agree with the recommendation or reasoning. The protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance, and in my view the historic heritage chapter should give clarity and direction as to how that protection is achieved. Having read the s42A report, in my view, there are three remaining areas of disagreement relating to advising a Plan user about archaeology, the activity status for demolition of historic heritage, and the importance of heritage assessments for heritage items in HH-SCHED2.
8. Clarification of the Historic Heritage Chapter introduction for the Plan user is needed and, in my view, should be undertaken by removing references to the NZAA tool and a singular example. The NZAA map is not a complete source of information and may therefore present the risk of misinterpretation. The specific example of ground disturbance (for example earthworks) may also be misinterpreted as it presents a scenario that is not appropriate in all situations, and also implies that consideration of other matters such as archaeology should only occur if archaeological material is encountered.

9. Demolition of any scheduled heritage item must be a non-complying activity to provide adequate protection. As such, in my opinion, proposed rule HH-R6 should be deleted, and a single activity status of non-complying for demolition of any scheduled heritage item should be applied.
10. Also of particular importance, in my opinion, are the provision of a heritage assessment and identified setting for each item scheduled on HH-SCHED2. Individual heritage assessments and identified settings would help in the assessment of how an activity may affect a scheduled item and how effects on that item may be mitigated.

SCOPE OF EVIDENCE

11. The scope of my evidence addresses the following matters:
 - (a) HNZPT and its role in advocating for the protection of historic heritage
 - (b) Mackenzie heritage
 - (c) HNZPT role in the Plan review process
 - (d) Submission points
 - Historic heritage introduction
 - Demolition rules HH-R6 and HH-R7
 - HH-SCHED2
 - Heritage assessments
 - Identification of settings
12. In preparing this evidence I have read the relevant submissions, further submissions, and the s42A reports prepared by Council staff and consultants. These reports recommend the acceptance of a number of the more substantial changes that HNZPT requested in the submission. My evidence therefore mainly addresses the remaining topics which are mostly minor in scope. I have not included section 32AA analysis for the minor changes.

THE ROLE OF HERITAGE NEW ZEALAND POUHERE TAONGA

13. 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 historic and cultural heritage.
14. HNZPT prepares and maintains the New Zealand Heritage list / Rārangi Kōrero (the List), which is primarily an identification and recognition tool for New Zealand's significant and valued historical and cultural heritage places. The purposes of the List are:
 - (a) to inform members of the public about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas;
 - (b) to notify the owners of historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas, as needed, for the purposes of the HNZPTA; and
 - (c) to be a source of information about historic places, historic areas, wāhi tūpuna, wāhi tapu, and wāhi tapu areas for the purposes of the Resource Management Act 1991 (RMA).

15. Inclusion on the List does not offer any form of protection, so statutory protection of historic heritage relies on provisions in RMA planning documents. The protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance, as set out in section 6 of the RMA. As such, HNZPT advocates for all entries on the List to be protected through scheduling within district plans where appropriate.
16. The HNZPTA provides a process to regulate activities that may affect archaeological sites, defined as any place associated with human activity prior to 1900 that through investigation by archaeological method may provide evidence on the history of New Zealand. It is an offence under section 87 of the HNZPTA to modify or destroy an archaeological site without an authority from HNZPT irrespective of whether the works are permitted, or a consent has been issued under the RMA¹.

MACKENZIE HERITAGE

17. Mackenzie District is known for its incredible natural landscapes and its rich historic and cultural heritage. The district has a rich history associated with early intermittent occupation by Māori before the arrival of Europeans, and later European settlement from the mid-19th century.
18. Within the Mackenzie District, there are many areas and sites of historic significance which are important to the community, providing both identity and significant amenity values, as well as encouraging intergenerational connection. There are 30 historic places currently entered on the List across the Mackenzie District.
19. These heritage places tell the story of our past and contribute to the unique history of this district. The identification and protection of these important historic heritage places can enhance the value and appreciation of this region to those who live and work there as well as to those who visit. Conversely, inappropriate subdivision, use and development can cause irreversible adverse effects on Mackenzie's significant historic places.

HNZPT INVOLVEMENT IN PLAN REVIEW

20. Prior to notification of Stage 4 of the Mackenzie District Plan Review, HNZPT provided extensive heritage guidance and support to the Mackenzie District Council (Council). This included provision of information on heritage items and reviewing the initial draft of the Historic Heritage Chapter for Plan Change 28.
21. HNZPT lodged a submission on Stage 4 of the Mackenzie District Plan Review on 21 January 2025 which included submissions on Plan Changes 28, 29, 30 and the Proposed Designations Chapter. HNZPT lodged a further submission on 24 February 2025. I was involved in the preparation of each of these submissions.

¹ Heritage New Zealand Pouhere Taonga Act 2014, section 87.

22. On 4 March 2025, HNZPT staff attended a pre-hearing meeting with the s42A author, Ms Emma Spalding, the Council's heritage expert, Mr Richard Knott and representatives of The Church of the Good Shepherd Tekapo Committee. I attended that meeting. The issues discussed at the meeting pertained to heritage submission points, with a focus on the proposed Church of the Good Shepherd and the Statue of the Sheepdog Overlay. The outcome of the issues discussed are reflected in the s42A report.

SUBMISSION POINTS

GENERAL COMMENT

23. The Historic Heritage Chapter of Plan Change 28 identifies buildings, structures and items of particular historic heritage value to the district and seeks to protect these for the benefit of current and future generations.
24. The HNZPT submission recognises key changes from Section 11 – Heritage Protection of the Operative District Plan, including strengthening objectives and policies to recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development. These, and their associated rules, generally provide what, in my view, is an appropriate balance between enabling appropriate activities, whilst strengthening the requirements for activities that may have potential to adversely affect heritage value.
25. I acknowledge that a number of HNZPT's submission points have been accepted in full or in part within the relevant s42 reports for Plan Changes 28, 29, 30 and the Proposed Designations Chapter. I will not discuss the accepted submission points further.
26. I also acknowledge that a number of HNZPT's submission points have been rejected in the s42A reports. Having read the s42A reports, I can confirm that HNZPT accepts that analyses and recommendations for the relevant provisions to which the submissions relate, unless addressed below.
27. My evidence will concentrate on some of the HNZPT submission points that the s42A report has recommended be rejected.

HISTORIC HERITAGE INTRODUCTION

28. HNZPT sought amendments to the introduction of the Historic Heritage Chapter (submission point 27.08), specifically paragraph four which relates to archaeology. The submission requested the deletion of the following items: link to the New Zealand Archaeological Association (NZAA) map and the advice pertaining to conducting earthworks.
29. In relation to the sentence beginning with "if an archaeological site is discovered, for example when conducting earthworks", HNZPT sought for this to be deleted, on the basis that "this refers to only one specific potential scenario and will not apply to all archaeological sites".

30. The s42A author has rejected these submission points, as she considers them “unnecessary”². I disagree with this. In my experience, the easier that a plan is to read and understand, the more likely a person is to engage with its contents. A chapter introduction should set the scene for a reader, and although it does not form a part of the objectives, policies and rules, it provides information and context that relate to those provisions.
31. Any information that is not clear, and may be misinterpreted in my view, should be avoided. The reference and link to the NZAA map may be misleading for the plan user as it is not a complete source of information. Given that there is an absence of data for some areas, it creates a risk that a Plan user may consult the NZAA map, consider it complete, and begin their works without a complete understanding of the archaeology that is or may be present.
32. I do acknowledge that sometimes the NZAA map may be a useful tool, however, it is not a complete source of information. As such, in order to remove that ambiguity or risk of misinterpretation, in my view, reference to the NZAA maps should be removed.
33. In my view, there is also ambiguity with regard to reference of providing an example in the paragraph. In some instances, it may be appropriate to undertake ground disturbance with an accidental discovery protocol, other times with an authority, and sometimes a person can undertake works without the need for either.
34. However, using the example as set out in the introduction paragraphs, implies that ground disturbance (for example earthworks) can begin and if archaeological material is encountered, then the consideration should occur. This is not going to be appropriate in all situations, it depends on the likelihood of archaeology being encountered.
35. Therefore, in my view, the introduction should make plan users aware that there may be other matters to consider prior to beginning any works, but without any specific detail, such as an example.
36. In my experience, archaeology and its requirements are not a well-known area of historic heritage, and providing a narrow and singular example may be more confusing, than providing no example.
37. As such, my view is that this sentence should be removed, and the introduction should read:
- Ground disturbance activities may result in the discover of other, currently unknown, archaeological sites. It is unlawful to destroy, damage or modify an archaeological site regardless of whether the site is recorded or not, without obtaining an archaeological authority from HNZPT.*

DEMOLITION RULES HH-R6 AND HH-R7

² Section 42A Report Part B: Plan Change 28 (and Variation 1 to Plan Change 26 and Variation 1 to Plan Change 27) Historic Heritage and Notable Trees at [47]

38. Notified rules HH-R6 and HH-R7 relate to activity status for demolition of heritage items included in Schedule 2, applying a different status dependent on their category in the List.
39. The HNZPT submission requested deletion of HH-R6 (submission point 27.24) and amendment to HH-R7 to apply to all heritage items in HH-SCHED2, regardless as to their category in the List. (submission point 27.25). As above, it is my opinion that a non-complying status for demolition is the most appropriate method to adequately protect the heritage items in HH-SCHED2.
40. The s42A report rejects the above submission points, and recommends rules HH-R6 and HH-R7 remain as notified³. The reasons for this recommendation are on the basis that Category 1 items have higher heritage values, thereby affording them a higher level of protection.
41. Objective HH-O1 states that “Historic heritage items are protected from inappropriate subdivision, use and development”. In order to achieve that objective, Policy HH-P6 directs to “Avoid the demolition and partial demolition of a scheduled historic heritage item, with three exceptions given”.
42. Currently these rules assign a different activity status dependent on whether they are Category 1, Category 2, or not included in the List. The reasoning of the s42A author is that this is to differentiate between the different levels of heritage values.
43. This application is incorrect, in my opinion, because as stated earlier, the primary purpose of the List is to provide information to the public and owners. Further, the List contains heritage items that are significant in the entire country; while HH-SCHED2 is a list of the historic heritage items of significance in the Mackenzie District.
44. The RMA identifies the protection of historic heritage to be a matter of national importance, not protection of the most significant historic heritage. In my view, the heritage items that have been identified in HH-SCHED2 have had their historic significance considered and have met the threshold to be recognised and protected through the District Plan provisions, in line with Objective HH-O1.
45. In my view, a discretionary status for demolition of the items in HH-SCHED2, that are also Category 2 on the List, does not provide adequate protection.

³ Section 42A Report Part B: Plan Change 28 (and Variation 1 to Plan Change 26 and Variation 1 to Plan Change 27) Historic Heritage and Notable Trees at [118]

46. I, therefore, do not agree with the s42A recommendation, and in my view a non-complying status for demolition of all historic heritage items in HH-SCHED2 would give effect to HH-O1, HH-P6 and Part 2 of the RMA.

HH-SCHED2

Heritage assessments

47. HNZPT considers district plan heritage schedules to be one of the most significant tools for protection of heritage items and actively advocates for these schedules to be both comprehensive and defensible. Throughout the plan preparation stage, HNZPT actively encouraged the preparation of assessments to justify the inclusion of items in the schedule.
48. In its submission, HNZPT sought assessments of all HH-SCHED2 items, explaining “without such assessments it can prove difficult for owners to understand why their item is important or for Council to justify decisions on resource consents”.
49. The s42A report has rejected HNZPT’s submission on the basis that majority of the scheduled items have been rolled over from the Operative District Plan⁴.
50. In my view, the benefit of these assessments is twofold. One, for the benefit of the owner to understand why their property is scheduled and what important features must be retained; and two, it assists the Council with carrying out its duties pursuant to the RMA, in particular, decisions in relation to whether it is appropriate for a proposed activity under resource consent to be granted. These assessments would provide a thorough understanding to any processing planner when considering the effect of any proposed activity on the heritage values of that heritage item, and then consider how to avoid, remedy or mitigate those adverse effects on the heritage values.
51. I, therefore, disagree with the s42A recommendation with regard to the individual heritage assessments for items scheduled in HH-SCHED2.

Identification of settings

52. HNZPT submitted on the inclusion of identified settings for each heritage item included within HH-SCHED2, and respectively a definition for ‘heritage setting’ (submission points 27.38 and 27.14).
53. The submission included reference to the ICOMOS NZ Charter which advises that on-going association of a structure or feature of heritage value with its location, site, curtilage and setting is essential to its authenticity and integrity⁵.

⁴ Section 42A Report Part B: Plan Change 28 (and Variation 1 to Plan Change 26 and Variation 1 to Plan Change 27) Historic Heritage and Notable Trees at [148]

⁵ ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value, Revised 2010 at Part 9 Setting, and Part 10 Relocation

54. The s42A report has rejected HNZPT's submission points relating to settings⁶.
55. Policy HH-P4, seeks to "enable subdivision of a site containing a scheduled historic heritage item where the resultant lot containing the historic heritage item is of a size and shape that accommodates the whole of the heritage item, provides sufficient space to provide an appropriate setting for the building, maintains access to enable the maintenance of the heritage item(s), and does not adversely affect the historic heritage values of the heritage item."
56. In order to achieve this, there needs to be understanding of what the setting of each is, otherwise this policy cannot be applied appropriately. Identification of the setting for each heritage item in HH-SCHED2 would provide that understanding.
57. The identification of settings for items included in HH-SCHED2 would also ensure an appropriate consideration of the assessment criteria in HH-SCHED1, where under the heading "Contextual" it states values that demonstrate or are associated with a relationship to the environment, and includes direct reference to "setting".
58. As such, I do not agree with the s42A recommendation and remain in support of the inclusion of identified settings for scheduled items.

Mitzie Bisnar
9 May 2025

⁶ Section 42A Report Part B: Plan Change 28 (and Variation 1 to Plan Change 26 and Variation 1 to Plan Change 27) Historic Heritage and Notable Trees at [67] and [149]