



Our ref: NA KP DP

15 November 2011

Kaipara District Council  
Private Bag 1001  
Dargaville 0341



**Re: New Zealand Historic Places Trust Pouhere Taonga v Kaipara District Council**

Please find enclosed, by way of service, a copy of an appeal that relates to decisions on submissions to the Proposed Kaipara District Plan.

The address for service for the New Zealand Historic Places Pouhere Taonga is:

Geraldine Baumann  
Senior Legal Adviser  
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The decision that is the subject of the appeal, and the NZHPT's original submission, are available on the Council's website. Alternatively, please contact the writer if you wish to obtain copies of those documents.

The NZHPT is willing to undertake mediation in respect of this appeal.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "Duncan McKenzie".

Duncan McKenzie  
Heritage Advisor Planning

Form 7

**Notice of appeal to Environment Court against decision on proposed  
policy statement or plan or change or variation**  
*Clause 14(1) of Schedule 1, Resource Management Act 1991*

**To** the Registrar  
Environment Court  
Auckland

The New Zealand Historic Places Trust ("NZHPT") appeals against a part of a decision of Kaipara District Council on the Proposed Kaipara District Plan.

NZHPT made a submission on that plan.

NZHPT is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

The New Zealand Historic Places Trust received notice of the decision on 3 October 2011.

The decision was made by Kaipara District Council.

The parts of the decision that NZHPT is appealing are:

- 1 The lack of provision for protection of the heritage values of Category B scheduled resources or features, in particular part 17.1.2 third paragraph (which indicates that Category B heritage resources or features are not protected), and Rule 17.10.1 (which has no performance standards in respect of alterations to Category B resources or features).
- 2 The lack of provision in the plan for Council or other bodies to initiate the scheduling of heritage resources or features for Category A protection, and the excessive reliance on the New Zealand Historic Places Trust to assess resources or features prior to inclusion within Appendix 17.1 as either Category A or Category B.
- 3 The lack of provision for the regulation of subdivision and development in the surroundings of a Category A or Category B heritage resource or feature so as to protect the heritage values of that feature.

The reasons for the appeal are as follows:

- 1 The Plan should provide a degree of protection for the heritage values of Category B resources or features, through requiring resource consent for any works affecting such items other than minor works.
- 2 a) The Plan should provide for a process for the scheduling of category A heritage items or features that does not directly involve NZHPT (that is, allowing scheduling to be initiated through the Council or through a private plan change. The Plan as it stands suggests that such scheduling will only be carried out where registration of features has been or is being carried out by NZHPT using the Historic places Act 1993. It is quite possible that there will be features that merit

scheduling as Category A but which the NZHPT has not registered. There should be provision for this.

- b) The Plan places excessive reliance on NZHPT's criteria for the scheduling of Category B heritage resources or features, these being items that are of local significance and would not necessarily meet NZHPT criteria for registration.

- 3 It is possible that subdivision and development in the vicinity of a Category A or category B heritage resource or feature will adversely affect the heritage values of that resource or feature. The definition of historic heritage in the Resource Management Act 1991 specifically refers to the inclusion of surroundings associated with the natural and physical resources

NZHPT seeks the following relief:

- 1 That the second and third paragraphs of 17.1.2 be changed to indicate that Category B features have a degree of protection and to remove the implication that NZHPT is primarily responsible for establishing the schedule of Category A features.

The first three paragraphs would be amended to read: (deletions ~~struck through~~, additions underscored).

#### ***17.1.2 Heritage Sites and Areas***

There are two types of heritage resources that include both sites and areas within the Kaipara District: "Category A" heritage resources and "Category B" heritage resources.

Category A heritage resources are given some protection under District Plan Rules. Council has established a schedule of Category A heritage resources which is contained in Appendix 17.1, and shown in Map Series Two (Part E - Maps). Works, including alterations, which are likely to adversely affect the historic character of Category A heritage resources require Resource Consent approval from Council. The initial identification of Category A heritage resources have been identified as requiring protection has been based on:

- Their status as heritage resources which are registered with the New Zealand Historic Places Trust; or
- Their recognition in the previous Kaipara District Plan as protected heritage resources.

There is a process for adding to this schedule, described in 17.6.2.9 below.

~~Category B heritage resources are not registered with the New Zealand Historic Places Trust and subsequently are not protected by also have protection under the District Plan Rules, in that resource consent is required before any significant work (including demolition) is carried out.~~ Council has established a schedule of Category B heritage resources which is contained in Appendix 17.1, and in (Part E-Maps). Category B heritage resources are of local significance and have been identified in the District Plan to encourage recognition and protection, and to raise awareness (~~for information purposes~~).

- 2 That Method 17.6.2.9 and 17.6.2.10 be deleted, and replaced with text that makes it clear that the NZHPT is not the determinant of which items appear within Appendix 17.1. The following is the replacement text:

**17.6.2.9 Alterations to Appendix 17.1 (Category A and B Heritage Resources)**

Council may, by way of plan change, add or remove Category A and Category B heritage resources to Appendix 17.1. Generally, the Appendix will be reviewed by the Council every two years.

Category A heritage resources are generally of greater significance and Category A items within Appendix 17.1 were initially based on the New Zealand Historic Places Register. New Zealand Historic Places Trust will be consulted, and their criteria generally used, before any additions or alterations are made to the Category A schedule. Generally if a new item is added to the New Zealand Historic Places Trust Register, it will be considered for Category A in Appendix 17.1.

In respect of Category B heritage resources, while the expertise of the New Zealand Historic Places Trust will be utilised, it is acknowledged that NZHPT's registration criteria may be of limited application to a decision to alter the schedule of Category B heritage resources.

Further criteria prior to inclusion of further category B heritage resources are:

- a) There is proof of consultation with the owner of the land on which the heritage resource is located;
- b) A written narrative about the heritage resource is provided, which establishes that the resource is of a standard to be included in Category B of Appendix 17.1; and
- c) Adequate mapping is carried out.

- 3 That Rule 17.10.1 be amended to read as on the following page (deletions struck through, additions underscored).

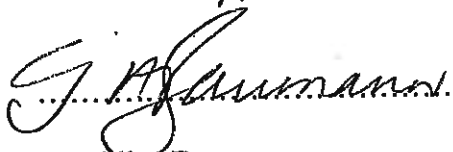
And Rule 17.10.1 to read as follows:

<b>Rule</b>	<b>Parameter</b>	<b>Heritage Activity Performance Standards</b>	<b>Activity Status if the Activity does not meet the performance standard</b>	<b>Assessment Criteria</b>
17.10.1	Alteration or maintenance to a category A or Category B resource or feature	<p>Any activity is permitted if</p> <p>a) It involves minor works or <b><i>maintenance</i></b> to any Category A or Category B <b><i>heritage</i></b> resource or feature listed in Schedule 17.1 where replacement materials should be either original or similar material, colour, texture, form and design as the original it replaces, and the number of components replaced should be substantially less than the existing components, and</p> <p>b) It complies with the relevant Rules and Performance Standards in Part B.</p>	<p>Discretionary Activity in respect of any Category A resource or feature</p> <p><u>Restricted Discretionary Activity in respect of any Category B resource or feature.</u></p>	[As provided in the decision]
17.10.1A	Works in the vicinity of a Category A or B resource or feature	<p>Any subdivision or development is permitted if</p> <p>a) It complies with the relevant Rules and Performance Standards in Part B, and</p> <p>b) <u>It is at least 20 metres from a Category A or Category B heritage resource or feature, or outside the defined curtilage of that resource or feature (where that is defined within appendix 17.1).</u></p>	<p><u>Restricted Discretionary Activity</u></p>	As above, plus the extent to which the works <u>detract from the heritage values of the resource or feature.</u>

The following documents are attached to this notice:

- (a) a copy of my submission *or* further submission (with a copy of the submission opposed or supported by my further submission):
- (b) a copy of the relevant decision (*or* part of the decision):
- (c) a list of names and addresses of persons to be served with a copy of this notice.

DATED this 11<sup>th</sup> day of November 2011



Geraldine Baumann  
Senior Legal Adviser  
New Zealand Historic Places Trust *Pouhere Taonga*

**Address for service of NZHPT:**

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**Names and addresses of persons to be served with a copy of this notice.**

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and Poutu Topu A Trust  
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