

## 7.0 CONSERVATION AND HERITAGE

### 7.1 HERITAGE FEATURES

#### 7.1.1 BACKGROUND

##### Introduction

Part II of the Resource Management Act 1991, places a responsibility on the District Council to recognise and provide for appropriate cultural heritage protection.

The purpose of the Act (Section 5) and a number of the matters set out in Sections 6 and 7 provide the mandate and responsibility for cultural heritage identification and protection. In particular, the following matter must be recognised and provided for as a matter of national importance:

*"The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga."*  
(Section 6(e)).

Some such sites, waahi tapu and other taonga may be archaeological sites or sites of some historic value. Consultation with the Tangata Whenua is needed to identify waahi tapu areas and whether any sites need special protection through the District Plan.

On a more general front Council must have regard to:

*"Recognition and protection of the heritage values of sites, buildings, places or areas."*  
(Section 7(e)).

These sites, waahi tapu and other taonga may be taonga of the Tangata Whenua but not necessarily so. Most buildings and structures of heritage value are likely to be of non Maori origin. Reference is made in the Second Schedule to the Resource Management Act 1991 to managing the effects of land use activities on historic places, waahi tapu and other features. Further, Section 74 requires Council in preparing its District Plan to have regard to a relevant entry in the Historic Places Register which is prepared under the Historic Places Act 1993.

Clearly, the matter of protection for heritage sites must be considered in the District Plan.

##### Role of Historic Places Act 1993

The Historic Places Act 1993 provides for the continuation of the New Zealand Historical Places Trust and Board of Trustees. The Trust is required to compile and keep a register of historic places, historic areas, waahi tapu and waahi tapu areas. The Trust can purchase sites, enter into heritage covenants, provide advocacy and advice etc.

There are two categories of registration applying to historic places:

Category 1: which are of "special or outstanding historical or cultural heritage significance or value"

Category 2: which are of "significance or value."

The Register is primarily an advocacy tool, indicating the nature and location of historic places and areas within a district or region. The inclusion of a site on the register does not in itself protect the feature or area unless a heritage order has been taken out under the provisions of the Resource Management Act 1991.

The Historic Places Act 1993 does provide interim protection for places proposed for registration. This interim protection is by means of Sections 194 and 195 of the Resource Management Act 1991, which provide for the interim registration to be treated as if it were a notice of requirement for a heritage order. Once the registration process is completed under the Historic Places Act 1993, the interim protection lapses.

Council is to be notified of proposals for interim registration and of final registrations. The Trust is required to maintain and supply to Council a record of registered sites and Council is to keep this record available for public inspection.

Unlike the situation for buildings and areas, archaeological sites are protected under the Act (whether they are registered, recorded or neither). Trust consent is required before any site can be destroyed, damaged or modified (Section 11 and 12 HPA).

The Trust must also be served notice of any resource consent application where the land is identified in the plan as having heritage value, or is subject to a heritage order. (Section 93 RMA).

##### Cultural Heritage of the District

The character of the Hauraki District is derived from its distinctive richness and variety of landforms, water bodies and vegetation, and from its history of human settlement. From being a land largely of swamps and forests, the district was settled firstly by Maori people and much later by Europeans. Over the years the land has changed into the developed pastoral area and associated townships evident today.

Due to the swampy nature of a large part of the District, the land was not densely populated by Maori people. Physical signs of their occupation, such as pa sites, urupa, shell middens are found largely along the banks of main rivers and the coastline where an abundant food source was available. The distribution of recorded archaeological sites is shown on the planning maps.

Early European occupation is largely evident in and around the settlements of Paeroa and Waihi, in the form of buildings and structures associated with or built during the gold mining in the area. For example the Crown Battery and Victoria Battery sites, ruins in the Karangahake Gorge, and buildings such as the Waihi Courthouse and Karangahake School.

In addition to their visual and cultural value these features provide a physical link with the District's past. Their value to present and future generations lies not only with their visual qualities but also with what they can tell us about the past, the links they provide with ancestors and their spiritual value for the tangata whenua.

##### Identification of District's Cultural Heritage Resources

In identifying those heritage items worthy of protection, the Council has utilised the following sources:

- The register of historic places, historic areas, waahi tapu sites and waahi tapu areas established by the Historic Places Trust under the provisions of the Historic Places Act 1993.
- The record of known archaeological sites.
- Consultation with the tangata whenua to identify waahi tapu and other sites requiring protection.
- Sites identified by the Community which are considered to have cultural heritage value for the District, but which are not classified by the Trust, (ie sites identified in the Transitional District Plan, and those identified through the consultation process of the Draft District Plan).
- Sites subject of a heritage order under the Resource Management Act 1991.

### 7.1.2 RESOURCE MANAGEMENT ISSUES

It is important for the District to retain significant aspects of its heritage for the benefit of both present and future generations. Buildings, objects, and places of historical, architectural, scientific or other interest are valuable natural and physical resources (both in terms of landscape and visual appeal and as a record of human development).

Many sites and places are vulnerable to modification or destruction as the result of land development. In order to preserve this heritage, it is important to identify those significant heritage items and put in place a system of recognition and protection.

The Historic Places Act 1993 provides protection for archaeological sites only. The register of historic places, historic areas, waahi tapu and waahi tapu areas compiled by the Trust does not afford full protection to these features unless a heritage order is imposed. Without the funding base to pursue many heritage orders, the Trust must rely to a large extent on negotiated solutions.

The provisions of the Resource Management Act 1991, clearly give Council a responsibility and mandate for the protection of heritage items. The District Plan process provides for public input and makes much better provision for the expression of community desires on the levels of protection, than is provided by the Historic Places Act 1993. Merely identifying items of heritage value in the District Plan provides a very weak form of protection, which does not meet the requirements of the Resource Management Act 1991 or the desires of the community. Reliance on negotiation and/or involvement of other agencies (in particular the Trust) would be required in addition to the District Plan provisions.

Council is concerned to ensure the interests of the landowners are not unreasonably compromised by identification in a schedule of historic places. Such concerns can be overcome by including a provision to delete an item, where Council is satisfied that identification of the item would effectively render the land concerned incapable of reasonable use for a permitted activity. Further, no item would be identified without the owner first having been approached and their views sought.

If landowners' concerns are accommodated, a more robust level of protection for heritage sites through the District Plan can be achieved.

The Council recognises that ongoing consultation with the tangata whenua is necessary to ensure that waahi tapu and other sites are recognised in a culturally appropriate manner and that acceptable mechanisms are put in place for their protection. Council accepts that there is an inherent conflict between the identification of waahi tapu and their protection, and that the role of the District Plan may be limited because it is a public document. In some instances, the Maori Community may not wish to have particular sites identified.

### 7.1.3 ANTICIPATED ENVIRONMENTAL RESULTS

The environmental result sought through the District Plan is to provide adequate protection of the District's significant heritage features and ensure they are not adversely impacted by land use activities.

Whilst this result can to some extent be met through the functions and powers of the Historic Places Trust, the District Plan process provides the opportunity to increase public awareness and appreciation of the District's cultural heritage and allows a coordinated approach for the protection of all heritage features recognised by the District Council as "significant". This is likely to also include features of local importance that are not registered by the Historic Places Trust.

### 7.1.4 OBJECTIVES AND POLICIES

#### *Objective 1*

*To protect those cultural heritage features which contribute to the character of the District, from the adverse environmental effects of other activities, and ensure that heritage values are not compromised by other objectives and policies.*

#### **Policies**

Objective 1 will be achieved by the implementation of the following policies:

1. Maintaining a schedule in the District Plan of significant heritage features and identifying these on the Planning Maps, based on the following selection criteria:
  - Historic sites, historic areas, waahi tapu and waahi tapu areas registered by the Historic Places Trust.
  - Archaeological sites.
  - Sites subject to a heritage order under the RMA.
  - Any other site identified by the Community as having cultural heritage value for the District.
  - Waahi tapu sites or localities identified by the tangata whenua.
2. Placing those features scheduled in the District Plan into categories in order to identify their relative significance.
3. Liaising with and seeking advice from the Historic Places Trust on heritage planning generally and on all matters relating to sites registered by the Trust.
4. Consulting with and seeking advice from the Tangata Whenua on all matters relating to identified waahi tapu sites, areas and other features of significance to them.
5. Drawing the attention of developers to the requirements of the Historic Places Act 1993 where the Council is of the view a proposed development may involve the destruction, damage, or modification of any archaeological site.
6. Requiring confirmation from an applicant prior to granting consent for any proposal which may involve the destruction, damage or modification of any archaeological site, that the necessary authority has been obtained from the Historic Places Trust.
7. Requiring a detailed assessment of effects on heritage features, and an explanation of how any adverse effects are to be avoided, remedied or mitigated.

#### **Reasons**

1. Throughout the District, there are buildings, objects, items and sites which are associated with early Maori and European settlement. Council recognises that these features form an important and significant part of the visual, historical, and spiritual character of the District and as such wishes to ensure that they are protected for the benefit of present and future generations.
2. While recognising that the Historic Places Trust has a significant role to play in the protection of the District's cultural heritage, the Historic Places Act 1993 does not afford full protection to heritage features. To ensure adequate protection is afforded to those more significant heritage features in the District, a combination of regulation and incentive is

considered by Council to offer the best solution (Objective 2 and the policies relating to it refer to incentives).

3. The Historic Places Trust has the knowledge and expertise on sites registered under the Historic Places Act. It is therefore appropriate that Council seeks the Trust's advice wherever appropriate. Likewise the knowledge and expertise of the Tangata Whenua will be employed where appropriate to assist Council in its duties.
4. Under the Historic Places Act, it is illegal to destroy, damage or modify the whole or part of any **archaeological site** without first obtaining an authority from the Historic Places Trust. Council wishes to actively support this requirement and will assist in this implementation by making developers aware of such sites (within its knowledge) and requiring that consent be obtained from the Historic Places Trust.

### **Objective 2**

*To promote greater public awareness of the value of and need to protect those features which are of cultural heritage value to the District.*

#### **Policies**

Objective 2 will be achieved by the implementation of the following policies:

1. Identifying the location of significant heritage features including archaeological sites on the planning maps.
2. Providing information on those significant heritage features in the District Plan and on the Council Land Information System.
3. Providing special incentives in the form of monetary assistance, advice, site identification and other appropriate means specified from time to time in the Annual Plan.
4. Liaising and cooperating with landowners of heritage sites, the tangata whenua and other groups and organisations involved in the protection of features of heritage value.

#### **Reasons**

1. Statutory provisions alone cannot ensure protection of the District's cultural heritage. Identification of significant heritage features on the planning maps and the Council Land Information System will enable Council staff to readily identify these items and if necessary warn developers of their existence. In addition it also helps to draw public attention to them. It is essential that the general public and in particular the land owners concerned participate in their protection.
2. Incentives help provide positive encouragement, rather than the negative response a regulatory approach can create.
3. The Historic Places Trust, the tangata whenua and other groups and organisations involved in the protection of cultural heritage resources have considerably more experience and expertise than Council in these matters. It is therefore appropriate that Council liaises and seeks advice from these groups and organisations.

### **Objective 3**

*To undertake a heritage study in the Waihi, Ngatea and Paeroa areas to determine whether further items of heritage value warrant recognition and protection.*

#### **Policies**

Objective 3 will be achieved by the implementation of the following policies:

1. In consultation with the Waihi, Paeroa and Ngatea Community Boards and other interested agencies, consider allocating funds through the Annual Plan for undertaking heritage studies in Waihi, Paeroa and Ngatea.
2. Reviewing the outcome of any heritage study of Waihi, Paeroa and Ngatea with a view to possible changes to the District Plan.

### **7.1.5 METHODS TO IMPLEMENT OBJECTIVES AND POLICIES**

Council considers that the protection of the District's cultural heritage can be best achieved through a combination of mechanisms. These include:

- Identifying significant heritage features on the planning maps as a means of informing the public of their existence and value.
- Utilising rules for the protection of significant heritage features in the District Plan.
- Providing incentives in the form of monetary relief, advice, information, etc implemented through the Annual Plan process.
- Requiring Council consent for a non complying activity to demolish those features categorised as having special or outstanding heritage significance.
- Requiring Council consent for a discretionary activity to modify, add to or alter those features categorised as having heritage significance at a District level or are accorded lesser significance under the Historic Places Act.
- Enabling features to be added to or removed from the schedule by way of a change to the District Plan.
- Non-regulatory approaches, including flexible building requirements, grants for heritage conservation, heritage trails, awards, plaques, covenants and other methods.

### **7.1.6 ACTIVITIES**

#### **7.1.6.1 General Rules**

##### **Archaeological Sites**

The Historic Places Act 1993 provides for the recording, protection and preservation of archaeological sites whether registered or not. Two archaeological sites in the Hauraki District are registered as "Historic Places - Category II)". These are included in Table 1 - Schedule II. A much larger number of recorded sites are identified on Table 3. Sites which have been identified and recorded by the New Zealand Archaeological Association before November 1993 are shown on the Planning Maps and in Table 3 - Archaeological Sites of this Section, and a copy of the Historic Places Trust register of archaeological sites, will be held at the Council Offices.

Prior to issuing a certificate of compliance for a permitted activity or granting consent for any discretionary activity, which may involve the destruction, damage or modification of any archaeological site, Council shall require confirmation from the applicant that the necessary authority has been obtained from the Historic Places Trust.

### **Heritage Protection Authority**

Heritage resources that are subject to an application under Section 188 of the Resource Management Act 1991 shall be subject to the provisions of Section 7.1 - HERITAGE FEATURES, regardless of whether the heritage feature is identified in the District Plan.

#### **7.1.6.2 Permitted Activities**

The following are permitted activities:

1. For the purpose of redecoration, restoration, repair and/or minor alterations of any existing materials or detailing which is carried out in a manner and design and with the same or similar materials to those originally used and which will not detract from the features for which the item has been protected.
2. For the purpose of carrying out any activity in relation to or in the vicinity of a protected item which will reduce any existing or potential danger to that item or will reduce the likelihood of immediate danger to any person.

#### **7.1.6.3 Controlled Activities**

The following are controlled activities and shall be assessed in relation to the criteria specified in 7.1.6.3 **A** below:

1. Any modification, addition or alteration of a heritage feature listed in Table 2 - Schedule of Protected Features of Heritage Value : **Schedule II**, identified as "**Important Local Historical Features**" set out at the end of this section and shown on the relevant planning map.

##### **A. Assessment Criteria for Controlled Activities**

The following criteria will be used to assess a controlled activity:

1. Reasons for inclusion of the feature in the schedule.
2. Degree of modification or alteration that will be caused to the feature.
3. Evidence and representations placed before the Council by the applicant, and any person, or body who has made any submission as provided for under Section 93 and 94 of the Act, in relation to the application including any evidence and representations by the applicant as to the consequences of the Scheduling, why the work is necessary and what alternatives have been considered to the activity proposed.
4. For archaeological sites, whether the consent of the Historic Places Trust has been obtained.
5. Any advice received pursuant to Rule 7.1.6.7 below.
6. Whether the conservation principles contained within the ICOMOS NZ Charter for the Conservation of Places of Cultural Heritage Value are applicable, and where applicable, have they been substantially adhered to.

#### **7.1.6.4 Discretionary Activities**

The following are discretionary activities and shall be assessed in relation to the criteria in Rule 7.1.6.3 **A** above:

1. The destruction, damage, alteration to or modification of any archaeological site identified on Table 3 - Archaeological Sites and shown on the relevant planning map.

2. Any modification, addition to or alteration or destruction of a heritage feature listed in Table 2 - Schedule of Protected Features of Heritage Value : **Schedule II** which is a "**Category II Registered Historic Place**" set out at the end of this section and shown on the relevant planning map.

3. Any modification, addition to or alteration of a heritage feature listed in Table 1 - Schedule of Protected Features of Heritage Value : **Schedule I** which is a "**Category I Registered Place**" set out at the end of this section and shown on the relevant planning map.

4. Any **destruction** of a heritage feature listed in Table 2 - Schedule of Protected Features of Heritage Value : **Schedule II** which is an "**Important Local Historical Feature**" set out at the end of this section and shown on the relevant planning map.

##### **A. Assessment Criteria for Discretionary Activities**

The assessment criteria for controlled activities set out in 7.1.6.3 **A** above will be used to assess a discretionary activity:

#### **7.1.6.5 Non Complying Activities**

The following are non complying activities and shall be assessed in relation to the criteria in Rule 7.1.6.3 **A** above:

1. The **demolition** of a heritage item listed in Table 1 - Schedule of Features of Heritage Value: **Schedule I** set out at the end of this section and shown on the relevant planning map.
2. Any activity not provided for as a permitted, controlled, discretionary or prohibited activity.

#### **7.1.6.6 Prohibited Activities**

There are no prohibited activities.

#### **7.1.6.7 Advice**

To assist the Council in making its decision on any application and on any plan change or variation relating to a heritage feature, the Council will seek the advice of the Historic Places Trust and as appropriate one or more of the following:

- New Zealand Institute of Architects.
- Department of Conservation.
- The Hauraki Maori Trust Board and tangata whenua.
- Any other organisation or individual considered by the Council to have specialist knowledge or interest relevant to the proposal.

Council recognises the Historic Places Trust as an affected party under Section 94(2)(b) of the Act, and the holder of information and expertise in the field of heritage protection.

Any advice received will be forwarded to the applicant and any submitters who will be afforded the opportunity to request a hearing in accordance with Section 100 of the Act, to comment on or rebut the advice received.

**7.1.6.8 Decision of Council**

In granting consent to a proposal to modify, add to, or alter a heritage feature as a **controlled activity**, the Council may impose conditions necessary to retain or protect the significance of the Scheduled Feature.

Where the Council is of the opinion that granting consent to the proposed **controlled activity** will remove or substantially modify the significance of the Scheduled Feature, and alternative options mutually acceptable to the Council and the applicant and/or owner for maintaining the significance of the Scheduled Feature cannot be achieved, the Council will initiate a change to the Plan to delete the Scheduled Feature.

Where the Council is satisfied that the proposal as either a **controlled, discretionary or non complying activity** will be of minor detriment to or result in insubstantial modification to the Scheduled Feature, the Council may grant its consent subject to such conditions as are necessary to retain or protect the significance of the Scheduled Feature.

**7.1.7 RELAXATION OF OTHER PROVISIONS**

Notwithstanding any other provisions in the District Plan, Council may waive or reduce any bulk and location, number and location of parking spaces and landscaping standard which relates to a proposal to modify, add to or alter a Scheduled Feature, provided that in the opinion of Council, such action would:

1. Assist with the protection of the feature; and
2. The amenities of neighbouring properties and/or the safe and efficient functioning of the street or road will not be significantly compromised.

**7.1.8 SCHEDULES OF PROTECTED FEATURES OF HERITAGE VALUE****7.1.8.1 Criteria for Protection**

Features listed in these Schedules were selected for meeting one or more of the following criteria.

**Buildings**

- Buildings and structures registered in Category I under the Historic Places Act 1993.
- Buildings and structures registered in Category II under the Historic Places Act 1993 and/or others of local significance.
- Building and structures scheduled at the request of the landowner, or at the request of other individuals or agencies with the landowner's consent.

**Historic Areas**

- Areas registered for their historic value under Section 31 of the Historic Places Act 1993.
- Historic areas scheduled at the request of the landowner or at the request of other individuals or agencies (including the Council) with the landowner's consent.

**Waahi Tapu and Waahi Tapu Areas**

- Areas registered under Sections 25 or 32 of the Historic Places Act 1993, at the request of the landowner, or at the request of other individuals or agencies with the landowner's consent.

(Note: Archaeological sites are treated differently).

**7.1.8.2 Distinction Between Schedule I and Schedule II**

The items included in Schedule I are considered to be the most significant features of heritage value in the District. These are places of special or outstanding historical or cultural heritage significance.

The items in Schedule II are places of historic or cultural significance or value certainly at district level.

More stringent provisions apply to Schedule I items than to Schedule II.

**7.1.8.3 Addition or Removal of Protected Feature**

Other than where a feature is the subject of a Heritage Order, items may be included or deleted from the schedule of protected features by a plan change initiated by the Council or upon the application of any owner, occupier, or interested party to a feature where it meets or no longer meets the criteria for inclusion as the case may be, or deleted where the Council is satisfied the effect of scheduling the feature will render the land on which the item is located, incapable of reasonable use for any permitted activity.

**7.1.8.4 Identification**

The Schedules of Protected Features of Heritage Value which follow outline the nature of the protected item, the legal description and valuation reference of the land on which it is located, the criteria for scheduling the feature, and the planning map reference.

**7.1.8.5 Table 1 - Schedule of Protected Features of Heritage Value : Schedule I****7.1.8.6 Table 2 - Schedule of Protected Features of Heritage Value : Schedule II****7.1.8.7 Table 3 - Archaeological Sites**