



**NOTICES OF REQUIREMENT IN RESPECT OF CENTRAL RAIL LINK.
STATEMENT OF DUNCAN MCKENZIE IN SUPPORT OF SUBMISSION OF
NEW ZEALAND HISTORIC PLACES TRUST/POUHERE TAONGA**

19 July 2013

Introduction

- 1.
2. My name is Duncan McKenzie. I am employed as a Heritage Adviser Planning for the New Zealand Historic Places Trust Pouhere Taonga (NZHPT) on whose behalf I am giving evidence.
3. I have the qualifications of Bachelor of Arts in Geography and Diploma in Town Planning. I have worked as a planner for more than 37 years, initially for a local authority, and then for central government. In 1988 I was appointed principal planner for the Auckland Office of Works Consultancy Services. In 1996 I started working on my own account as a planning consultant, where my clients included a range of local authorities, government departments and agencies (including the NZHPT) and private individuals. Since August 2011 I have worked for the NZHPT as Heritage Adviser Planning.
4. In my work as a consultant I developed a particular expertise in dealing with designations and requirements. I prepared a practice guide on this topic for Data Services Limited. I have assisted a wide range of clients including Ministry of Education, New Zealand Defence Force, Transit NZ/NZTA, and a number of Councils in preparing and responding to Notices of Requirement.
5. This included assisting the Waterview and Mount Albert communities in achieving acceptable outcomes in respect of the Waterview Connection, where I gave evidence to the Board of Inquiry. That project involves both surface works and tunnelling under established communities, in a way not dissimilar to the proposed Central Rail Link.
6. I also have provided mentoring assistance to the planning team within Auckland Council which is dealing with the roll-over of designations into the Unitary Plan.

General Concerns of NZHPT

7. The New Zealand Historic Places Trust (NZHPT) operates under the Historic Places Act 1993 (the HPA). Included in the purposes of the HPA are

“To promote the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand.”

8. The NZHPT meets these purposes in a number of ways. This includes providing advice to Councils and involvement in the resource management process. The NZHPT is also the consenting authority in respect of proposals to modify archaeological sites.
9. As the Notices of Requirement were being developed, representatives of the NZHPT (including myself) met on a number of occasions with representatives of Auckland Transport and its consultants. Our input included advice on the heritage assessment process (which included helping to prepare a brief for the built heritage consultant), assisting with identifying items of historic heritage and historic character (including providing information from the “City at Risk” heritage identification project carried out by NZHPT), and advice on the archaeological authority process under the HPA. We also participated in a walkover of the Central Rail Link (CRL) route. We wish to place on record that this process has been very helpful in helping us with an understanding of the project and in ensuring that heritage issues have had a high profile in its development.
10. In its submission, the NZHPT was particularly concerned about the effects on heritage of the proposed development of the CRL.
11. In making this submission, The NZHPT was very aware that the proposed project methodology (including the extensive use of bored tunnel and the use of road reserve for much of the cut-and-cover portion of the project) has meant that effects on heritage are likely to be low, remarkably so given the extent of the project.
12. In making this submission, the NZHPT was aware that designations fulfil three functions:
- The protection of land (and sub-strata) to prevent future activities and development that could compromise the achievement of the objective (signalling also an intention to acquire certain land or rights to that land);
 - Providing consent (and a set of conditions) for works to be carried out to achieve the designation (not including discharge consents and water permits);
 - Enabling the work to operate in accordance with its designated purpose.
13. Regardless of how far off commencement of the project may be, and the early stages of the design, it is important that terms and conditions attached to the designation are sufficiently comprehensive to anticipate and manage the effects of the project. Where it is apparent that the design of the project is not sufficiently advanced to allow all effects to be accurately identified, then it is good practice to include what might be

called “process conditions” (also called in paragraph 117 of Mr Julyan’s evidence “adaptive management”) – i.e. conditions that require and establish a process of ongoing assessment and engagement with other parties to address particular issues and through that, the preparation of management plans.

14. I am aware that the “outline plan of works” process does provide an opportunity to seek refinements to the design, but this is only within the parameters set by the terms and conditions of the designation, and does not provide for third-party rights. As Mr Julyan says in his paragraph 121, the Outline Plan of Works is principally a means for the Council to establish whether the works comply with the designation terms and conditions.
15. Where “process conditions” involve historic heritage, the process must involve the NZHPT, including in (but not restricted to) its statutory role in respect of archaeology.

Detailed concerns of the NZHPT

16. The submission of the NZHPT in particular sought clarification of potential effects of the development on historic heritage and historic character, which includes buildings and archaeology, with a view to ensuring, in respect of buildings, avoiding the need for substantial demolition or inappropriate modification.
17. With respect to effects on buildings, the NZHPT generally seeks the explicit retention and protection of buildings with heritage values where those buildings are potentially affected by the works, including adaptive re-use where appropriate.
18. In this regard, I agree with the concern that is expressed in Attachment J of the Council’s s 42A report (p 6) which states :

“A weakness in the methodology of the built heritage study undertaken by Salmond Reed, is that it does not distinguish adequately between buildings that may suffer from settlement and vibration effects, and those that will be more significantly effected [sic] by station building. Thus it is difficult to fully assess the significance of the heritage losses that will occur as a result of the proposed demolition.”
19. This was exacerbated by the relatively simplistic differentiation of land by orange and blue colours for properties potentially affected by surface works and underground works, respectively, within the Notices, without specifying the extent of the effects.
20. Alterations to buildings, for example as required through adaptive re-use (which is generally encouraged), will need to be carefully managed through heritage impact assessments, conservation plan measures and the like. It is accepted that design is insufficiently developed for such detailed planning work to be considered by this Hearings Panel. For that reason, “process conditions” are sought, which also provide for input by the NZHPT.
21. Where built heritage is less directly affected, but at potential risk through being adjacent to or above works, conditions need to be included to ensure protections and reinstatement. These would include pre-construction condition survey and recording,

the setting of acceptable limits for matters such as vibration and movement, and, possibly most importantly, the setting up of a process to be followed when those limits are breached.

- 22.** In respect of archaeology, it is important that the appropriate identification of archaeological effects takes place and the potential effects are adequately recognised and taken into account when considering the Notice of Requirement. The destruction of archaeology should be avoided where possible. The consenting process for the consideration of effects on archaeological sites is contained in the archaeological provisions of the HPA.

Potential effects on historic heritage and historic character

- 23.** The identification of built heritage in the vicinity of the project carried out by Salmond Reed Architects (the Built Heritage Report or BHR) is considered to be thorough and comprehensive. This identified buildings and areas scheduled by the Council and/or registered by the NZHPT, as well as other buildings of merit, generally within 100 m of the works.
- 24.** Effects on built heritage have the potential to arise in the following circumstances:
- Close to where excavations and associated works are carried out on the surface of the land, including cut-and cover tunnels, open parts of the link, work areas and station entrances (which may involve removal of or modifications to buildings).
 - Tunnelling underneath and in the vicinity of heritage buildings which, while not directly requiring those buildings, has the potential to affect those buildings through vibration, subsidence and de-watering.
- 25.** **Attachment One** to this evidence tabulates built heritage items which it is understood have the potential to be affected by the project. The following provides further analysis and indicates the general nature of conditions that may be appropriate. In my opinion, it is important that the terms and conditions of the designation carefully define the extent of works proposed for each of these buildings and sets out processes for assessing and limiting effects where this cannot be established now.

Structures likely to experience direct effects

- 26.** Buildings and structures whose removal is proposed, and which need to be confirmed as such in designation conditions, are:
- The Albert Street underground toilet (where conditions could require the recovery of a screen)¹;

¹ Mr Petry's evidence indicates that this structure and associated bluestone wall are registered by NZHPT. That is not the case, although the wall does comprise an archaeological site. The potential heritage significance of these structures was identified in the NZHPT's "City at Risk" project.

- The Griffiths Building (42 Wellesley Street). The conclusion that this building will not be retained assumes that this building is incapable of adaptive re-use as a station entrance. The NZHPT seeks that this building be retained and adaptively re-used, and seeks that a process condition be set included to enable that to be objectively determined.
 - The Beresford Street Public Toilet (which appears to have been extensively modified in the 1990s).
- 27.** A structure which is intended to be retained but is understood may pose issues in respect of the carrying out of works is the bluestone wall and stairs along the eastern side of Albert Street. Conditions would need to include a process for determining the extent and nature of intervention is required to enable the works to be carried out, and requiring full restoration following completion of the works.
- 28.** Buildings where adaptive re-use (as station entrances) appears to be feasible include Martha's Corner and 229-231 Symonds Street. Where this is proposed, conditions need to be imposed setting up a process for heritage impact assessment, conservation planning, the design and extent of modifications, and reinstatement. The NZHPT should be included in this process.
- 29.** It should be noted that the building at 229-231 Symonds Street is within a registered historic area under the HPA. This is acknowledged in the BHR but overlooked by Mr Petry in his evidence.

Structures experiencing indirect effects

- 30.** The building which has the greatest potential for being affected by the works associated with the project but is not actually required for the works is the former CPO/Britomart concourse (where tunnels will be excavated through the existing foundations of the building). The CPO Building is a category 1 historic place under the HPA, and the subject of a heritage covenant with the NZHPT.
- 31.** It is appreciated, however, that the works proposed to be carried out are not included in any of the designations currently under consideration, as it is understood the Auckland Transport proposes to rely on the existing designation of the site (#314) to enable the works to be carried. There is some documentation in the Central Area section of the Auckland Council District Plan in relation to this site, but this appears to be insufficient to address potential effects of the tunnelling works.
- 32.** So on the face of it the requirements under consideration and the existing designation may be insufficient to provide for or address effects of, works under the former CPO. The NZHPT, as a party to the heritage protection covenant and having registered the building, requires that all effects of the project are sufficiently addressed.
- 33.** Other buildings may be potentially affected by subsidence or vibration, as tunnelling is carried out underneath of alongside them. Attachment One identifies some of them. A process need to be established, through conditions, that provides for the identification

of potentially vulnerable buildings, and determines whether the risks posed by subsidence or vibration could adversely affect the building. For such buildings, a process needs to be set up for managing these effects.

34. This process is likely to involve:

- Recording of the building
- An existing condition survey
- The establishment of monitoring
- The setting of limits for movement etc;
- Where those limits are exceeded, a process for ensuring adverse effects are avoided, which may include stopping work until structural work is carried out
- Post-project re-instatement.

Potential Effects on Archaeology

35. The Archaeological Assessment of Clough and Associates dated August 2012 raises interesting issues about the extent to which archaeology (and in particular the likelihood of encountering and destroying sites) should influence projects like this.

36. It is clear that the effect on archaeology is a subset of effects on historic heritage and therefore a matter of national importance in terms of s 6 of the RMA. It therefore needs to be taken into account when considering the effects of the project (and various alternatives). It is the NZHPT's opinion that the Archaeological Assessment does not adequately assess effects on archaeology to the extent required by the RMA for such a process.

37. Those effects can be difficult to determine when the archaeology itself is hidden. However predictive modeling does indicate that there is a quite high chance of encountering archaeological evidence along the route of the CRL, particular at its northern and southern extremities where there is cut and cover or open cut construction, as well as where stations are constructed. These were parts of Auckland that were settled by Maori and early European settlers. In addition, the extensive reclamation along the waterfront both comprises and contains archaeological evidence which may survive.

38. While Dr Clough's evidence does acknowledge the possibility of effects on archaeology at the northern end of the route² and in the vicinity of stations, it pays less heed to the possibility of encountering archaeology at the southern end of the project (open and cut and cover portions between Newton Station and the NAL). This assumption appears to be based on the fact that land affected by the route has been extensively developed with a range of light industrial activities. Similarly, the City at Risk project identified the potential for surviving archaeology in the Central City areas it covered.

² This was confirmed by the NZHPT City at Risk project.

39. NZHPT archaeologists continue to be surprised at the survival of archaeological evidence where it has been overlain by twentieth century development. Right now, works in the vicinity of Mt Wellington associated with AMETI are uncovering significant archaeology in an area where an assessment had anticipated that little would have survived earlier industrial development.
40. The main way of minimizing potential effects on archaeology is to require as much of the route as possible to be bored tunnel. With the current proposal, that is 1.9 km of the total 3.4 km of new railway (with the remaining 1.5 km being above ground or cut and cover).
41. The Archaeological Assessment has acknowledged that further archaeological assessment will be required. I believe this is essential, although consider that this should be done prior to confirming the requirements rather than being left to after the designations are in place. It is for this reason that I support the recommendations of the Council's s 42A report, seeking further investigations. It is my opinion that the current assessment does not provide a basis for concluding that effects on archaeology will be minor.
42. The NZHPT has a consenting role when it comes to the modification of archaeological sites. This is intended to ensure that if archaeological evidence is to be destroyed, a maximum of information is to be extracted from it. This is really the only mitigation that appears to be offered in the Assessment and in Dr Clough's evidence. With respect, that is insufficient.
43. It also has to be pointed out that the NZHPT authority may also direct in-situ retention and avoidance of items, and in some cases declines applications.
44. A process condition, requiring further assessment of archaeological potential, is recommended here. While this will not necessarily influence the development of the project, it will enable adverse effects to be better identified and managed.

Comments on conditions

45. In the light of the foregoing analysis, I have reviewed the condition set as attached to Ms Blight's evidence.
46. Conditions 3B and 8(g) each specifically require the development of methods for consultation with a number of persons or parties for the Pre-Construction and Construction Communication and Consultation Plans respectively. Included in the list of parties is NZHPT. That is supported.
47. Condition 4A requires engagement with Auckland Council's suitably qualified specialists in developing the CEMP. It is my opinion that the term "historic heritage" in the list of effects could be somewhat restrictive – it should also include reference to "historic character". The NZHPT would also be able to provide expert advice in developing sections that address the management and mitigation of adverse effects on historic heritage and historic character and should be included as a party to engage with in this condition.
48. It is noted that the CEMP (or a component plan or plans within the CEMP framework) is intended as the main means of managing effects on built heritage and archaeology.

This is outlined in condition 14A (where the reference to built heritage in Clause (c) should be extended to include archaeology.).

- 49.** Condition 22 is the main condition dealing with built heritage. Clause (a)i should be altered to read “All heritage buildings and structures, and buildings and structures within areas, that are registered under the Historic Places Act 1993 or scheduled under the Auckland Council District / Unitary Plan...” – this recognises the different nomenclature under the HPA and the fact that it provides for registration of historic areas.
- 50.** In my opinion this condition should also include an explicit statement that, for the avoidance of doubt, the project will involve no more than the following direct interventions in respect of built heritage:
 - Demolition of Albert Street Public Toilet and 2 Beresford Street former public toilet,
 - Further consideration of the retention/adaptive re-use of the Griffiths Building, 42 Wellesley Street
 - Retention or reinstatement of the Albert Street bluestone wall and stairs
 - Retention/adaptive re-use of 229-331 Symonds Street
 - The adaptive re-use of buildings at 51-53 Victoria Street West (Martha’s Corner).
- 51.** It is noted noting that adaptive re-use and reinstatement requirements are addressed elsewhere in the conditions, including the conditions relating to station plans.
- 52.** A technique frequently recommended by the NZHPT when modifications to a heritage item are contemplated is a conservation plan. This helps identify the elements of the building that have values worth retaining, and therefore can help in the design of the adaptive re-use.
- 53.** The issues relating to the effects on the bluestone wall are addressed at Conditions 36C, 36D and 36E. The NZHPT has been involved in developing the process. On further consideration, and given that, outside of its statutory role in respect of archaeological authorities, the NZHPT is a source of independent heritage advice, it is considered to be appropriate that a NZHPT representative to be included on the Heritage Advisory Group. That would require amendments to the proposed condition 36C.
- 54.** It is suggested that the Heritage Advisory Group that is to be convened to help with decision-making in this area could be used to assist with making decisions in other areas.
- 55.** The proposal to consider the commissioning of building condition surveys for 56 “heritage buildings” (Condition 22(a)) is noted with approval.
- 56.** Condition 23 deals with archaeology. My evidence suggests that archaeological investigations to date have been somewhat light, and for that reason I prefer the approach advanced in the Council officer’s s 42A Report, which recommends further investigations (refer to p 19-20 and the recommended Condition 23 of that report).

57. Advice Note 1 states that the Requiring Authority will require approval under the HPA to destroy, damage or modify any building or structure scheduled under that Act. That is not in fact the case.
58. Advice Note 2 incorrectly refers to the Historic Places Trust Act 1993 – it is the Historic Places Act 1993. The correct term for an approval under this Act is an **authority**. The authority if granted may include conditions relating to archaeological investigation, monitoring, in-situ retention and avoidance of items and the recovery of materials.

Conclusion:

59. The CRL designations, while at this stage largely intended to provide for route protection, do have the potential to adversely affect heritage, including heritage buildings and archaeology.
60. I agree with the s 42A Report's conclusion that clear that construction of this magnitude will necessarily impact on historic heritage resources in the central CBD area. It is also clear that the chosen route seeks to minimise, through avoidance of more sensitive areas, the adverse environmental impact of such a proposal on the historic heritage of Central Auckland.
61. It is therefore necessary for the conditions to recognise and provide for this. First, the conditions need to identify which buildings within the designation footprint are directly required, and the extent to which the building is required (i.e. does it require total demolition, or will it be adaptively re-used?).
62. In respect of adaptive re-use, this evidence has discussed the need to establish process conditions which require the scope of works to be agreed and the preparation of conservation plans. The NZHPT seeks to be involved in these processes.
63. In respect of buildings not directly required but vulnerable to being affected by the development, conditions should require preparation of detailed management planning, again with NZHPT involvement.
64. The CPO building is a special case – the NZHPT needs to be directly involved as a party to the heritage covenant. Unfortunately the current designations do not give the opportunity to consider appropriate conditions for works underneath this building.
65. In general it is concluded that the archaeological assessment that has been carried out to date has not been sufficiently detailed to determine the extent of effects, and the s42A Report's recommendations for further assessment are supported.

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Schedule of Potential Effects on Heritage Buildings

| Salmond Reed ref | Building | Works understood to be required | issue |
|------------------|--|--|---|
| 91 | CPO (registered, scheduled, covenanted) | Excavation underneath | Outside of current designation Stability during and after construction |
| | Customs Building | Excavation alongside | Vibration/subsidence |
| 8 | Albert Street toilets and bluestone wall | Removal of toilet Excavation alongside wall | Recording, recovery of material Retention of wall |
| 153 | Griffith's building, 42 Wellesley Street | Station entry | Is re-use possible or demolition inevitable? |
| 142 | Martha's Corner building 51-53 Victoria Street West | Station entry | Re-use favoured, details need to be developed |
| 236 | 2 Beresford Street former public toilets | Station entry | Confirm that demolition is required |
| | Hopetoun Alpha | Car park for works depot | Protection of building & reinstatement of grounds |
| | Buildings on Pitt St and Karangahape Rd and Mercury lane | Tunnel underneath | Stability during and after construction |

| Salmond Reed ref | Building | Works understood to be required | issue |
|-----------------------------|--|--|---|
| | Buildings on St Benedict Street / Newton Road / Upper Symonds St | Tunnel underneath | Stability during and after construction |
| 130 | 229-231 Symonds Street terraced shop residence | Station entry | Re-use favoured, details need to be developed |