

## 19 Appendix 1 - Statutory and non-statutory framework

### 19.1 Land Transport Management Act 2003 (LTMA)

The LTMA requires the NZTA to:

'exhibit a sense of social and environmental responsibility, which includes ... avoiding, to the extent reasonable in the circumstances, adverse effects on the environment; and ensuring ... that persons or organisations preparing regional land transport programmes ... give land transport options and alternatives an early and full consideration ... and provide early and full opportunities to the persons and organisations who are required to be consulted in order to contribute to the development of regional land transport programmes; and [establishing and maintaining processes to provide opportunities for Maori to contribute to decision making]

### 19.2 Resource Management Act 1991 (RMA)

A number of sections of the RMA provide for the recognition and protection of cultural heritage. Section 6 of the RMA identifies matters of national importance, which include 'the protection of historic heritage from inappropriate subdivision, use, and development' (6(f)).

Historic Heritage is defined by the RMA (s2) as follows: '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
- (vii) technological, and

(b) includes:

- (i) historic sites, structures, places, and areas, and
- (ii) archaeological sites, and
- (iii) sites of significance to Maori, including waahi tapu, and
- (iv) surroundings associated with the natural and physical resources.'

The RMA states under section 5 that the purpose of the Act is

- (c) avoiding, remedying or mitigation any adverse effects of activities on the environment.

### 19.3 Historic Places Act 1993 (HPA)

The HPA promotes the identification, protection, preservation and conservation of the historical and cultural heritage of New Zealand and is administered by the New Zealand Historic Places Trust (NZHPT). The Act contains specific provisions relating to the protection of archaeological sites, Historic Places and Historic Areas.

Historic Area and Historic Place are defined by the NZHPT as:

'Historic area means an area of land that—

- (a) contains an inter-related group of historic places; and
- (b) forms part of the historical and cultural heritage of New Zealand; and
- (c) lies within the territorial limits of New Zealand

Historic place

(a) means

- (i) Any land (including an archaeological site); or
- (ii) Any building or structure (including part of a building or structure); or (iii) Any combination of land and a building or structure[; or]
- [(iv) any combination of land, buildings or structures, and associated buildings or structures (including any part of those buildings or structures, or associated buildings or structures)] that forms [a place that is] part of the historical and cultural heritage of New Zealand and lies within the territorial limits of New Zealand; and

(b) includes anything that is in or fixed to such land:'

The NZHPT is required to maintain a register of Historic Places, Historic Areas and Waahi Tapu and Waahi Tapu Areas.

The NZHPT's Sustainable Management of Historic Heritage guidance series and Heritage Management guidelines for resource management practitioners outline the general principles in relation to management and protection of historic heritage under the RMA and other related resource management and planning legislation.

The following are the most appropriate NZHPT criteria for assessing effects on built heritage of the Project.

**19.3.1 Sustainable Management of Historic Heritage Guidance Information Sheet 1: Principles for Assessing appropriate or inappropriate Subdivision, Use and Development on Historic Heritage Values**

The relevant sections of this document are:

6. *Respect for physical material*

*The degree to which interventions involve the least possible loss of heritage significance and the least loss of material of heritage value, including those arising from irreversible or cumulative effects.*

7. *Understanding significance*

*Whether the values of the place are clearly understood before decisions are taken that may result in change. Decision-making, where change is being contemplated, should take into account all relevant values, cultural knowledge and disciplines. Understanding significance should be assisted by methods such as the preparation of heritage assessments and conservation plans.*

8. *Respect for contents, curtilage and setting*

*The extent to which interventions respect the contents and surroundings associated with the place. This may be achieved by ensuring, for example, that any alterations and additions to buildings, and new adjacent buildings, are compatible in terms of design, proportions, scale and materials.*

**19.3.2 NZHPT Sustainable Management of Historic Heritage Guidance Information Sheet 16: Assessing Impacts in Surroundings associated with Historic Heritage**

The relevant sections of this document are:

*Principles*

*Assessing the significance and impacts on surroundings will require an understanding of the significance of the original relationship of the heritage item to its site and locality, adequacy of setting, visual catchments and corridors, and the need for buffer areas to screen unsympathetic development.*

*General*

- *The original relationship of the heritage item to its site and locality should be retained. All the main structures associated with the heritage item (for example, homestead, garden, stables, etc.) should be retained in single ownership.*
- *Where a historic place has landmark values, the proposed activity should not be visually dominating or distract from the landmark qualities of the historic place. The relative scale of the activity is an important consideration.*
- *The proposed activity should provide for an adequate setting for the heritage item, enabling its heritage significance to be maintained. The significance and integrity*

*of the setting should be identified. Well-preserved, authentic, essential and substantial settings should be retained and protected.*

- *The proposed activity should provide for adequate visual catchments, vistas and sight-lines or corridors to the heritage item from major viewing points and from the item to outside elements with which it has important visual or functional relationships.*

### **19.3.3 NZHPT Sustainable Management of Historic Heritage Guidance Information Sheet 22: Assessing Impacts of Designations on Historic Heritage**

The relevant sections of this document are:

#### *Principles*

*Designations of land should not provide for any public work, project or other work that compromises the protection, condition, integrity, or public appreciation of historic heritage.*

*Requiring authorities should be encouraged to seek essential designations outside of, and sufficiently distant from, sensitive historic heritage areas.*

*Where land must be designated over, or near, historic heritage, particular attention should be paid to the extent of the area involved, the specific location, and the nature of activity involved, so that adverse impacts on historic heritage are minimised to the greatest practical extent. This will require a heritage impact assessment (and normally an archaeological assessment).*

#### *Checklist for assessing proposed designations*

- *Alternative locations for designations should be explored. Requiring authorities need to seek locations for essential designations outside of, and sufficiently distant from land associated with historic heritage sites or areas.*
- *Planning for designations must be informed by adequate research and assessment, including a heritage impact assessment and archaeological assessment.*
- *Where land must be designated over, or near, historic heritage, particular attention should be paid to the extent of area involved, the specific location, and the nature of activity involved, so that adverse impacts on historic heritage are minimised to the greatest practical extent...*
- *Outline plans should be prepared in relation to designations to provide for historic heritage values where appropriate. Outline plans should be informed by professional research and assessment and cover matters such as: ...*
- *Any other initiatives (e.g. painting) to avoid, remedy or mitigate any adverse effects on historic*

### **19.3.4 Cultural heritage assessment criteria**

Criteria for the assessment of the heritage significance of historic places and areas for registration purposes are set out in the HPA (s23). These statutory criteria have been used by regional and district councils as the basis for developing their own sets of criteria for cultural heritage scheduling purposes. The NZHPT's Assessment criteria to assist in the identification of historic heritage values (information sheet 2 of the Sustainable Management of Historic Heritage guidance series) provide further guidance on the use of these criteria.

## **19.4 KCDC District Plan**

Consistent with the requirements of the RMA the operative KCDC District Plan contains objectives and policies concerning built heritage. These are contained in the operative District Plan under Section C-8.1.

### **Objective 1.0 - general**

**To identify and protect heritage features of significance to the Kāpiti Coast District.**  
*To achieve the purposes and principles of the Resource Management Act in relation to recognition and protection of the heritage values of sites, buildings, structures, places or areas.*

To achieve this objective Council will implement the following policies:

**Policy 1 - heritage register**

**Prepare and maintain a heritage register for inclusion in the district plan..**

Policy 2 – general assessment criteria identifies assessment criteria when considering the “destruction, demolition, alteration, modification or removal of any heritage feature recorded in the Heritage Register”.

The criteria in the District Plan are as follows:

- The heritage significance of the building and whether there is any change in circumstances since the building was identified as significant in the Plan that reduces its significance.
- The degree to which the proposal reflects the conservation principles contained within the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value.
- The registration (if applicable) and the reasons for this registration of the heritage resource under the Historic Places Act 1993.
- The policies of any conservation plan and heritage inventory relating to the heritage resource.
- The importance (if any) of land surrounding the heritage resource.
- The impact the proposal has on the integrity/value of the heritage resource.
- The importance attributed to the heritage resource by the wider community.
- The recommendations made by the NZ Historic Places Trust and any other professionally recognised party in heritage conservation issues.
- Whether the building can be economically and adaptively re-used.
- Whether any alteration to the building can be made that retains the heritage significance of the building while reasonably accommodating the objectives of the applicant.
- Whether the building poses a risk to life in the case of earthquake.

### **19.5 Proposed KCDC District Plan**

The proposed KDCD District Plan is currently open for submissions. With respect to heritage issues, the Council has advised that the protection of historic heritage rules will take immediate effect. The main differences between the heritage sections of the two plans are:

- Separating objectives, new section 2.7, from policies and rules, new chapter 10.
- Including assessment criteria for historic heritage
- Including listing all KDCD built heritage registered by the NZHPT, those buildings protected by a heritage order under the HPA 1993, or included in the Regional Policy Statement of Regional Policy Plan
- Revising rules and standards
- Including controls on settings of historic heritage
- Updating the Schedule of Historic Heritage, Schedule 10.1 to include two new entries, (B118 Hope House and B119 Woman’s Suffrage Garden) and rearranging the schedule into historic places (buildings and structures), historic places (sites), historic areas including historic precincts and streets, and wahi tapu

The two new listings are not within the area covered by the Project.

The changes to the District Plan do not materially affect the assessments in this report based on the operative District Plan.

## 19.6 Non-statutory framework – the ICOMOS NZ Charter, 2010

The *ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value*, 2010 (ICOMOS NZ Charter) establishes principles of practice to guide the conservation of places of built heritage value in New Zealand and is a statement of professional principles for members. The Charter recommends that its principles be used in statutory or regulatory heritage management processes.

The relevant sections of this document are:

### 5. ***Respect for surviving evidence***

***The removal or obscuring of any physical evidence of any period or activity should be minimised, and should be explicitly justified where it does occur.***

### 9. Setting

Where the setting of a place is integral to its cultural heritage value, that setting should be conserved with the place itself.

### 10. Relocation

In exceptional circumstances, a structure of cultural heritage value may be relocated if its current site is in imminent danger, and if all other means of retaining the structure in its current location have been exhausted. In this event, the new location should provide a setting compatible with the cultural heritage value of the structure.