



**Wanganui District Council
District Plan Review
Phase 6**

Section 32 Report

**Archaeological Sites
Proposed Plan Change 39**

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1 PLAN CHANGE PROPOSAL

1.1 Description of Proposed Plan Change 47

Proposed Plan Change 39 seeks to considerably expand the list of archaeological sites currently in the Heritage Inventory of the Plan. The current 159 sites listed in the Plan will increase to almost 1000 sites. The Plan Change also explains the significance of archaeology and introduces performance standards for them.

The purpose of Proposed Plan Change 39 is to clarify requirements for development where archaeological sites are or may be present, and to list all known sites for protection. This is to fulfil the requirements of the RMA, especially section 6 which requires the protection of historic heritage, which includes archaeological sites.

1.2 Proposed Amendments to the District Plan

Plan Change 39 (PPC39) proposes to:

1. amend most District Plan maps to identify the location of archaeological sites within the District;
2. amend Appendix A – Heritage Items by removing currently listed archaeological sites and geological items;
3. insert a new Appendix K – Archaeological and Other Sites, to identify the expanded and updated list of archaeological items and include the existing list of geological items;
Note: Additional information on each site will be retained in a separate document.
4. amend Chapter 9 – Cultural Heritage by inserting new objectives, policies and rules to protect archaeological items.

2 SECTION 32 REPORT

2.1 INTRODUCTION

This report has been prepared in fulfilment of the requirements of Section 32(1)(c) of the Resource Management Act 1991 (RMA) which requires local authorities to prepare a report summarising the evaluation of the alternatives, benefits and costs of the Plan change, and giving reasons for that evaluation. Pursuant to Section 32(3) of the RMA this evaluation details the appropriateness of the objectives in achieving the purpose of the RMA, and whether, having regard to their efficiency and effectiveness, the policies, rules and other methods proposed, are the most appropriate for achieving the objectives.

2.2 REASON FOR PROPOSED PLAN CHANGE 39

2.2.1 Background

Lack of knowledge of the location of archaeological sites creates risk for the sites, protected by legislation, and land users. Considerable information has accumulated over many years but has not been reflected in planning documents. The current process has involved extensive consultation, especially with tangata whenua, leading to the proposal to include all known sites in the District Plan.

2.2.2 Chronology

Actions taken to date in relation to Proposed Plan Change are as follows:

- February 2013 Mail out re site locations and checking. Aerial photography and site details were supplied to owners for their information and to give the opportunity to have sites checked. About thirty owners responded with general and specific queries. Site checks resulted in the removal of a number of non-sites or destroyed sites.
- 30 January 2014 Meeting with NZHPT
- 20 March 2014 Contact with NZAA
- 25 March 2014 Contact with NZ Geological Society
- 10 July 2014, 21 August 2014 District Plan Review Working Party
- 13 August 2014 Wanganui Rural Community Board item
- 20 August 2014 Tamaupoko Link item
- 10 September 2014 Tupoho Working Party
- September 2014 Ngati Apa representative, discussion, issued document set, map link
- 22 September 2014 Nga Rauru, representative, discussion issued document set, map link
- 25 September 2014 Tamaupoko representatives, discussion, issued document set, map link

- 25 September 2014 Tupoho representatives, discussion issued document set, map link
- 20 November 2014 Meeting with Tupoho and Tamaupoko representatives, Ngati Apa and Nga Rauru unable to attend on day. Agreement in principle to list sites with limited information and reference to Runanga for detail. Meeting notes emailed to all.
- 1 December 2014 Letter to site owners, invitation to drop in or contact.
- 30 January 2015, owners drop-in session.
- 10 September 2015 letter to owners, including draft DP maps.

2.3 LEGAL FRAMEWORK FOR PLAN CHANGES

Section 74 of the RMA requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the RMA and the other matters under Sections 6, 7 and 8. In addition, the District Plan must also give effect to the Regional Policy Statement (Section 75(3)). Council must also carry out an evaluation under Section 32 before notifying any proposed change to the District Plan.

2.3.1 Resource Management Act 1991

Territorial authorities have the following functions under the RMA:

31 Functions of territorial authorities under this Act

- 1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:
 - a) The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined as:

- 5(2) In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –
 - a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
 - c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Further guidance and direction on the way in which resources are to be managed is provided in Part II of the Act are as follows:

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*

Under the RMA historic heritage is defined as:

(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:*
- (vi) technological; and*

(b) includes—

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

The protection of archaeological sites is a component in fulfilling 6(e) and 6(f), as a matter of national importance.

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:*
 - (aa) the ethic of stewardship:*
 - (b) the efficient use and development of natural and physical resources:*
 - (c) the maintenance and enhancement of amenity values:*
 - (f) maintenance and enhancement of the quality of the environment:*
 - (g) any finite characteristics of natural and physical resources.*

Providing adequate information on archaeological sites assists kaitiakitanga and stewardship. The proposed Plan change is therefore considered consistent with section 7 of the RMA.

8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The extensive consultation, discussion and consequent agreement with Iwi is seen as taking into account the principles of the Treaty of Waitangi.

Before a Plan change is notified, the Council must undertake the following duties under Section 32 of the RMA:

32(1) An evaluation report required under this Act must—

- a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - i) identifying other reasonably practicable options for achieving the objectives; and*
 - ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - iii) summarising the reasons for deciding on the provisions; and*
- c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

(2) An assessment under subsection (1)(b)(ii) must—

- a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - i) economic growth that are anticipated to be provided or reduced; and*
 - ii) (employment that are anticipated to be provided or reduced; and*
- b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provision*

.....

(6) In this section,—
objectives means,—

- a) for a proposal that contains or states objectives, those objectives:
- b) for all other proposals, the purpose of the proposal

proposal means a proposed standard, statement, regulation, plan, or change for which an evaluation report must be prepared under this Act

provisions means,—

- a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:
- b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

To achieve the purpose of the RMA in accordance with the stated functions, any proposed District Plan provisions must be the most appropriate method of providing for any future use of land within the district whilst avoiding, mitigating or remedying the effects of that development on the environment.

In this case, it is considered that the proposal is the most appropriate method for the protection of historic heritage and to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga in order to achieve the purposes of the RMA.

2.3.2 National Policy Statements and Environmental Standards

There are no relevant statements or standards.

2.3.3 Horizons Regional Council – One Plan

Section 75(2) of the RMA requires that a District Plan must not be inconsistent with the regional policy statement or any regional plan. Horizons Regional Council's One Plan is considered to be relevant to this Proposed Plan Change in that it relates to seismic activity.

An assessment of how the provisions in Proposed Plan Change 39 compare with the objectives and policies of the Operative One Plan are considered in **Error! Reference source not found.** below.

Table 1

Operative Regional Policy Statement (RPS)		Proposed Plan Change 39 Evaluation
<p>Objective 6-3: Historic heritage[^] Protect <i>historic heritage[^]</i> from activities that would significantly reduce heritage qualities.</p> <p>Whāinga 6-3: Ngā taonga tuku iho o mua Ka whakamarumarū i ngā taonga tuku iho o mua i ngā ngohe whakaiti i ngā kairangi taonga tuku iho.</p>	<p>Policy 6-11: Historic heritage[^] The <i>Regional Coastal Plan[^]</i> and <i>district plans[^]</i> must, without limiting the responsibilities of local authorities to address <i>historic heritage[^]</i> under the RMA, include provisions to protect from inappropriate subdivision, use and development <i>historic heritage[^]</i> of national significance, which may include places of special or outstanding heritage value registered as Category 1 historic places, wāhi tapu, and wāhi tapu areas under the Historic Places Act 1993 and give due consideration to the implementation of a management framework for other places of historic heritage.</p> <p>Policy 6-12: Historic heritage[^] identification (a) <i>Territorial Authorities[^]</i> must develop and maintain a schedule of known <i>historic heritage[^]</i> for their district to be included in their <i>district plan[^]</i>. (b) The Regional Council must develop and maintain a schedule of known <i>historic heritage[^]</i> for the <i>coastal marine area[^]</i> to be included in the <i>Regional Coastal Plan[^]</i>. (c) <i>Historic heritage[^]</i> schedules must include a statement of the qualities that contribute to each <i>site[*]</i>.</p>	<p>Plan Change 39 gives effect to this objective and these policies in relation to archaeological items only.</p> <p>District Plan Change 29 addressed built heritage items and is operative.</p> <p>Together these plan changes give effect to the RPS.</p>

2.4 EVALUATION

2.4.1 Evaluation of the purpose of PPC39

Section 32 (1)(a) of the RMA requires that Council evaluate the extent to which the purpose of PPC39 is the most appropriate way to achieve the purpose of this RMA. Appropriateness means assessing whether the suitability of any particular alternative (i.e. regulation or methods) is appropriate, then considering the effectiveness and efficiency of the alternative.

Section 32 requires plan changes to be assessed focussing on the consideration of alternatives, benefit and costs. In considering the alternative methods it is necessary to consider different planning methods to achieve the purpose of the RMA, including retaining the status quo (doing nothing), non regulatory methods and the proposed plan change.

To do this Council has compared PPC39 to the other reasonable alternatives. Five alternatives were considered as possible mechanisms for achieving the outcome sought by the Council.

Reasonable Options

	Options	Explanation
Option 1	Do Nothing – Status Quo	This option involves retaining the existing archaeological items listed in the District Plan.
Option 2	Include only sites listed with Heritage New Zealand (HNZ)	Currently DP listed sites not listed with HNZ would be removed from the DP list.
Option 3	Include all known archaeological sites in the District Plan Heritage Inventory	All sites identified from all sources would be listed in the District Plan.
Option 4	Exclude all sites and map independently of the District Plan	No archaeological sites would be listed in the District Plan. Information would be held elsewhere.
Option 5	With or without DP listed sites, use criteria-generated archaeological alert layers	Mapable environmental factors would be used to identify areas of high probability of archaeological sites, with rules to apply.

Each of these options is discussed below.

	Benefits	Costs
Option 1 Do Nothing – Status Quo	<ul style="list-style-type: none"> This option requires no changes to the District Plan and therefore would incur no costs to Council associated with a Plan change 	<ul style="list-style-type: none"> There is inconsistency between sites known and listed. A dual consent process results.
Option 2 Include only sites listed with HNZ	<ul style="list-style-type: none"> These may be the most significant sites. It prioritises sites and focuses limited resources. 	<ul style="list-style-type: none"> These sites may be given an unwarranted status compared to other sites. Information on many sites is not readily available. Costs of Plan change process.
Option 3 Include all known archaeological sites in the District Plan Heritage Inventory	<ul style="list-style-type: none"> Information on all known sites would be readily available in one location. Creates certainty for developers on where information is held Aids in protection by raising awareness. 	<ul style="list-style-type: none"> Locational information for many sites is limited. Mapping often gives a false impression of extent and accuracy. New information requires a Plan Change process. Some sites of significance to Iwi should be excluded. Costs of Plan change process.

Continued...	Benefits	Costs
Option 4 Exclude all sites and map independently of the District Plan	<ul style="list-style-type: none"> • Flexibility: sites can be added or removed as information improves. • Information can be used as the starting point for further investigation. 	<ul style="list-style-type: none"> • Information is not immediately available to the public. • There is uncertainty over the location of information. • Does not achieve compliance with Council's functions under the RMA. • Costs of Plan change process.
Option 5 With or without DP listed sites, use criteria-generated archaeological alert layers	<ul style="list-style-type: none"> • Assists in protecting sites. • Raises general awareness of site existence with land owners and the community. 	<ul style="list-style-type: none"> • This method produced poor results in this District. • Costs to landowners – potentially reduced use of land in alert areas. • Partly achieves compliance with Council's functions under the RMA • Costs of Plan change process.

2.4.2 Preferred Alternative: Option 3

The preferred alternative is Option 3, to list all known sites and apply objectives, policies and rules to activities near them, while actual modification or destruction of sites themselves is dealt with by Heritage New Zealand.

Option 3 was not initially favoured for two reasons, especially the second:

- 1 The difficulty of handling the mapping and information for almost 1000 sites.
- 2 The initial reluctance of Iwi to publish information about sites which are of special importance to them.

A long period of information sharing, discussion and consideration resulted in Iwi representatives concluding that District Plan listing was both acceptable and the most convenient way for the information to be held.

Once the decision to include the sites is taken, the mapping challenge, although large, is not insurmountable.

2.4.3 Examination of Objectives and Policies in PPC39

Section 32 (1)(b) of the RMA requires that Council examine whether the provisions included in PPC47 are the most appropriate way to achieve the purpose of the RMA.

PROPOSED OBJECTIVES

1. *Manage subdivision, use and development to ensure that adverse effects on archaeological resource are avoided, remedied or mitigated.*
2. *Reduce the risk of damage to archaeological sites and areas by identifying the known archaeological resource and avoid activities that may damage, modify or destroy that resource, including activities close to the identified site.*
3. *Recognise and protect the archaeological resource by encouraging close co-operation with hapu, iwi, landowners and the community.*
4. *Provide information to the community to encourage the protection and retention of the archaeological resource.*

Comment	The proposed objectives identify the need to raise awareness of the potential risks and impacts associated with the presence of archaeological sites in the environment.	
Benefits	Improved awareness and understanding of archaeological sites. User friendly methods to identify sites and confirm if development okay.	
Costs	No direct cost implications although the community will be in a position to make better informed development and investment decisions. Some development may be declined and cost of inspection of sites to confirm development appropriate.	
Effectiveness	The new objectives are effective as improved understanding will support better informed decision making.	
Efficiency	The new objectives are efficient as improved understanding will support better informed decision making which recognises inherent levels of risk.	
Appropriateness	The proposed objectives are responsive to the understanding that an awareness of archaeological sites is a necessary precursor to taking action to ensure that land use activity reflect the need to avoid or mitigate the potential impacts on archaeological sites. Consultation with iwi and land owners recognised the need to increase knowledge and awareness of archaeological sites as well as raising concerns regarding the potential impact on property prices.	
Risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods	There is sufficient information from several studies to justify action. The information will be improved over time.	

PROPOSED POLICIES

1. *To enable the sustainable management of the archaeological resource for future generations, consideration shall be given to:*
 - *uniqueness of the site/s or area*
 - *representative nature of the site/s or area (i.e. the best example of a particular site type);*

<ul style="list-style-type: none"> • <i>condition;</i> • <i>tradition/historic association</i> • <i>alternate methods and locations available to carry out the proposed activity or works</i> • <i>the nature, form and extent of the proposed activity and the likelihood and extent of damage to the site/sites or area taking into account the extent to which there has already been land disturbance or damage</i> • <i>the findings of an archaeological assessment carried out by a suitably qualified archaeologist and the extent to which adverse effects can be avoided, remedied or mitigated</i> <p>2. <i>To enable development within the site-specific buffer area identified around each archaeological site/s or area in Appendix K, only where no adverse effect on the archaeological site/s or area will result.</i></p> <p>3. <i>To encourage landowners, the community and tangata whenua to investigate sources of funding and methods of voluntary protection for the management of the archaeological resource including the use of covenants.</i></p>	
Comment	These policies promote a positive and precautionary approach to land use activity near archaeological sites.
Benefits	These policies provide transparency appropriate to a precautionary approach and to provide clarity for property owners.
Costs	Given that archaeological sites are already largely identified and understood by land owners, this process of publishing the information will likely cause only minimal additional costs, in that development will need to be confirmed as appropriate. There are no employment consequences from this Plan change, except ,ore demands on archaeologists.
Effectiveness	These policies are effective, efficient and appropriate as they create more precise guidance for decision makers and the information is easily accessed by the public.
Efficiency	
Appropriateness	
Risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods	The mapping of archaeological sites is based on the best available information so the risk of acting is minimal. Regular updating with new information will add to the credibility and effectiveness of the associated regulation.

2.4.4 Evaluation of Methods

The following methods have been identified as being suitable for achieving the relevant objectives and policies outlined above.

It is considered that these rules blow are the most appropriate way to achieve the objectives and purpose of the RMA.

PROPOSED RULES

9.10 RULES – ARCHAEOLOGICAL and OTHER SITES....

9.10.2 Permitted Activities

The following activities shall be permitted activities:

- a. *Any activity that requires land disturbance and is located or undertaken within the buffer area of a site shown on the planning maps and listed in Appendix K where it has been determined by a qualified archaeologist referred to in performance standard 9.11.1 that the land disturbance shall not damage, modify or destroy the archaeological site/s or area.*

9.10.3 Discretionary Activities

The following activities shall be discretionary activities:

- a. *Any activity or use that requires land disturbance and is located or undertaken within the buffer area of a site/s or area shown on the planning maps and listed in Appendix K, where it has been determined by a qualified archaeologist referred to in performance standard 9.11.1 that the land disturbance shall damage, modify or destroy the archaeological site.*

Where a report of the type described above has been previously received by Council then a further report shall not be required, unless Council deems the proposed works to be materially different from those contemplated in the previous report.

Note: The Council may waive resource consent fees associated with the use and development of Archaeological or Other Sites.*

Note: It is an offence to destroy, damage or modify any archaeological site without an Authority from Heritage New Zealand Pouhere Taonga, under the Heritage New Zealand Pouhere Taonga Act 2014.

9.11 PERFORMANCE STANDARDS – ARCHAEOLOGY

9.11.1 Archaeological Report

Where land disturbance is proposed to take place within the buffer area surrounding an archaeological site/s or area mapped and listed in Appendix K (Archaeological and Other Sites) the person undertaking the proposed land disturbance shall provide the Council with a report from a qualified archaeologist stating whether the archaeological site will be damaged or destroyed.

Comment	The rules require expert advice to be obtained prior to ground disturbing activity within the any buffer zone, as a precaution against damage.
Benefits	Environmental – specifically addresses protection of archaeological sites only and safeguards the environment from unsafe development.

	<p>Economic – There are no employment/growth potential benefits to be addressed, as this is a supplement to the existing situation of protection by Heritage NZ.</p> <p>Social & Cultural – continuation of the clear message about development in the vicinity of archaeological sites.</p>
Costs	<p>Environmental & Economic– Minimal as this is a continuation of the existing HNZ protection and the status quo is retained in relation to existing restrictions on development.</p> <p>Social & Cultural continuation of the clear message about development in the vicinity of archaeological sites.</p>
Effectiveness	<p>Enabling activities not impacting on archaeological sites is effective. This is highly effective as it is widely understood and accepted by the affected parties and the community having been communicated for a number of years. Publishing the information ensures the retention of credibility and facilitates community support and acceptance.</p>
Efficiency	<p>Enabling activities impacting on archaeological sites is efficient and avoids unnecessary consent processes.</p>
Appropriateness	<p>The rules allow for development while ensuring that environmental effects are avoided, remedied or mitigated. This is considered to be an appropriate approach.</p>

2.5 Conclusion

The goal of the Plan change is to ensure the Council adequately and efficiently assists with the protection of archaeological sites, and to deal with risk in the vicinity of archaeological sites.

The Wanganui District Council is satisfied that the preferred alternative is necessary to achieve this desired outcome in accordance with the purpose of the Resource Management Act 1991 and that it is the most appropriate means of doing so of the alternatives considered.