



Cabinet Domestic Policy Committee

Summary of Paper

INFORMATION
CULTURE AND HERITAGE
9 DEC 2009

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Reform of Historic Places Trust's Governance Arrangements

Portfolio Arts, Culture and Heritage

Purpose This paper seeks agreement to strengthen the operational effectiveness of the New Zealand Historic Places Trust (NZHPT) through amendments to the Historic Places Act 1993 (the Act).

Previous Consideration None.

Summary NZHPT is an autonomous Crown entity that regulates the destruction and investigation of archaeological sites, maintains a register of historical and cultural heritage, and manages a portfolio of 48 heritage properties. Paid staff of over 100 people carry out NZHPT's statutory functions.

The Crown appoints six of NZHPT's nine member Board, and four of NZHPT's eight member Maori Heritage Council (the other four members are appointed from NZHPT's Board). The Maori Heritage Council supports the NZHPT Board and has its own functions relating to Maori heritage.

NZHPT's membership (currently 23,000) elects three members to the NZHPT Board. NZHPT has 24 Branch Committee regions, of which 20 have active Committees that promote heritage in their regions.

Pages 2-3 outline the problems with the existing arrangements, including that the combination of statutory responsibilities and active Branch Committees of members sets up tensions within NZHPT that compromise its ability to perform its functions.

Agreement is sought to amend the Act to:

- disestablish NZHPT's Branch Committees, but retain the provisions in the Act for NZHPT to have members;
- remove the three positions for elected members on NZHPT's Board, and replace them with two additional positions for people with the appropriate skills, knowledge, or cultural background, to be appointed by the responsible Minister (reducing the size of the NZHPT Board from nine to eight members);
- clarify that the responsible Minister appoints the four members to the Maori Heritage Council who are drawn from the NZHPT Board.

The Minister for Arts, Culture and Heritage intends to report to the Cabinet Domestic Policy Committee by 29 March 2010 with proposals relating to the review of archaeological consenting processes for inclusion in the Bill.

**Regulatory
Impact Analysis**

An exemption from the regulatory impact analysis requirements applies because the proposals concern the governance arrangements of a Crown entity, and have no or only minor impacts on businesses, individuals, or third sector entities.

**Baseline
Implications**

The Crown provides over 80 per cent of NZHPT's funding (\$12.488 million in 2009/10 of a total budget of approximately \$15.000 million). Less than five per cent of NZHPT's income is derived from membership subscriptions (approximately \$0.640 million).

The proposals will generate cost savings for NZHPT, as the NZHPT Board will reduce in size by one member, and there will be no need for NZHPT to hold Board elections or to provide financial support to Branch Committees.

**Legislative
Implications**

← **Withheld under sections 9(2)(f)(iv) and 9(2)(g)(i)
of the Official Information Act 1982** →

The Historic Places Trust Elections Regulations 1993, which provide for subscribing members to be elected to the NZHPT Board, will be repealed.

Timing Issues

None.

Announcement

NZHPT and the Ministry for Culture and Heritage will seek to address any concerns within NZHPT about the proposed changes at meetings with affected NZHPT Board members and Branch Committees.

Consultation

Paper prepared by MCH. DoC, MfE, Health, Justice, SSC, Tourism, TPK, and Treasury were consulted. NZHPT's senior management were consulted, and its Board was informed. DPMC, MSD (Community and Voluntary Sector), and Transport were informed.

The Minister for Arts, Culture and Heritage indicates that discussion is required with the government caucus but not with other parties represented in Parliament.

The Minister for Arts, Culture and Heritage recommends that the Committee:

- 1 note that the New Zealand National Party's 2008 Arts, Culture and Heritage manifesto includes a review of the Historic Places Act 1993 (the Act);
- 2 note that the New Zealand Historic Places Trust (NZHPT) is an autonomous Crown entity that regulates the destruction and investigation of archaeological sites, maintains a register of historical and cultural heritage, and manages a portfolio of 48 heritage properties;
- 3 note that NZHPT currently has:
 - 3.1 a nine member Board;
 - 3.2 an eight member Maori Heritage Council;

3.3 24 Branch Committee regions, of which 20 have active Committees;

4 agree to amend the Act to:

4.1 disestablish NZHPT's Branch Committees;

4.2 remove the three positions for elected members on NZHPT's Board;

4.3 establish two additional positions on NZHPT's Board for people with the appropriate skills, knowledge, or cultural background, to be appointed by the responsible Minister;

4.4 clarify that the responsible Minister appoints the four members to the Maori Heritage Council who are drawn from the NZHPT Board;

5 agree that the Historic Places Trust Elections Regulations 1993, which provide for subscribing members to be elected to the NZHPT Board, will need to be repealed;

6 note that the proposed amendments to the Act will not affect NZHPT's ability to offer membership, or to engage members in non-regulatory heritage work;

← Withheld under sections 9(2)(f)(iv) and 9(2)(g)(i) of the Official Information Act 1982 →

8 invite the Minister for Arts, Culture and Heritage to issue drafting instructions to the Parliamentary Counsel Office to give effect to the proposals in paragraphs 4 and 5 above;

9 invite the Minister for Arts, Culture and Heritage to report to the Cabinet Domestic Policy Committee by 29 March 2010 with proposals relating to the review of archaeological consenting processes for inclusion in the Bill;

10 note that NZHPT and the Ministry for Culture and Heritage will advise elected NZHPT Board members and Branch Committees of the proposed changes and assist the transition to new arrangements, which will mitigate the risk of some negative reaction.

Saphron Powell
Committee Secretary

Distribution: (see over)

Distribution:

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PAG Subject Advisor, DPMC
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In Confidence

Office of the Minister for Arts, Culture and Heritage

Chair
Cabinet Domestic Policy Committee

REFORM OF HISTORIC PLACES TRUST'S GOVERNANCE ARRANGEMENTS

Proposal

- 1 This paper seeks Cabinet's agreement to strengthen the operational effectiveness of the New Zealand Historic Places Trust (NZHPT) through an amendment to the Historic Places Act 1993 (HPA) that would disestablish NZHPT's Branch Committees and remove the inclusion of member representatives on NZHPT's Board.

Executive Summary

- 2 NZHPT is an Autonomous Crown Entity with regulatory responsibilities, significant Crown funding (\$12.488 million in 2009/10) and a paid staff of over 100 people (FTEs). Its organisational arrangements nevertheless continue to reflect an earlier reliance on the volunteer effort of Committee and Board members that dates back to the 1950s when NZHPT was established.
- 3 The combination of a small number of active members and statutory responsibilities creates tensions within NZHPT that compromise its ability to perform its functions. Tensions arise when, for example, there is a conflict between a Branch Committee's views and NZHPT's statutory position on a particular heritage issue. The elected Board members perceive they are accountable both to the members who elect them and NZHPT's Board, causing tensions when NZHPT's statutory position and members' views conflict. The members exercise a disproportionately large influence relative to their funding contribution (less than 5% of NZHPT's income).
- 4 To address these problems, I propose to:
 - disestablish NZHPT's Branch Committees, but retain provisions in the HPA for the NZHPT to have members
 - remove the three positions for elected members on NZHPT's Board, and replace these positions with two additional positions appointed by the responsible Minister.
- 5 The proposed changes represent a natural progression in NZHPT's development from an organisation reliant on volunteer effort to a Crown entity with significant statutory powers, Crown funding and over 100 paid staff.

Background

- 6 National's 2008 Arts, Culture and Heritage Manifesto includes a commitment to review the HPA.
- 7 The HPA establishes the New Zealand Historic Places Trust (NZHPT) in its current form with functions and powers that include:
 - regulating the destruction and investigation of archaeological sites
 - maintaining a Register of historical and cultural heritage
 - managing a portfolio of heritage properties.
- 8 NZHPT is categorised as an Autonomous Crown Entity. The Crown provides over 80% of NZHPT's funding (\$12.488 million in 2009/10 of a total budget of around \$15.000 million). Under the HPA, the Crown appoints six of NZHPT's nine-member Board, and four of NZHPT's eight-member Māori Heritage Council (with the other four members being appointed from NZHPT's Board). The Māori Heritage Council supports the Board and has its own functions relating to Māori heritage.
- 9 NZHPT offers membership by annual subscription, and currently has 23,000 members. Most members play no active role in the organisation. The HPA provides that NZHPT's membership elects three members to NZHPT's Board.
- 10 Aspects of NZHPT's organisational arrangements continue to reflect its early reliance on volunteer effort to promote heritage causes. When NZHPT was established in 1955, Board and Committee members undertook most of its work. Today over 100 paid staff carry out all of NZHPT's statutory functions. NZHPT continues, however, to have active Branch Committees that promote heritage in their regions. The small number of members engaged in that effort provide a link to local communities.
- 11 Currently, NZHPT has twenty-four Branch Committee regions, twenty of which have active Committees. Internal NZHPT rules define the Branch Committees' role as publishing and distributing information on the heritage of their regions, organising promotional and educational events and installing interpretive panels and plaques, among other things. At times Branch Committee members have also involved themselves in Resource Management Act processes and sought to represent NZHPT in the media.

Problems with the existing arrangements

- 12 The combination of statutory responsibilities and active Branch Committees of members sets up tensions within NZHPT that compromise its ability to perform its functions. Difficulties arise, for example, when paid staff take a position on heritage issues under the Resource Management Act that is contrary to the views advocated by a particular Branch Committee. The existence of Branch Committees means it is not always clear who speaks for NZHPT, and what NZHPT's position is on any particular matter.

- 13 The three elected Board members perceive they are accountable both to the members who elect them and the NZHPT Board. These mixed accountabilities can cause tension when NZHPT's statutory position and members' views conflict on a particular issue.
- 14 The members exercise a disproportionately large influence relative to their funding contribution. Less than 5% of NZHPT's income is derived from membership subscriptions (around \$0.640 million).

Comment

15 To resolve these issues, I propose to amend the HPA to:

- disestablish Branch Committees
- remove from NZHPT's Board the three positions elected by NZHPT's membership.

16 The proposed changes represent a natural progression in NZHPT's development from an organisation reliant on volunteer effort to a Crown entity with significant statutory powers, Crown funding and over 100 paid staff.

17 The Historic Places Trust Elections Regulations 1993, through which subscribing members are elected to the Board, will be repealed.

18 I propose to establish two positions on the Board to replace the elected members. The responsible Minister will appoint to these positions people who have the skills, knowledge or cultural background appropriate to the functions and powers of NZHPT.

19 The overall effect on the Board will be to:

- reduce its size from nine to eight members
- ensure that the responsible Minister appoints all members, presenting opportunities to consider the Board's overall mix of skills and expertise when making appointments.

20 These proposals will result in some cost savings for NZHPT because the Board will be reduced in size by one member; there will be no need for NZHPT to hold Board elections, or to provide financial support for Branch Committees.

Māori Heritage Council: drafting and consequential amendment

21 Currently, one of the four members appointed to the Māori Heritage Council from NZHPT's Board may be an elected Board member. As a consequence of the proposed changes to the Board, all four members of the Council will be drawn from a Board entirely made up of people that the responsible Minister appoints.

22 The HPA does not specify who appoints the four Board members to the Māori Heritage Council. I propose to amend the HPA to clarify that the responsible Minister appoints Board members to the Council. This reflects current practice.

Membership to continue

- 23 I propose to retain provision in the HPA for NZHPT to have subscribing members. Currently members make a valued contribution to NZHPT's work. To ensure this continues, NZHPT intends to provide opportunities for members and other interested groups and individuals to volunteer to assist in heritage advocacy work, such as organising public talks, heritage tours and promotional events. Members will continue to assist at NZHPT's heritage properties by, for example, working as guides or helping to maintain gardens.
- 24 Membership subscriptions provide a relatively small but important source of income, and it is also important that NZHPT continues to receive this income.

Risks and issues

← Withheld under sections 9(2)(ba)(i), 9(2)(f)(iv) and 9(2)(g)(i) of the Official Information Act 1982 →

- 28 Subject to Cabinet's decisions, NZHPT and Ministry representatives will work to mitigate these risks by meeting with Branch Committees to explain the proposed changes and discuss how they can be implemented effectively. NZHPT and Ministry staff are also working on a communications plan to ensure key messages are conveyed to the media.
- 29 NZHPT and the Ministry will encourage active NZHPT members to consider establishing one or more new independent heritage groups. NZHPT will work closely with Branch Committees to ensure a smooth transition to any new arrangements, and to develop partnerships with any new heritage groups that are formed.

Risks to community involvement in heritage issues

- 30 There is a risk that community involvement in heritage issues will decrease once Branch Committees are disestablished. I consider, however, that the proposals in this paper create opportunities for heritage advocates either to form new, independent heritage groups, or to increase involvement in existing groups. As noted, NZHPT will work with Branch Committee members to assist this transition, and will work with new groups to achieve shared objectives.

- 31 I also consider there is potential for new groups to engage more freely than Branch Committees in heritage advocacy processes and initiatives, as they will not be constrained by working within a Crown entity.

Other matters

Review of archaeological consenting processes

- 32 As part of the HPA review, the Ministry for Culture and Heritage is reviewing archaeological consenting processes. The review of these processes complements the historic heritage work stream of Phase Two of the Government's resource management reforms. The results of the HPA review of these processes will be taken into account as part of this reform process, and will be included in a report back to Cabinet by the Minister for the Environment in February 2010.
- 33 In August 2009 the Ministry for Culture and Heritage established a reference group to provide independent advice on archaeological consenting processes. Further policy work is being undertaken on this matter. I expect to report to Cabinet on the outcome of this work, and any further proposals for amendments to the HPA by 29 March 2010.

Withheld under sections 9(2)(ba)(i), 9(2)(f)(iv) and 9(2)(g)(i)
of the Official Information Act 1982

Next steps

- 38 NZHPT and the Ministry for Culture and Heritage will meet with Branch Committees to inform them of Cabinet's decisions on the governance arrangements.
- 39 I expect to present a Cabinet paper by 29 March 2010 on any amendments to the HPA arising from the review of archaeological consenting processes. The Ministry for Culture and Heritage will then provide drafting instructions to the Parliamentary Counsel Office for all reforms to be included in an Historic Places Amendment Bill.

Consultation

- 40 The following departments have been consulted: Department of Conservation; Ministry for the Environment; Ministry of Health; Ministry of Justice; State Services Commission; Ministry of Tourism; Te Puni Kōkiri; and The Treasury. The Department of the Prime Minister and Cabinet, the Ministry of Social Development (Office for the Community and Voluntary Sector) and the Ministry of Transport have been informed.
- 41 NZHPT's senior management has been consulted. NZHPT's Board has been informed.

Financial implications

- 42 There are no financial implications.

Human Rights implications

- 43 There are no inconsistencies between the recommendations in this paper and the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Legislative implications

← Withheld under sections 9(2)(f)(iv) and 9(2)(g)(i) of the Official Information Act 1982 →

- 45 It will not be possible to provide drafting instructions to Parliamentary Counsel Office in 2009 because the review of archaeological consenting processes has yet to be completed.

← Withheld under sections 9(2)(f)(iv) and 9(2)(g)(i) of the Official Information Act 1982 →

Regulatory impact analysis

- 46 A Regulatory Impact Statement is not required because the proposals in this paper concern the governance arrangements of a Crown entity, and have no or only minor impacts on businesses, individuals or third sector entities.

Gender Implications/Disability perspective

- 47 There are no gender implications/disability perspective.

Publicity

- 48 I do not intend to make a media statement on the proposals in this paper. NZHPT and the Ministry for Culture and Heritage will seek to address any concerns within NZHPT about the proposed changes at meetings with affected Board members and Branch Committees.

Recommendations

49 I recommend that the Committee:

- 1 note that the National Party's 2008 Arts, Culture and Heritage manifesto includes a review of the Historic Places Act 1993;

← Withheld under sections 9(2)(f)(iv) and 9(2)(g)(i) of the Official Information Act 1982 →

3 agree to amend the Historic Places Act 1993 to:

- 3.1 disestablish the New Zealand Historic Places Trust's Branch Committees;
- 3.2 remove the three positions for elected members on the New Zealand Historic Places Trust's Board;
- 3.3 establish two additional positions on the New Zealand Historic Places Trust's Board for people with the appropriate skills, knowledge, or cultural background, to be appointed by the responsible Minister;
- 3.4 clarify that the responsible Minister appoints the four members to the Māori Heritage Council who are drawn from the Board;
- 3.5 make any legislative amendments necessary to give effect to 3.1-3.4, including repeal of the Historic Places Trust Elections Regulations 1993;

4 note that the proposed amendments to the Historic Places Act 1993 do not affect the New Zealand Historic Places Trust's ability to offer membership, or to engage members in non-regulatory heritage work;

5 note that, subject to Cabinet's decisions on 3.1-3.3, the New Zealand Historic Places Trust and the Ministry for Culture and Heritage will advise elected Board members and Branch Committees of the proposed changes, and that there is a risk of some negative reaction;

6 note that the risk of negative reaction will be mitigated by the Ministry for Culture and Heritage and the New Zealand Historic Places Trust meeting with Branch Committees to explain the changes and assist the transition to new arrangements;

7 note that drafting instructions for the amendments in 3.1-3.5 will be provided to the Parliamentary Counsel Office in April 2010.

Christopher Finlayson

Hon Christopher Finlayson
Minister for Arts, Culture and Heritage

2 11/2/2009



Cabinet Domestic Policy Committee

DOM Min (09) 27/5

 MINISTRY FOR
CULTURE AND HERITAGE

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Minute of Decision

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Reform of Historic Places Trust's Governance Arrangements

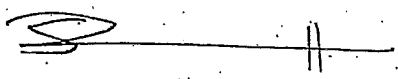
Portfolio: Arts, Culture and Heritage

On 9 December 2009, the Cabinet Domestic Policy Committee (DOM):

- 1 noted that the New Zealand National Party's 2008 Arts, Culture and Heritage manifesto includes a review of the Historic Places Act 1993 (the Act);
- 2 noted that the New Zealand Historic Places Trust (NZHPT) is an autonomous Crown entity that regulates the destruction and investigation of archaeological sites, maintains a register of historical and cultural heritage, and manages a portfolio of 48 heritage properties;
- 3 noted that NZHPT currently has:
 - 3.1 a nine member Board;
 - 3.2 an eight member Maori Heritage Council;
 - 3.3 24 Branch Committee regions, of which 20 have active Committees;
- 4 agreed to amend the Act to:
 - 4.1 disestablish NZHPT's Branch Committees;
 - 4.2 remove the three positions for elected members on NZHPT's Board;
 - 4.3 establish two additional positions on NZHPT's Board for people with the appropriate skills, knowledge, or cultural background, to be appointed by the responsible Minister;
 - 4.4 clarify that the responsible Minister appoints the four members to the Maori Heritage Council who are drawn from the NZHPT Board;
- 5 agreed that the Historic Places Trust Elections Regulations 1993, which provide for subscribing members to be elected to the NZHPT Board, will need to be repealed;
- 6 noted that the proposed amendments to the Act will not affect NZHPT's ability to offer membership, or to engage members in non-regulatory heritage work;

← Withheld under sections 9(2)(f)(iv) and 9(2)(g)(i) of the Official Information Act 1982 →

8. **invited** the Minister for Arts, Culture and Heritage to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions in paragraphs 4 and 5 above;
9. **invited** the Minister for Arts, Culture and Heritage to report to DOM by 29 March 2010 with proposals relating to the review of archaeological consenting processes for inclusion in the Bill;
10. **noted** that NZHPT and the Ministry for Culture and Heritage will advise elected NZHPT Board members and Branch Committees of the changes and assist the transition to new arrangements, which will mitigate the risk of some negative reaction.


Saphron Powell
Committee Secretary

Reference: DOM (09) 117

Present:

Hon Simon Power (Chair)
Hon Judith Collins
Hon Christopher Finlayson
Hon Steven Joyce
Hon Paula Bennett
Hon Maurice Williamson (part of item)
Hon Nathan Guy

Officials present from:

Office of the Prime Minister
Officials Committee for DOM

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Note on information withheld under the Official Information Act 1982

Parts of these papers are marked as being withheld under various grounds under the Official Information Act 1982. These grounds are as follows:

- Section 9(2)(ba)(i): withheld on the basis that it is necessary to protect information subject to an obligation of confidence, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.
- Section 9(2)(f)(iv): withheld on the basis that it is necessary to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.
- Section 9(2)(g)(i): withheld on the basis that it is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any Department or organisation in the course of their duty.