

Before the Independent Hearings Panel At Wellington City Council

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing submissions and further submissions on the
Proposed Wellington City District Plan

**Statement of supplementary planning evidence of Adam
McCutcheon on behalf of Wellington City Council**

Date: 3 May 2023

INTRODUCTION:

- 1 My full name is Adam McCutcheon. I am employed as Acting Manager of the District Planning Team at Wellington City Council. My substantive role is that of a Team Leader in the District Planning Team.

- 2 I have read the respective evidence of:

Historic Heritage

CAMJEC Limited ID 268

- a) Cameron Peter de Leijer

Claire Bibby ID 329

- b) Barry O'Donnell

Dr M Keir & Ms S Cutten ID 415 & FS 091

- c) Dr M Keir & Ms S Cutten
- d) Nina Smith

Go Media Limited ID 236

- e) Francis John Costello

Heritage New Zealand Pouhere Taonga ID 70 & FS 9

- f) Dr James Andrew Jacobs
- g) Dean Raymond

Historic Places Wellington ID 182 and FS 111 and Wellington's Character Charitable Trust ID 233 and FS 82

- h) Bill McKay
- i) Michael Kelly

Jane and Turi Park ID 73

- j) Samuel Arthur Kebbell

Kāinga Ora ID 391 & FS 89

- k) Veronica Cassin
- l) Victoria Woodbridge

Parliamentary Service ID 375 and FS 48

- m) Peter Coop

Quayside Property Trust ID 104

- n) Ian Bowman
- o) Ian Thomas Leary

Wellington Heritage Professionals ID 233 & FS 82

- p) Eva Forster Garbutt
- q) Amanda Mulligan and Michael Kelly

Wellington International Airport Limited ID 406 & FS 36

- r) John Kyle

Wharenui Apartments ID 358

- s) Ian Thomas Leary

Notable trees

Argosy Property No 1 Limited ID 383

- t) David Spencer

Jeremy Partridge ID 102

- u) Jeremy Partridge

- 3 I have prepared this statement of evidence in response to expert evidence submitted by the people listed above to support the submissions and further submissions on the Proposed Wellington City District Plan (the Plan / PDP).
- 4 Specifically, this statement of evidence relates to the matters of [Wellington City Proposed District Plan Hearing Stream 3 – Historic Heritage, Notable Trees and Sites and Areas of Significance to Māori Section 42A report](#)
- 5 This statement does not relate to the S42A report on 'Viewshafts' which are being addressed by Ms Anna Stevens in her Statement of Supplementary Planning Evidence.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 6 My [Section 42A report](#) sets out my qualifications and experience as an expert in planning.
- 7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF EVIDENCE

- 8 My statement of evidence addresses the expert evidence of those listed above.

RESPONSES TO EXPERT EVIDENCE

CAMJEC Limited ID 268 – Cameron Peter de Leijer

- 9 Mr de Leijer supports my recommendation not to add 233 Willis Street to SCHED1 - Heritage Buildings.
- 10 I continue to recommend that the building not be scheduled considering there is an approved resource consent for its demolition.

Claire Bibby ID 329 – Barry O'Donnell

- 11 I acknowledge the further contextual information supplied by Mr O'Donnell regarding the Tawa No.2 Tunnel survey marker.
- 12 I have not changed my view and continue to recommend per paras 1042 through 1046 of my S42A report that the Tawa No.2 Tunnel survey marker not be added to SCHED2.

Dr M Keir & Ms S Cutten ID 415 & FS 09 – Dr Matthew Keir & Ms Sarah Cutten and Ms Nina Smith

- 13 I appreciate the efforts Mr Keir and Ms Cutten have gone to

procuring a valuation of their property from Ms Nina Smith at their own cost to support this process. It is a useful input and one which the Council has not obtained.

- 14 With respect to the paper provided on '*Protection of Private Property Rights and Just Compensation*' and the decision of Environment Judge B P Dwyer in '*NZEnvC 056 Waikanae Land Company Limited v HNZPT*' I refer to the legal submission of Mr Nick Whittington for the Council which will be provided by 5 May 2023.

Go Media Limited ID 236 – Francis John Costello

- 15 Mr Costello reiterates the submission point of Go Media that the Heritage Design Guide should expressly reference the potential for third-party signs on heritage buildings.

- 16 He identifies that I have rejected the submission point on the basis that the Signs Design Guide deals with this matter.

- 17 I confirmed that I am mistaken in my analysis, and that the relevant design guidance is indeed in the Heritage Design Guide.

- 18 Turning my mind back to the Heritage Design Guide, I had not considered that the Heritage Design Guidelines would send a signal that third party signs were not appropriate on heritage buildings at all.

- 19 My view is that third party signs can be appropriate on heritage buildings, but a consenting process and specific controls are needed as set out in the policies, rules and standards in the Signs Chapter to ensure an appropriate assessment of effects on heritage values.

- 20 This is the intent of SIGNS-P3 which sets out a consenting framework for considering third party signs (and signs that do not meet permitted activity standards) ensuring they do not detract from heritage values. The Heritage Design Guide, being an

assessment tool/method cannot approach this matter differently.

21 The 'additional considerations' for Guideline G19 as notified specify that:

'Signs that indicate the **building name, the owner or occupier** of the site, and the **products and services available** on the site are **generally more appropriate** for heritage buildings, heritage structures and in heritage areas **than third party signage**. (emphasis added).

22 Given this is inconsistent with SIGNS-P3 and SIGNS-R6 for heritage buildings and heritage areas, I consider that the 'additional considerations' for Guideline G19 could be redrafted to reflect more accurately the consenting requirements:

~~'Signs that indicate the building name, the owner or occupier of the site, and the products and services available on the site are generally more appropriate for on~~ heritage buildings, heritage structures and in heritage areas that are larger than that permitted by the plan or contain third party advertising follow a resource consent process to ensure they do not detract from heritage values.-signage.

23 This may go some way to addressing Mr Costello's concerns.

24 I do not consider that this amendment alters the policy approach of the plan nor the intent of the guideline such that it requires a section 32AA evaluation, rather that it improves the effectiveness of provisions.

25 With respect to para 14 of Mr Costello's evidence, I do not agree that blank sides or 'party' walls should be removed from the guideline. These are typically the most suitable locations to place signage so as not to detract from heritage values and avoid drawing the eye away from heritage features. It is also the location of a sign identified by Mr Costello at para 12 (Kauri Timber Company building) as being a good example of a third-

party sign on a heritage building.

26 In addition, I do not agree that a guideline regarding the economic benefits of signage to heritage buildings (para 14) is necessary given this matter is traversed in SIGNS-P3 in the assessment of 'the benefits of allowing additional signage to support sustainable long-term use', nor is it a design matter.

27 I do not agree that the wording in G22 'carefully consider (digital signs)' is particularly problematic, but do consider that more explanatory words should be included. The intent of the wording is to identify that digital signs can have more pronounced or additional effects on heritage buildings than other buildings within the urban environment. Many heritage buildings are managed for their architectural merits and the managed to be appreciated by the community through being visible and prominent landmarks in the streetscape.

28 Compared to non-digital externally lit signs, digital signs with their ability to be brighter and change content can result in lessening of the appreciation of architectural merits. The guideline encourages careful consideration of digital signs compared to non-digital ones for this reason.

29 To clarify this, I suggest that G22 is amended as follows:

G22. ~~Illuminated and d~~Digital signs should be carefully considered as their brightness and ability to display changing content can have effects on the appreciation of the architectural merits of heritage buildings. If signs are to be lit, it is recommended that they are illuminated by external lighting. External illumination can be a more subtle method of lighting a sign, ensuring the appreciation of heritage buildings from passersby and in long views.

30 I do not consider that this amendment alters the policy approach of the plan nor the intent of the guideline such that it requires a section 32AA evaluation, rather that it improves the effectiveness

of provisions.

Heritage New Zealand Pouhere Taonga ID 70 & FS9 – Dr James Andrew Jacobs and Dean Raymond

Mr Jacobs

- 31 I note that Mr Jacobs agrees with my recommendation at HS3-Rec203: That the Wellington Central Library Te Mātapihī is not added to SCHED1, and instead it is assessed at the conclusion of the consented works.
- 32 Mr Jacobs disagrees with my recommendations at HS3-Rec205 and HS3-Rec207 that the McLean Flats and Hurston House are not added to SCHED1 – Heritage Buildings.
- 33 He considers that the absence of prior consultation with the building owners by the Council to discuss scheduling in the district plan is not a sufficient reason to not include them on the schedule at this stage.
- 34 I continue to consider the Council should have such conversations with building owners in good faith before entering new places on the heritage schedules. The Council has since December 2020 embarked on a process of engaging building owners of proposed new listings as detailed in paras 88 through 105 of my [s42A report](#).
- 35 District plans will always be ‘out of step’ with The New Zealand Heritage List/Rārangi Kōrero (the List) as HNZPT continues to add new places to its list over the life of district plans, which require plan changes to respond to. As such I do not consider it to be realistic that the HNZPT list and the district plan heritage list will always mirror each other.
- 36 On the extent of the Truby King Heritage Area, Mr Jacob’s evidence recommends excluding the site of the former Karitane Hospital, which was demolished in December 2020. Ms Smith’s

rebuttal agrees with Mr Jacobs. Considering this I am supportive of excluding the site of the former Karitane Hospital from the extent of the heritage area given the agreement that there are no heritage benefits to including it.

37 Mr Jacobs does not agree with my recommendation at HS3-Rec113: That the maximum height limit for the Newtown Shopping Centre Heritage Area be amended to 18m.

38 I have noted in my s42A report at para 565 that Ms Smith and I have different views on this matter. I have not changed my view set out in that same paragraph that the height for this area is low compared to the operative district plan and there is an opportunity with respect to Let's Get Wellington Moving.

39 I also note that NPS-UD policy 3(d) requires that centres zones enable building heights and densities commensurate with the level of commercial activity and community services, and that qualifying matters (such as heritage) modify these requirements only to the extent necessary to accommodate the qualifying matter.

40 Given that the operative plan establishes an 18m height limit within this existing heritage area and the NPS-UD has subsequently been introduced, I consider that an 18m height limit to be defensible. It would seem somewhat contrary to the intent of the now in force NPS-UD to now reduce the maximum height within this area.

41 I note that Mr Jacob's supports my recommendation at HS3-Rec17 to include assessment of the extent to which maintenance and repair has been undertaken on heritage buildings to help encourage owners to undertake works to their buildings to avoid scenarios of demolition by neglect.

Mr Raymond

- 42 I note that Mr Raymond, Planner for HNZPT in para 6 of his evidence considers that the notified PDP contains appropriate and comprehensive provisions related to the recognition and protection of historic heritage, and that in his view, the changes recommended in the S42A report further ensure this.
- 43 I note that Mr Raymond supports several of my recommendations regarding the chapter provisions, these are:
- a) HS3-Rec4: To confirm the definition of 'archaeological site' as notified;
 - b) HS3-Rec9: Amendments to the introduction section of the chapter;
 - c) HS3-Rec16: That the definition of 'heritage building' be amended to clarify that in cases where the entire external building envelope is not protected, that it applies only to the listed part of the building;
 - d) HS3-Rec17: That the policy for total demolition of a heritage building be amended to include assessment of the extent to which maintenance and repair has been undertaken on heritage buildings to help encourage owners to undertake works to their buildings to avoid scenarios of demolition by neglect;
 - e) HS3-Rec30, HS3-Rec31, HS3-Rec32 and HS3-Rec33 which relate to internal works;
 - f) HS3-Rec36 which relates to an enabling approach to works;
 - g) HS3-Rec-38 which relates to conservation plans;
 - h) HS3-Rec42 which relates to additions and alterations to heritage buildings;
 - i) HS3-Rec44 which relates to new buildings on the site of heritage buildings;

- j) HS3-Rec46 which relates to policies for repositioning and relocation of heritage buildings;
- k) HS3-Rec58 and HS3-Rec59 which relate to repositioning and relocation of contributing buildings and structures;
- l) HS3-Rec71 which relates to chimneys;
- m) HS3-Rec73 which relates to new buildings and structures;
- n) HS3-Rec75 which relates to additions and alterations to non-scheduled buildings;
- o) HS3-Rec81 and HS3-Rec83 which relates to information requirements for relocating and demolishing buildings;
- p) HS3-Rec87 which relates to partial demolition and additions and alterations;
- q) HS3-Rec90 which relates to total demolition of heritage buildings;
- r) HS3-Rec92 which relates to new buildings and structures within heritage areas;
- s) HS3-Rec96 which relates to relocation of contributing buildings;
- t) HS3-Rec99 which relates to the relocation and total demolition of contributing buildings; and
- u) HS3-Rec107 which relates to redrafting the chapter to include the standards in rules for easier reading.

44 With respect to the glossary terms of wāhi tapu and wāhi tupuna, Mr Raymond has identified that as they are not used in plan provisions and instead are glossary terms, that there is less need for consistency with the HNZPT Act. My view is that it would still be desirable for these terms to align, but ultimately is not critical given there are limited implications on plan usability.

- 45 Mr Raymond does not agree with my recommendation for height increases in the Newtown centre in para 32 of his evidence. My response to this is the same as that to Mr Jacobs above.
- 46 Considering Mr Raymond's advice in his para 42 – I accept his revised wording in replacement of my recommended HS3-Rec148 except for the term Māori artefacts. I suggest this is omitted and taonga tūturu used instead as this is established by the Protected Objects Act, whereas artefacts/artifacts is not.
- 47 Mr Raymond, like Mr Jacobs, considers that McLean Flats and Hurston House should be included on SCHED1 in paras 57 and 58 of his evidence. My response is the same as that to Mr Jacobs above. Mr Raymond shares the same view as Mr Jacobs on the site of the former Karitane Hospital.
- 48 I thank Mr Raymond for supplying eight HNZPT List numbers for SASMs and am supportive that these are added to SCHED7.

Historic Places Wellington ID 182 and FS111 and Wellington's Character Charitable Trust ID 233 and FS82 – Bill McKay and Michael Kelly

Mr McKay

- 49 I have no particular comment on the evidence of Mr Bill McKay in relation to the Gordon Wilson flats.
- 50 I note that Mr McKay agrees with my recommendation HS3-Rec157: That SCHED1 continues to include item 299, 320 The Terrace, Gordon Wilson Flats.

Mr Kelly

- 51 I have no particular comment on the evidence of Mr Michael Kelly in relation to the nomination of Historic Places Wellington and Wellington's Character Charitable Trust.
- 52 I note that Mr Kelly agrees with my recommendations HS3-Rec215: that it is not recommended that the nominations are added to SCHED1 but instead added to the Council's database of

heritage nominations for consideration later, and HS3-Rec308: That conferencing is undertaken between Ms Smith and Mr Kelly considering agreement between experts to assist in determining the extent of a potential Hay Street heritage area.

Jane and Turi Park ID 73 – Samuel Arthur Kebbell and Joe Jefferies

Dr Kebbell

53 Dr Kebbell is of the view that 134 Brougham Street does not meet the criteria for inclusion within the Moir Street Heritage Area.

54 Ms Smith, having reviewed this evidence, does not agree and continues to recommend that the house be included. I take her advice on the merits of the building being such that it continues to be included within the notified heritage area.

55 Dr Kebbell is correct that if the building were to not be included it would be subject to the controls of the Character Precincts (if the Panel were to recommend confirmation of a Character Precinct in that area).

56 Dr Kebbell identified that a new building would be able to better relate to the street and increase solar gain. I note though that there is a tough test for demolition of pre-1930s buildings within Character Precincts. Given that this building is rated as a 'primary' contributor in the [pre-1930s character area review](#), meaning it greatly contributes to streetscape values, demolition is far from a straightforward proposal, even if only included in the Character Precincts.

Mr Jefferies

57 My response to the matters raised in Mr Jefferies evidence is the same as that for Dr Kebbell.

Kāinga Ora 391 & FS89 – Veronica Cassin and Victoria Woodbridge

Ms Cassin

- 58 Ms Cassin's evidence identifies that Kāinga Ora has changed its submission approach and can be summarised as asking for a heritage area in replacement of the Mount Victoria North Townscape Precinct which is contained within the Medium Density Residential Zone. This is partially in recognition that there may be unknown but significant heritage values within that area which are unprotected in the absence of a heritage area.
- 59 I find this approach intriguing and contrary to the arguments of Kāinga Ora who have been advocating for a very high level of evidence to justify including qualifying matters and assessing them against s77J of the Act (such as character or heritage). I find this somewhat at odds with the argument in para 3.1(b) of Ms Woodbridge's evidence for Kāinga Ora.
- 60 The effect of this change is that the Mount Victoria North Townscape Precinct (shown below in green) would be included within a Heritage Area, such as the Proposed Doctors' Commons Heritage Area which sits within this area (shown below in purple within the green extent).

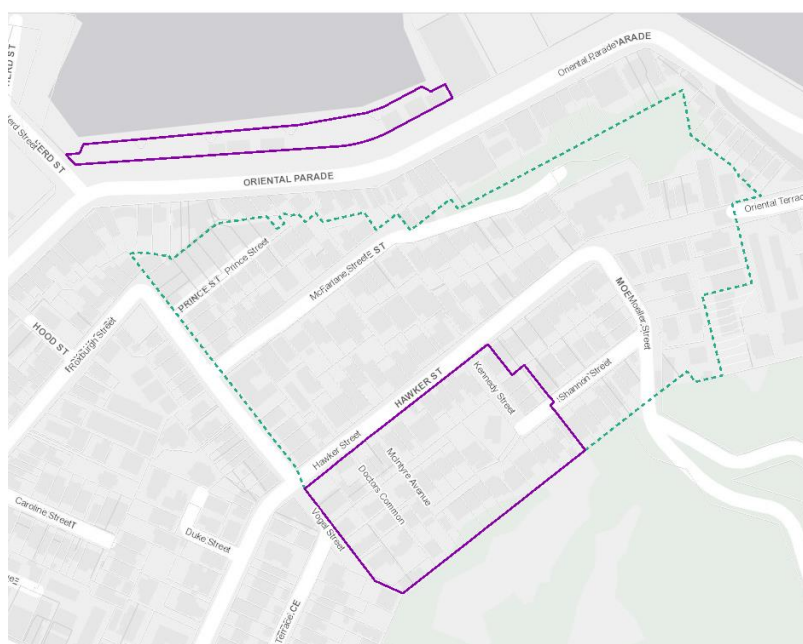


Figure 1: Relative extents of the Mount Victoria Townscape Precinct (Green) and Doctor's Commons Heritage Area (Purple)

- 61 The Council has a detailed heritage assessment for all proposed heritage areas in the plan where the contribution (or lack thereof) of each building within heritage areas is assessed and qualified. See the Doctors' Commons Heritage Area assessment as an example: [Historic Heritage Area Evaluation 42 Doctors Common Heritage Area 2021 \(wellington.govt.nz\)](https://www.wellington.govt.nz/historic-heritage-area-evaluation-42-doctors-common-heritage-area-2021). It does not have such information for the entirety of the Mount Victoria Townscape Precinct.
- 62 I cannot support introducing a heritage area with insufficient evidence determining why the entire area meets the criteria for scheduling.
- 63 Ms Smith has responded on the methodology used to determine the extent of heritage areas in Mount Victoria based on the '2017 Mount Victoria Heritage Study' referenced by both Ms Cassin and Ms Woodbridge. She has concluded that the methodology was robust, and the areas included in the PDP appropriate. I agree with her assessment.

Ms Woodbridge

Mount Victoria North Townscape Precinct

64 My comments above for Ms Cassin are also relevant to Ms Woodbridge's evidence. In addition to the above, I add that I do consider that the approach used in the PDP to manage the identified and known values (in this case townscape values) of the area is the most efficient, effective and appropriate level of regulation given that the evidence Council has does not support heritage protection for the entire area.

65 On the other hand, evidence is held that demonstrates the townscape value the area holds and accordingly a rule framework that enables demolition but manages additions, alterations and the scale of new development to ensure compatibility with the identified townscape values is appropriate.

Design guides

66 On the matter of design guides discussed at paras 6.1 through 6.12 of Ms Woodbridge's evidence, I note that much of the discussion in Hearing Stream 2 was on whether they should be 'in or out' of the plan. I also note that a parallel collaborative process is underway to review and amend the design guides to increase certainty and clarity of drafting. My view has not changed that the design guides should be a statutory part of the plan.

67 If the Panel considered it appropriate, I am supportive of the Heritage Design Guide being included in that process.

Historic Heritage Provisions

68 I acknowledge that I misunderstood the submission point regarding the definition of 'demolition' (para 7.3), and that the submission was made in the context of the Character Precinct provisions. That matter will have been addressed in Stream 2.

69 I acknowledge Ms Woodbridge's support for the definitions of

'total demolition' and 'partial demolition' (para 7.5).

- 70 Considering amendments to notified policy HH-P11 (*Height of new development within heritage areas*) I am still of the view that my recommended wording in HS3-Rec50 is preferable as it cuts to the core of what is being assessed – the form and scale of heritage areas. Ms Woodbridge appears to accept this is the case but prefers that the role these factors play in comprising 'heritage values' is used instead. In my view, my wording is more direct and clearer. Broader consideration of heritage values is addressed in the start of notified policy HH-P14 which would also apply in the assessment of new buildings within these areas.
- 71 While not part of Ms Woodbridge's evidence, I do not disagree with Kāinga Ora that the development of new buildings within heritage areas occurs in the context of an intensifying environment. However, the intent of the heritage area height standards (notified HH-S4) is to temper that intensification within heritage areas so as not to detract from their values (which includes scale and form), whereas greater building heights are enabled outside of them. Given this is the policy approach of the plan I do not consider it appropriate to infer that this is the role of heritage areas as implied by Kāinga Ora's submission point 391.169 (para 7.6) of Ms Woodbridge's evidence.
- 72 In para 7.12 of her evidence Ms Woodbridge queries whether height standards are needed at all in heritage areas. I consider that they are.
- 73 These heights have been determined by establishing the scale and form of heritage areas that contributes to their values and functions as Ms Woodbridge identifies. They act as something of a baseline for establishing relative levels of heritage effects, such that compliance with the height standard will likely result in an appropriate scale and form.
- 74 Exceeding the height standards remains a restricted discretionary

activity (as opposed to a discretionary activity in the operative district plan). A resource consent can demonstrate how exceeding the height standards will result in an acceptable outcome that does not detract from heritage values.

75 I agree with Ms Woodbridge that a definition for ‘non-scheduled buildings and structures’ would be useful. It would help draw a connection to those buildings and structures on sites of heritage buildings that are subject to a smaller number of rules and not subject to the same requirements as heritage buildings and structures. These are identified where known in the ‘protection required’ column of SCHED1 as below.

Site Name	Protection Required	Other
LOT 1 DP 3687	Entire external building envelope Listing excludes shed	A, E

Figure 2: Screenshot from SCHED1

76 The definition could be worded as:

‘means – buildings and structures on the site of a heritage building or structure which have been identified in SCHED1 as being identified as of no historic heritage value and excluded from the application of historic heritage rules, except for HH-R2 and HH-R9’.

77 I do not consider that this definition alters the policy approach of the plan nor the intent of the guideline such that it requires a section 32AA evaluation, rather that it improves the effectiveness of provisions.

78 In response to the clarification sought by Ms Woodbridge in para 7.15(b) I consider that the addition of the word ‘all’ would help to increase certainty as to the intended scope of the recommended rules HH-R15 through HH-R18.

79 I agree with Ms Cassin that the word 'identified' can be removed from the title of HH-R20 per her para 7.15(c).

Parliamentary Service ID 375 and FS48 – Peter Coop

80 I agree with Mr Coop that the Parliamentary Precinct is one of the most important and unique spaces in Wellington.

81 Despite this, I am yet to be convinced that in the absence of a bespoke clause in policy HH-P7 (Additions, alterations and partial demolition of heritage buildings and structures) that the provisions I have recommended will not support buildings within the Parliamentary precinct to be modified to ensure the efficient, effective and safe functioning of Parliament and the Executive. I am open to being shown examples of where this may have historically been the case.

82 In addition, I consider there is a potential inconsistency introducing a bespoke clause for the Parliamentary Precinct without examining which other heritage areas also have similarly notable or iconic values eg Cuba street heritage area.

Quayside Property Trust ID 104 – Ian Bowman and Ian Thomas Leary

Mr Leary

83 Mr Leary at para 15 notes that Ms Smith has not considered the report provided by Mr Bowman in her assessment. In response to this she has reviewed the report supplied in Mr Bowman's supplementary evidence.

84 On reading this report, Ms Smith has not changed her view that 115 Brougham Street should remain within the Porritt Avenue Heritage Area. I accept her advice.

85 I note that the property is not presently contained within the notified extent of the Character Precincts, rather the boundary

skirts around the edge of the property. It is however part of the Officer recommended Character Precincts in the s42A report for Hearing Stream 2. Like 134 Brougham Street described above, a consenting process would have to be followed for additions and alterations or demolition of the building under the Character precinct framework should the Panel be of the view to accept reporting officer recommendations on that matter.

Mr Bowman

86 I have no specific comments on Mr Bowman's heritage assessment as that is outside my scope of expertise.

Wellington Heritage Professionals ID 233 & FS82 – Eva Forster Garbutt and Amanda Mulligan and Michael Kelly

Amanda Mulligan and Michael Kelly

87 Ms Mulligan and Mr Kelly's evidence is consistent with the original submission of the Wellington Heritage Professionals. It appears that the changes I have recommended to the notified provisions, some of which have been made directly in response to their submission, have not mitigated the submitter's concerns.

88 My reading of the submission and expert evidence is that the changes I have recommended to the notified chapter are not adequate, and there are no convincing reasons to change the operative district plan provisions.

89 I note the view of the Planner for HNZPT, Mr Raymond, on the provisions set out in para 6 of his evidence.

90 I have outlined in paragraph 78 of my s42A report the extent of background work and what it did and did not include.

91 Ms Mulligan and Mr Kelly consider at para 25 of their evidence that the provisions should be strengthened to recognise and

provide for historic heritage under s6(f), rather than making them more permissive.

92 I consider that with the recommendations I have made the provisions will fulfil the statutory obligation, which I note is somewhat nebulous with no higher order national direction or detailed direction at regional level providing certainty what s6(f) looks like a provision level.

93 I also note that the PDP operationalized as a whole has to find a balance of recognizing and providing for s6(f) as well as the rest of the Council's functions and obligations in achieving the purpose of the Act.

94 This balance must be found in the context of changes to the Act to enable intensification and recognize the significance of urban development (s 77J and 77L). Given this, the Council is required to find a balance that which enables development and intensification, limiting it only to the extent necessary to accommodate qualifying matters, such as historic heritage. In this way plan makers are required to start from the baseline that no heritage protection from the MDRS and policy 3 of the NPS-UD is a given. Justification is then required to warrant protection at all, and the limits at which this is set.

95 Put in the context of the Strategic Objectives of the PDP which seek heritage outcomes, *along with* urban development, natural environment, resilience and infrastructure development outcomes to mention but a few – s6(f) of the Act does not override all other s6 matters, or the purpose of the Act.

96 I appreciate that the experts consider more of a public awareness campaign would be desirable for the new listings process. I doubt though that only a 'tiny group of people' would have known about the process given it made the front page of *The Dominion Post* and *Stuff* within hours of release.

97 The listings conversation was addressed the same way as the

engagement on Significant Natural Areas as detailed in paragraphs 105 -110 of my S42A report, as well as through the draft and proposed district plan engagement campaign.

98 I thank Ms Mulligan and Mr Kelly for clarifying the interpretation 'demolition of a structural element' as requested by the Heritage Professionals. Considering this clarification, I am of the view to include the amendments but reframe it more clearly to address those parts of the building intended to be captured by the term, being '*facades, exterior wall or roof*'. This is the interpretation of the operative district plan. I had never envisaged the definition being applied to enable substantial demolition in the first instance.

99 I do not consider that this amendment alters the policy approach of the plan such that it requires a section 32AA evaluation, rather that it improves the effectiveness of provisions.

100 I have not changed my mind in response to paras 45 and 46 regarding the terms 'restoration' and 'reconstruction' as they are not used in the plan. See para 123 of my S42A report.

101 I have not changed my mind in response to paras 49 and 50 on the use of the term partial demolition in the plan. I consider that it is a commonly used and plain English description of works where parts of a building are removed. See para 146(a) of my S42A report.

102 I have not changed my mind on mothballing in response to para 51 – 53 for the reasons in para 146(c) of my S42A report.

103 I have not changed my mind in relation to the regulatory approach to heritage areas in paras 54 - 61. I have explained my rationale in paragraphs 146(d)-(g) of my S42A report.

104 In response to para 67 I question what is an 'unwelcome change to a building?'. The plan sets out a framework to assess whether changes would *detract from heritage values* and is the case irrespective of uses. I continue to recommend that mothballing is

not elevated to same level as places having a use.

- 105 I do not agree that 'conserved' should be added to HH-O3 as requested in para 69.
- 106 I consider that conservation outcomes and effects of varying degrees of intervention are addressed within HH-O2 which is concerned with retaining heritage and ensuring that it is protected from inappropriate, use, subdivision and development. The degree of intervention of a given development proposal will ultimately be assessed against whether heritage values are appropriately protected or not dependent on the circumstances. This is also reflected in the cascading nature of activity statuses and rules in the plan where works that have greater impacts on heritage values are more strictly regulated consistent with the direction of the ICOMOS charter and conservation principles.
- 107 Given this I am open to the word 'retained' in HH-O2 being changed to 'conserved' if the submitter is of the mind to agree. I see these terms can be used interchangeably in HH-O2 and when read as a whole seek the same outcome – that heritage places remain within the city and works undertaken to them protect their heritage values from inappropriate outcomes.
- 108 Regarding internal works - It appears that my recommendations are still at odds with the view of the submitter and their experts. I have tried to find a middle ground between submitters that is also consistent with the strategic direction of the plan.
- 109 As noted in para 74 of Ms Mulligan and Mr Kelly's evidence, I have acknowledged the outcome at 195 Cuba street in my discussion around internal works (para 226 of my S42A report). I do not consider it to be a bad outcome however. Keeping the activity status for internal seismic strengthening and new floor levels as restricted discretionary in the operative district plan would be the most restrictive of any district plan that I am aware of for this activity, and I do not consider it justified in light of the

Strategic Objectives of the PDP which seek both resilience and heritage outcomes.

- 110 I have not changed my view regarding chimneys in para 80-83 of Ms Mulligans and Mr Kelly's evidence. I note that the PDP sets out a framework addressing the concerns the submitter has about condition of fabric, ability to strengthen and reducing risk without demolition. Not having any policy approach on this matter is in my mind undesirable and will lead to variable consenting outcomes.
- 111 I do not consider that amendments are required to policy HH-P7 in response to paras 84 – 87 of Ms Mulligan and Mr Kelly's evidence. Read as a whole, the policy approach requires that works not detract from heritage values such that there should not be incompatibility between sustainable use of a building and heritage values.
- 112 In response to para 93 regarding height standards, all heritage areas in residential areas have the 'Medium Density Residential zone' applied as the underlying land use zoning. At notification of the PDP this had a maximum height of 11m. Because of this, no additional height standards are needed in the Historic Heritage Chapter.
- 113 This is different to the other heritage areas which have height standards that apply to centre zones or the waterfront zone. In these circumstances, the underlying zoning and direction of the NPS-UD typically seeks greater heights than would likely be acceptable with respect to heritage effects without additional consideration.
- 114 For clarity, if the Panel were of the view to increase the permitted height limit in the Medium Density Residential Zone or rezone heritage areas as High Density Residential Zone I would suggest that height standards in the order of 11m are introduced into recommended standard HH-S1 to manage possible heritage effects of taller buildings in these areas.

115 Ms Mulligan and Mr Kelly raise some good suggestions regarding the heritage design guide, such that it would be in my view pragmatic to bring it into the broader parallel process established to review the design guides. Ms Smith makes some suggestions and offers her point of view, which I agree with. Importantly, she notes that the design guide cannot be inconsistent with higher order direction in the PDP.

116 With respect to evidence on the Heritage Schedules in para 106 onwards:

- a) I have not changed my mind regarding 233 Willis Street for the reasons in 4.11.2.33 of my S42A report.
- b) I cannot support listing entire buildings where only parts of them meet the criteria for listing in response to paras 113 and 114. My reasons are the same as 4.11.3.5 of my S42A report.
- c) I have not changed my mind with respect to the Wellington Central Library in paras 115 and note that HNZPT are supportive of my recommended approach.
- d) I agree that owners of buildings should be consulted before places are listed in a district plan (para 119). The Panel is free to make up its own mind.
- e) I confirm that in response to paras 124 – 131 at this stage no sequencing for subsequent plan changes has been determined during or post the PDP process. At least one other future plan change (papakainga) has been recommended.
- f) Have not changed my mind with respect of the Mount Victoria Tunnel, Civic Square or Character Areas for the reasons detailed in 4.12.3.1, 4.13.4.7 and 4.13.3.5 of my s42A report.
- g) I have set out my reasoning with respect to Ellice Street in 4.13.4.5 of my S42A report.
- h) On the matter of 355 the Parade, addressed in 4.11.5.1 of my

S42A report, I clarify that I agree with Ms Smith that the place is eligible for inclusion on SCHED1.

Ms Forster Garbutt

- 117 I appreciate the detail included in Ms Forster Garbutt's statement of evidence. I have not changed my view that it is preferable to align the definition of archaeological site, including for the purposes of SCHED4 – Scheduled Archaeological Sites to that of the HNZPT Act. This view is supported by the planner for HNZPT, Mr Raymond. Having two definitions is not best practice and confusing for plan users.
- 118 Further, I would suspect that for more recent sites (ie post 1900), which I would assume have more physical features and structures intact, it is likely that the heritage buildings and structures, or heritage area rules are more suited to managing effects on the values of these places.

Wellington International Airport Limited ID 406 & FS36 – Mr John Kyle

- 119 I thank Mr Kyle for raising the drafting inconsistency of the 'Sites and Areas of Significance to Māori' and the 'Infrastructure – other overlays' chapter.
- 120 I had an incorrect understanding that the 'Infrastructure – other overlays' provisions did indeed apply within the Airport Zone for 'airport purposes' or 'airport related activities'. Upon rereading the introduction to the Infrastructure – INF chapter, it is clear that they do not.
- 121 Accordingly, my comment at para 1528 of my S42A report that the submitter will have the further opportunity to speak to the implementation of Infrastructure – Other Overlays chapter within the Airport Zone is not correct.
- 122 This answers the question of the relationship between provisions

which is now in my view, the question of primary concern to this hearing stream.

- 123 The relationship of plan provisions within the Airport zone is complicated given that the broad scope of WIAL's 'Airport purposes' designations enables the requiring authority to essentially override the Sites and Areas of Significance to Māori provisions as they relate to the Moa Point site on the runway anyway to carry out routine works.
- 124 I acknowledge that the Maupuia Pā site which is within the Airport zone, but not within the extent of WIAL's designation falls into a hole where based on the clarified interpretation, the INF-OL provisions do not apply, and the Sites and Areas of Significance to Māori ones do.
- 125 Mr Kyle's offers two approaches to address this relationship at para 27 (a) and (b) of his evidence:
- a) Refine the qualifier within the Infrastructure - INF chapter introduction so that the INF-OL provisions (which I understand are more favorably viewed by the submitter) do apply within the Airport Zone; or
 - b) Including appropriate consideration of the identified sites within the Airport Zone.
- 126 While I consider amending the 'carve out' in the Infrastructure – INF Chapter to be the most straightforward option, given the intention of the Airport zone to be a 'one stop shop' for a planning framework for this area, I suggest this be the place where the matter is addressed. I have discussed this with the author of the infrastructure chapters but have not had the opportunity to do so for the Airport Zone author.
- 127 I would recommend that consideration be given to addressing this matter in the infrastructure hearing in Stream 9 given that the submitter has also asked for changes to the provisions that would

also apply to infrastructure within other overlays, and that there are different authors.

128 Furthermore, an issue that I have been made aware of in interpreting the Infrastructure – Other Overlays provisions is how ‘far’ they apply until historic heritage or Sites and Areas of Significance to Māori ones ‘take over’.

129 For example, as I understand it, the INF-OL provisions are not intended to allow for complete demolition of heritage buildings to develop new infrastructure, therefore bypassing the demolition rule and assessment in the historic heritage chapter. At present they could be read that way. The same relationship applies with Sites and Areas of Significance to Māori, which I suggest should be addressed in Stream 9. This is another reason why I suggest the infrastructure provisions are considered together in Stream 9.

130 In respect of Mr Kyle’s questions of ‘integral features’ – this refers to the features identified in SCHED7, column five.

131 The purpose of this column is to record where there *are* physical features or remnants of sites still present which if modified could have impacts on the values of the site and should be required to follow a consent process through bespoke rule SASM-R3. This recognises that there are different reasons why sites are scheduled. Some may be where battles or kāinga were (and accordingly features are still present), while others are cultural landscapes.

132 Where no integral features are listed for a particular site, the rule does not apply.

133 In the case of Maupuia Pā 1 and Mōa Point sites no features are listed, and the rule does not apply.

Wharenui Apartments ID 358 – Ian Thomas Leary

134 On the question of the social values of the apartments in para 15 of Mr Leary’s evidence. I note that Ms Smith agrees with Mr Leary and the submitter and recommends amendments to the schedule to this effect. I agree with her recommendation.

135 On the definition of maintenance and repair, paras 16 through 34, I note that I have recommended amendments in my s42A report, copied below, which we should consider as the starting point for further changes.

<p>MAINTENANCE AND REPAIR</p>	<p>means</p> <ul style="list-style-type: none"> a. To make good decayed or damaged fabric to keep a building or structure in a sound or weatherproof condition or to prevent deterioration of fabric; and b. regular and on-going protective care of a building or structure to prevent deterioration. <p>(For the purposes of the HH-Historic heritage chapter) In addition to the above, maintenance and repair of built heritage must not result in any of the following:</p> <ul style="list-style-type: none"> a. Changes to the existing surface treatment of fabric, <u>including</u>: <ul style="list-style-type: none"> i. b. Painting of any previously unpainted surface; ii. c. Rendering of any previously unrendered surface; b. Changes to the design, texture, or form of the fabric; c. Use of materials other than those the same as the original or most significant fabric, or the closest equivalent; d. The affixing of scaffolding to unless the work is reasonably required for health and safety; e. The damage of fabric from the use of abrasive or high-pressure cleaning methods, such as sand or water-blasting; f. The modification, removal or replacement of windows (all joinery, including frames, sashes, sills, casements, mullions, glazing bars, <u>window panes</u>), except: <ul style="list-style-type: none"> i. modifications as necessary to replace an existing clear single glazed window pane with a clear double glazed pane. <p>.....</p>
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- 136 I agree in part with some of Mr Leary's comments on the drafting of the definition that it may not enable efficient maintenance and repair which it is intended to provide for.
- 137 The definition needs to serve two purposes:
- a) to prevent changes to buildings which should be addressed as additions or alterations;
 - b) enable genuine repair and maintenance to parts of buildings to prevent or remedy deterioration.
- 138 The intention is where repairs are undertaken to parts of buildings (such as windows) there should be no discernable visual difference once complete. Given the skills and materials to undertake works on buildings on old buildings are not always readily available there will always be some level of discretion how far the definition can be 'pushed' as closest equivalent materials are substituted.
- 139 I agree with Mr Leary on para 31 where condition (f) of the above definition ((h) in Mr Leary's evidence) would require a resource consent for any removal or replacement of a window regardless of whether it is a 'like for like'/exact refurbished window or not. That was not the intention.
- 140 My view is that this clause addressing windows specifically can be removed as it was originally included to enable the notified 'carve out' for double glazing. Now that I have recommended this not be a permitted activity, the remainder of the clause can be removed from the definition of maintenance and repair.
- 141 The intended outcome would be that windows could be removed and replaced with identical refurbished ones which should address the concerns of Wharenui Apartments.
- 142 Ms Smith suggests that for the avoidance of doubt, Wharenui apartments and the Council's heritage team should reach written agreement that the swapping window sashes out for refurbished

ones is not considered to trigger rules for additions/alterations. I agree that this is a reasonable approach to ensure that there is no differing view on the matter, though I would hope that the definition as now recommended would address this matter efficiently.

- 143 With respect to para 26 – I have detailed in paragraph 126(d) of my S42A report the intended interpretation. This is where cladding or exterior materials are changed out.
- 144 Painting a building another colour or using another brand of paint will not trigger the need for a resource consent nor would replacing a rimu board with a pine one. I am confident that clause (c) of the above definition addresses the pine replacement given these may not be available (closest available equivalent).
- 145 On the matter of scaffolding discussed in para 27 of Mr Leary's evidence, I agree that amendments need to be made to better reflect the issue that was intended to be managed by the clause of the definition - the drilling of holes and attaching of scaffolding directly to a building which can damage the fabric of the building.
- 146 Ms Smith has responded in her rebuttal with details on 'putlog' scaffolding which is attached directly to a building and requires remediation following removal. I suggest that this type of scaffolding is referenced in the clause. Given that essentially all scaffolding is required for health and safety purposes, I do not consider the notified clause appropriate.
- 147 On the matter of water and sand blasting in para 28 of Mr Leary's evidence, Ms Smith has detailed in her evidence how difficult it is to ascribe a standard level of water pressure to a substrate given these thresholds vary so greatly. She also notes that sandblasting essentially always will have a detrimental effect on heritage fabric. I have looked for ways to 'tighten up' the clause but cannot see a way to do so that would be appropriate for the many different

types of substrates and cleaning methods.

148 I have ended up in the position that I agree with Ms Smith undesirable damage can occur when cleaning buildings as part of maintenance programs, and consider that the clause will therefore function as something of a 'trigger' for owners to seek heritage advice from Council's heritage advisors or independent experts to ensure damage does not occur.

149 On the matter of the carport on the site it should be considered a non-scheduled building or structure. Ms Smith has recommended amendments to the SCHED1 entry for this building to this effect. I agree with her recommendation. This would mean the maintenance and repair permitted activity standards would not apply.

150 Below is the recommended definition of maintenance and repair accounting for the evidence of Ms Mulligan & Mr Kelly, and Mr Leary. A section 32AA evaluation has been set out in Appendix 1.

151 This recommended definition would replace that of HS3-Rec6.

MAINTENANCE AND REPAIR	<p>means</p> <ul style="list-style-type: none">a. To make good decayed or damaged fabric to keep a building or structure in a sound or weatherproof condition or to prevent deterioration of fabric; andb. regular and on-going protective care of a building or structure to prevent deterioration. <p>(For the purposes of the HH-Historic heritage chapter) In addition to the above, maintenance and repair of built heritage must not result in any of the following:</p> <ul style="list-style-type: none">c. <u>Demolition of any façade, exterior wall or roof;</u>d. Changes to the existing surface treatment of fabric, <u>including;</u><ul style="list-style-type: none">i. b. Painting of any previously unpainted surface;ii. c. Rendering of any previously unrendered surface;e. Changes to the design, texture, or form of the fabric;
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	<p>f. Use of materials other than those the same as the original or most significant fabric, or the closest equivalent;</p> <p>g. The affixing of <u>putlog or similar form</u> of scaffolding <u>directly to a building or structure; unless the work is reasonably required for health and safety;</u></p> <p>h. The damage of fabric from the use of abrasive or high-pressure cleaning methods, such as sand or water-blasting;</p> <p>i. <u>The modification, removal or replacement of windows (all joinery, including frames, sashes, sills, casements, mullions, glazing bars, window panes)</u> ,-except; <u>i.modifications as necessary to replace an existing clear single glazed window pane with a clear double glazed pane.</u></p> <p>.....</p>
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Figure 3: Suggested amendments to maintenance and repair definition (Blue text is new additions/deletions)

Notable trees

Argosy Property No 1 Limited ID 383 – David Spencer

- 152 Mr Spencer comments on the definition of root protection area – please see my response to Mr Partridge below.
- 153 In response to para 26 of Mr Spencer’s evidence I note that the definition of ‘technician arborist’ allows for consideration of other qualifications. Mr Melville points this out too. I do not agree that linking to a non-statutory list is desirable.
- 154 I take Mr Melville’s advice on para 31 of Mr Spencer’s evidence that no change should be made to the rule.
- 155 I note a potential drafting inconsistency where in TREE-R1 the rule is stated to apply to footpaths and network utilities. I have noted this relationship to the ‘Infrastructure – other overlays’ chapter in paragraph 1406 of my s42A report. It would be consistent as I have recommended for TREE-R2.1 to do the same for TREE-R1.1.b. In response to para 34 of Mr Spencer’s

evidence I do not consider it beneficial to replicate the requirement for resource consent for footpaths in the notable trees chapter as in my view this will cause confusion.

156 I have no concerns with the request at para 40 to change 'directional drilling' to 'trenchless methods' which is also supported by Mr Melville.

Jeremy Partridge ID 102 – Jeremy Partridge

157 I note that Mr Partridge has resubmitted his original submission as expert evidence.

158 Mr Melville for the Council has also provided supplementary evidence in support of Mr Partridge's position.

159 I still consider that the 'dripline' method is easier to understand and visualize for non-experts, at least for spreading canopy trees.

160 I note that one of the ways that the PDP tries to show the area affected by the dripline of a notable tree is through the 'Notable tree – indicative root protection area' layer in the eplan. This shows the extent of a tree canopy. It is intended to be non-statutory and a helpful guide to show where the rules for notable trees might apply. See the extent of green in the image below.

161 I note this will never be perfect as trees grow and shrink over time but it will go some way to help neighbours and property owners understand generally where rules apply.

162 Perhaps a middle ground could be using the 12 x stem method agreed by the experts and confirming the 'indicative root protection area' layer as a helpful starting point for understanding the implementation of the definition for lay users. I would be supportive of that approach.



Figure 4: Screenshot 'Notable tree - indicative root protection area'

3 May 2023

Date:

Adam McCutcheon

A handwritten signature in black ink, appearing to be 'AMC', with a long horizontal line extending to the right.

**Acting Manager
District Planning
Wellington City Council**

Appendix 1: Section 32AA evaluation for amendments to definition of *'Maintenance and repair'*

In my opinion, the amendments to the definition of 'Maintenance and repair' are more appropriate in achieving the objectives of the plan than the notified definition.

I consider that:

- a) They will increase plan clarity by providing certainty on the intended extent of works that constitute maintenance and repair by:
 - i. identifying the specific types and form of safety systems intended to be permitted
 - ii. clarifying that demolition of facades, walls and roofs are not envisaged
 - iii. removing a clause regarding windows that may have otherwise prevented repair and maintenance being able to be undertaken.

Consequently, the amendments are more efficient and effective than the notified provisions in achieving the objectives of the plan.

The recommended amendments may have greater economic benefits by reducing uncertainty as to the extent of works that constitute maintenance and repair. There is unlikely to be any greater environmental, social or cultural effects.