

**Hearing Stream 3 – Residential
Wellington City Council**

In the matter of Proposed District Plan review incorporating the
Intensification Streamlined Planning Process
(ISPP), and the first schedule of the Resource
Management Act.

Hearing 3 – Heritage

Expert Evidence of Ian Leary on behalf of Wharenui Apartments

Date: 24/04/2023

Next Event Date: 24th April 2023
Hearing Chair: Trevor Robinson
Hearing Panel: Robert Schofield, Heike Lutz, Liz Burge, Lindsay Daysh, Jane
Black, Rawiri Faulkner, David McMahon.

INTRODUCTION

- 1 My full name is Ian Thomas Leary. I am a Director of the firm of Spencer Holmes Limited.
- 2 My evidence is given in support of the submission made by the Wharenui Apartments (submitter 358) .
- 3 I have been involved in developing the submission and advising the Wharenui Apartment on the District Plan process. I have been involved in preparing the submission prior to preparing this evidence.

QUALIFICATIONS AND EXPERIENCE

- 4 I have a degree in Land Surveying from the University of New South Wales (obtained in 1989) and a Post Graduate Diploma in Resource and Environmental Planning from the University of Waikato (obtained in 2001). I am a full member of the New Zealand Institute of Planners. I hold a current certificate from the Ministry of the Environment as a hearing Commissioner and have sat in that role for Wellington City Council on a number of occasions.
- 5 I have around 30 years of experience in land development, planning, resource management and surveying. I have been a director of Spencer Holmes Limited, a multi-discipline company since 2009. I had been employed by the firm as planning manager for 10 years prior to becoming a director.
- 6 During that time I have undertaken a broad range of planning work within the Wellington, Kapiti Coast, Hutt Valley and Wairarapa regions. I have prepared resource consent applications for activities such as landfills, quarries, recreation activities, subdivision developments, multi-storied office buildings, residential apartment buildings, childcare facilities, residential housing and signs. I have also made numerous applications for amendments or partial/full demolitions of heritage buildings.

7 I have made numerous submissions and presented evidence and made recommendation decisions on plan changes in my career, including presenting evidence at the Environment Court.

CODE OF CONDUCT

8 I have read the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. Whilst this is a Council hearing, I have complied with the Code of Conduct in preparing my evidence and will continue to comply with it while giving oral evidence before the commissioners. My qualifications as an expert are set out above. Except where I state I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

ORIGINAL SUBMISSION

9 The Wharenui Apartments original submission was to remove the listing of the Wharenui Apartment building from the Sched1 list of proposed heritage buildings.

10 The basis of the submission was that the heritage listing would impose significant unnecessary costs on the maintenance of the building.

11 Further concern was raised that the listing would limit the potential for development of the rear of the site, which is currently vacant.

Hearing Stream 3 – S42A Report

12 The section 42A report has responded to submission and in summary:

- The WCC officers recommend that the Wharenui Apartments are listed as a heritage item based on the expert evidence supplied by their heritage expert – Ms Smith.
- The officers recommend that the listing is limited to Figure 9 (shown below), which means that the standards of HH-S2 only will apply to the area in green.
- This will allow for development to occur at the rear of the site in the MDRZ/Relevant District Plan zone are not limited by the heritage standards.

13 Figure 9 is shown below:



Figure 9: Recommended curtilage for Wharenui apartments

RESPONSE TO S42A REPORT

14 The Wharenui Apartment has accepted that the building has heritage values and that the main building will be listed.

15 The Wharenui Apartments, do not accept the evidence that there is a “social heritage” associated with the apartments and will make a non-expert submission on this at the hearing.

Maintenance

16 The submitter remains concerned at the additional costs that are likely to be imposed on the long term maintenance and operation of the building, that will result from the listing.

17 The original relief sought was to delete the building from the schedule 1 list of heritage buildings. The submitter now accepts the listing but requires an amendment to the relief sought.

18 It is noted that the District Plan provision that ‘maintenance and repair’ is currently defined as:

means

- 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.

(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:

- a. Changes to the existing surface treatment of fabric;
- b. Painting of any previously unpainted surface;
- c. Rendering of any previously unrendered surface;
- d. Changes to the design, texture, or form of the fabric;
- e. Use of materials other than those the same as the original or most significant fabric, or the closest equivalent.
- f. The affixing of scaffolding to unless the work is reasonably required for health and safety;
- g. The damage of fabric from the use of abrasive or high-pressure cleaning methods, such as sand or water-blasting;
- h. The modification, removal or replacement of windows (all joinery, including frames, sashes, sills, casements, mullions, glazing bars), except;
- i. modifications as necessary to replace an existing clear single glazed window pane with a clear double glazed pane.

- 19 The Wharenui Apartments have a maintenance programme that routinely involves the replacement of window sashes - like for like.
- 20 Whilst double glazing is not currently proposed, in future this option may be carried out to reduce the energy use of the building, which is another outcome sought under recent changes to the building standards to assist with a reduction in New Zealand's emissions.
- 21 At present Wharenui Apartments simply swap out sashes, replacing them with a stock of refurbished sashes. They do not want to obtain resource consents for this routine and beneficial maintenance activity which would appear to be required by the current form of rules.
- 22 It is my experience, that it is extremely difficult under the current definition in the Plan, to determine if proposed maintenance fits the permitted activity standard.
- 23 I am regularly required to undertake consultation with the heritage advisors on this matter. It is my experience that if one needs to ask, then the answer will be conservative and a consent will be required.

- 24 The proposed definition of maintenance and repair would appear to effectively mean that resource consent is required for virtually all maintenance work in future, given some of the ambiguities.
- 25 This is something that the Wharenui Apartments want to avoid and their main reason for opposing the listing of the building.
- 26 For example, the term “*Changes to the existing surface treatment of fabric.*” What does this mean? Are changes simply painting the building a different colour? Or using a different paint? What if the painted timber is a different type, for example original rimu painted weatherboards are changed to pine?
- 27 Furthermore, there is wording like “*The affixing of scaffolding to unless the work is reasonably required for health and safety;* So you have to demonstrate that the use of scaffolding for painting is required for health and safety to allow the proposal to be a permitted activity? How would this work in practice? Would you be required to submit a scaffolding plan to Council prior to doing maintenance work to confirm it is required for health and safety?
- 28 Similarly, there are ambiguities in the definition such as “*The damage of fabric from the use of abrasive or high-pressure cleaning methods, such as sand or water-blasting;*” Water and sand blasting are regularly undertaken on older buildings during painting. What is damage? Is it removal of the paint? Old wood and render, can damage when blasted, but it can also occur when sanded or chemically stripped when the material is corroded, rotting or cracked. That’s is completely normal in the maintenance of old buildings and to be expected. Now a resource consent is required?
- 29 Some clarification is also necessary as to what is the outcome of provisions h) and i). For example, h) and i) states:
- h) The modification, removal or replacement of windows (all joinery, including frames, sashes, sills, casements, mullions, glazing bars), **except:**
 - i) modifications as necessary to replace an existing clear single glazed window pane with a clear double glazed pane.

30 The definition of maintenance excludes modification of windows but the further exempts those that allow for double glazing. I have read this as allowing modifications to the windows to allow for double glazing. Is there is limit on modification for double glazing? This is not clear.

31 Condition h) also basically requires all window work to require a consent as it refers to the “*modification, removal or replacement of windows (all joinery, including frames, sashes, sills, casements, mullions, glazing bars)* which would include a like for like replacement of the same or similar material.

32 This clearly can’t be what’s intended. All windows require maintenance and there should be some provision for that in the Plan. Specific reference to like for like replacement being permitted is required. In this case, as like for like replacement, would still require a resource consent.

33 The relief sought is a rewrite of the maintenance definition to allow practical maintenance to be undertaken on a listed building without requiring a resource consent on all occasions for that work.

34 The alternative, is to uphold the submission opposing the listings of the building on the basis that the benefits of the listing are outweighed by the additional costs imposed on the owners.

Figure 9 Amendments

35 The submitter acknowledges the changes made to accommodate the concerns with respect to the developable land at the rear of the property.

36 This alleviates some of the concerns held by the submitter.

37 However a concern remains that the curtilage area still includes the carport area. This is shown in Figure 1 (of this evidence statement).

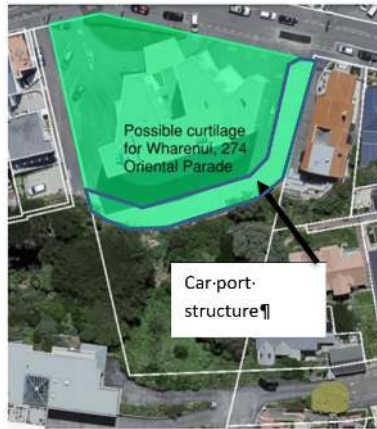


Figure 9: Recommended curtilage for Whareniui apartments

Figure 1: Annotation of Figure 9 of the S42A Report

38 Figure 2 is a photo showing the carport areas.



Figure 2: Photo of the carports on the eastern side of the property

39 It is unclear from the way the listing is made, as to whether this structure is deemed to be a non-heritage building or structure.

40 It is noted that new buildings and structures on the site of a heritage building are permitted, but are limited to 10m² and other very restrictive requirements (See HH-S2).

41 The carports exceed that area and are existing. But including them in the area of the Heritage curtilage potentially means that they still fall within the heritage listing and mean the maintenance requirements apply.

42 The relief sought is that the S42A report Figure 9, is amended to exclude the carport area as demonstrated in Figure 1 of this evidence.

43 The alternative relief is specific clarification within the Rule structure, that HH-S3 applies to the carport structure and which states:

Modifications to non-scheduled buildings and structures on the site of a heritage building or structure.

The modifications must not:

1. Extend the existing building footprint a ground level by more than 10%; or
2. Result in additional storeys beyond the existing building envelope

44 The primary concern of the Wharenui Apartments is that significant costs are not encountered when undertaking regular maintenance required to maintain the actual heritage values of the main building and that this non heritage structures are not unintentionally brought under the heritage rules.

CONCLUSION

45 The submission originally opposed the listing on the basis that it would impose significant costs on the Wharenui Apartments in respect to their regular maintenance.

46 Furthermore, there was concern that the listing would remove the future ability to develop the vacant rear of the site.

47 The recommendations of the S42A officer, partially address the issue of the development of the rear of the site and this amendment is supported by the submitter.

48 The submitter accepts that a listing of the building is appropriate on architectural grounds, but not on social heritage basis.

49 On accepting the listing, the submitter raised concerns with the definition of Maintenance and Repair. I agree that this concern is appropriate given the current wording and the way the rules would then make minor maintenance tasks, require resource consent. There must be

amendments to this definition to be an appropriate way to manage heritage buildings in the city.

50 The current definition will see more minor work requiring resource consent and unnecessary costs being imposed on building owners than is currently the case. That said, the current rules already cause ambiguity and unnecessary cost. The new definition will be significantly more ambiguous and require more consents for no real contribution to the protection of heritage buildings and heritage values.

Date: 24/04/2023

A handwritten signature in blue ink, appearing to read 'Ian Leary', is positioned above the printed name.

Signed: Ian Leary