

**BEFORE THE INDEPENDENT HEARINGS PANEL AT WELLINGTON CITY I MUANGĀ  
KAIKŌMIHANA WHAKAWĀ MOTUHAKE NGĀMOTU**

**UNDER THE Resource Management Act 1991**

**IN THE MATTER OF the hearing of submissions on the Proposed Wellington City Plan**

**(Hearing Stream 3)**

**STATEMENT OF EVIDENCE OF AMANDA MULLIGAN AND MICHAEL KELLY ON  
BEHALF OF WELLINGTON HERITAGE PROFESSIONALS**

**Introduction**

1. This Statement of Evidence is given on behalf of Wellington Heritage Professionals in accordance with their submission on the Proposed Wellington City District Plan (PDP) dated 22 September 2022. The members of this group commissioned us to compile this statement for Hearing Stream 3 based on our relevant expertise.
2. Where one or other of us has greater expertise in a specific area addressed in this statement, we have provided a greater degree of input. We have jointly drafted this statement and (unless other stated) we both agree with all matters raised in it.
3. Our evidence addresses the following matters:
  - a. General submissions
  - b. Definitions
  - c. Chapter introduction
  - d. New provisions sought
  - e. Objectives, policies and rules
  - f. Schedules.
4. Please note that Mr Kelly has appended supplementary evidence for a) the Claire Nolan and others Group 275 (the 'Newtown Group') and b) for Historic Places Wellington and Wellington's Character Charitable Trust.

**Qualifications: Amanda Mulligan**

5. My full name is Amanda Jane Mulligan. I have about 14 years experience in heritage conservation.
6. I have been a senior policy advisor in heritage policy at Manatū Taonga Ministry for Culture and Heritage since 2019. Prior to this I was a senior heritage advisor at Wellington City Council (the Council) from 2015 to 2019. I was previously the registrar at Heritage New Zealand Pouhere Taonga (HNZPT) from 2014-2015. I started my career in heritage conservation at Heritage Victoria in Melbourne in 2009.

7. I hold a Post-Graduate Diploma in Planning and Design (Architectural History and Conservation) from the University of Melbourne for which I received the Dean's Honours Award in 2012.
8. I hold a Bachelor of Arts degree in history from the University of Canterbury.
9. I am a member of the Executive Board and Co-Secretary of ICOMOS New Zealand (the International Council of Monuments and Sites). I am a member of Historic Places Wellington.
10. The areas of my expertise are: heritage conservation, legislation and management; architectural history of Australia and New Zealand.
11. Disclosure: While working at the Council I was a contributor to the preliminary issues and opportunities report, prepared by the the Council heritage team in November 2018 as an initial input into the 'Planning for Growth' work-stream (there is a reference to this report on p.5 of the Historic Heritage Issues and Options paper at Appendix C to the section 42a report for this stream).

**Qualifications: Michael Kelly**

12. My full name is Michael Peter Kelly.
13. I am a historian and heritage consultant and I have been working in historic heritage for the majority of the past 40 years. I have been an independent consultant since 1997. Prior to that I worked for HNZPT and the Department of Conservation. Over my career I have undertaken a wide range of heritage-related work for many different organisations.
14. Of relevance to these hearings is my work in general heritage conservation practice, including heritage significance assessment and conservation planning, particularly in Wellington. I have written significance assessments for Wellington buildings, objects and areas from the outset of my career, including listing proposals for HNZPT and inventory entries for the Council. The Council work has included individual and heritage area listings, and reports on suburban centres, prepared mostly in collaboration with other heritage practitioners. I have also written or co-written heritage assessments of the inner-city suburbs of Thorndon and Mt Victoria. I have written conservation plans, in collaboration with other practitioners, for many places all over New Zealand.
15. Beyond my heritage work, I taught heritage conservation at Victoria University as part of the Museum and Heritage Studies Masters programme from 2007 to 2019. I am currently president of the Professional Historians' Association of New Zealand/Aotearoa (PHANZA).
16. Disclosures: I am contracted to the Council to provide historic heritage advice on resource consents on an as-needed basis. Allied to this, I have been contracted to provide advice on a range of other matters in recent years, including the preparation of conservation plans, one-off listings and heritage assessments.

## Code of Conduct

17. We confirm that we have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. We complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where we state that we are relying on the evidence of another person, this written evidence is within our areas of expertise, being the areas identified above. We have not omitted to consider material facts known to us that might alter or detract from the opinions expressed in this evidence.

## General submissions

*Concerns the provisions are too permissive and a lack of evidence for this*

18. Wellington Heritage Professionals submitted that the heritage policies have a focus on enabling works, as distinct from enabling conservation, and are based on an assumption that heritage protection has prevented necessary development. Wellington Heritage Professionals therefore opposes more permissive rules and considers that finite environmental values like historic heritage need discretion exercised through the resource consent process.
19. The author of the Section 42A Report - Hearing Stream 3 - Historic Heritage, Sites and Areas of Significance to Māori and Notable Trees, Mr McCutcheon (74.)<sup>1</sup>, does not agree that the chapter is too permissive nor that there is a lack of evidence. He cites a detailed review of the heritage provisions and schedules of the Operative District Plan (ODP) that was undertaken as part of the process of developing those of the Proposed District Plan (PDP). This included a review of resource and building consents issued for works to heritage listed buildings and those within heritage areas, issues and options papers, a thematic review of the heritage schedules, background reports and individualised building evaluations.
20. The table on p.58 of the s42a report shows just how much more permissive the Council's proposals are than the ODP. The majority of restricted discretionary activities are proposed to be controlled or permitted.
21. Our view is that to be sustainable for the long term, the District Plan must be based on evidence, reason and logic and that there is little evidence to support the relaxing of plan provisions proposed.
22. In our experience, Wellington has struggled to retain its historic heritage and continues to lose listed and unlisted heritage places that are of national significance. The city centre only retains a small pool of representative heritage from its past, and this is dominated by public buildings and clusters of commercial buildings. Many of Wellington's surviving historic buildings have been significantly altered, partially demolished or incorporated into larger buildings.
23. When evaluating the proposed changes, the s32 report says (p.64) that 'the current [historic heritage] provisions are generally working as intended'; but there is little

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<sup>1</sup> Numbers in parentheses refer to paragraph numbers in 'Section 42A Report - Hearing Stream 3 - Historic Heritage, Sites and Areas of Significance to Māori and Notable Trees'.

reliable evidence for this. This claim is repeated on p.85 where the reasonableness of the objectives in the operative plan are assessed. There is also little reliable evidence backing up the statement that the existing provisions do not sufficiently recognise opportunities to enhance heritage values or workably balance regeneration and resilience with heritage protection (a claim made on p.85 of the s32 analysis).

24. We have closely examined Section 5.2 of the s32 report which outlines the detailed review that was undertaken according to Mr McCutcheon. In our view the s32 report lacks a reliable evidence base for the changes to the historic heritage provisions for the following reasons:
  - a. A quantitative analysis of resource consents from 2006-2019 has been done, but not a qualitative analysis.
  - b. The assessment of the effectiveness of the provisions appears to be based on anecdotal evidence from Council resource consent planners. While the experiences of consent planners are valuable, they are not experts in heritage conservation and their feedback may be motivated by factors other than the effectiveness of the provisions.
  - c. It appears from the s32 report that little heritage expertise was applied to the Historical Heritage Technical Review Panel Officer Report which presented officers' preferred provisions to a panel.
  - d. The report has not been informed by a 'plan effectiveness monitoring report' similar to the one that was procured in 2005. That report (based on previous heritage provisions) revealed that consented activities had reduced the heritage values of the majority of sample buildings with a resource consent history.<sup>2</sup>
25. To recognise and provide for s6f of the RMA the Council should be strengthening the provisions instead of making them more permissive.
26. We would like to see an outline from Mr McCutcheon in his rebuttal evidence of the specific analysis showing how the existing provisions are inadequate.

*Thematic review and prioritisation of new heritage listings*

27. We have no major concerns with the process that was used to prioritise new heritage listings. Although we have outlined in a section on Lower Ellice Street below (paragraphs 150-158) our concern that the Board of Inquiry decision on the Basin Reserve flyover in 2014 does not appear to have informed the listing review.
28. What we take issue with is the lack of engagement with the public on heritage.
29. According to Mr McCutcheon (101.), following the review of potential new heritage items undertaken by the Council, in November 2020, a page on the Planning for Growth website was opened which detailed the sites being considered for listing, a call for more nominations, and information about the support available for owners of heritage place.

30. This is all well and good; however, to the best of our knowledge, this page was only shared via email to people who had made heritage-related submissions on the spatial plan, and no further. As such, only a tiny group of people were engaged with in relation to new heritage listings.
31. As residents of Wellington, we are regularly subject to Council engagement on all sorts of matters of concern to citizens. These engagements use a plethora of different media to reach residents: newspapers, posters, social media (Facebook, TikTok, Instagram, LinkedIn), Our Wellington Magazine, in-person (public meetings, presenting to community groups, surveys, pop-ups at the Sunday Market etc).
32. We are not aware that any of these sorts of engagements were undertaken in relation to new heritage listings, apart from meetings with heritage interest groups. This lack of engagement compounds the low level of engagement on heritage for over a decade since the Council heritage strategy was published in 2010.
33. In our view, the lack of engagement has further reduced the general public's confidence in the Council's heritage practice, which undermines support for heritage conservation outcomes sought by Council, when considering resource consent applications for example.
34. The number of submissions proposing new places to be scheduled at the PDP stage in our view reflects the inadequacy of the Council's engagement on heritage. If adequate engagement had been undertaken, these places should have been raised and considered by Council earlier.
35. In our view, the process has resulted in a flawed schedule that does not adequately protect historic heritage and does not reflect what Wellingtonians value.
36. It would be useful if Mr McCutcheon in his rebuttal evidence confirmed whether any of the types of engagement listed at paragraph 30 were undertaken in relation to new heritage listings.

## **Definitions**

### *Definition of "Maintenance and repair"*

37. Wellington Heritage Professionals made submissions on this definition and two of the concerns have been addressed by Mr McCutcheon but the third is outstanding. This is adding 'Demolition of a structural element' as an additional point under "In addition to the above, maintenance and repair of built heritage must not result in any of the following."
38. Mr McCutcheon (126.) does not consider it necessary to specify 'demolition of structural elements' in this definition. He is concerned that the reason Wellington Heritage Professionals are seeking this change is to trigger resource consent for demolition of structural elements internal to buildings. That is not the reason for Wellington Heritage Professionals' submission.

39. In our experience working with the “maintenance and repair” provisions of the ODP, the wording of this definition is critical because if the works do meet the definition, they are permitted and no discretion is available to the Council.
40. In our view, the definition as currently worded in the PDP inappropriately allows maintenance and repair to apply to any fabric. This could result in the demolition and replacement of significant portions of buildings, for which the discretion of a resource consent process should be required.
41. A limit needs to be set on the scope of works that can be carried out as a permitted activity under this definition. The wording in the ODP which prevents the wholesale demolition of external walls/facades is the prohibition of ‘structural elements’ being demolished as of right.
42. In our view, the revised definition proposed below will allow heritage to be appropriately maintained and repaired. Changing the definition is not likely to have any effect on the ability to adapt and reuse places. We acknowledge that sometimes places need to be adapted and reused. However, this definition is for repair and maintenance and, generally, adaptation and reuse involves works over and above just external maintenance and repair, so will therefore require a resource consent.
43. There is no evidence in the s32 report or elsewhere that the maintenance and repair provisions in the ODP are leading to decline and demolition by neglect. In our view the provisions are working well, with the exception of situations where they have been used by the Council to justify not applying for resource consent; for example: the case of 287 Cuba Street, where three of four external walls have been allowed to be demolished as ‘repairs and maintenance’ under the ODP.
44. Taking into account Mr McCutcheon’s recommendations (131.) (in red) and our views (in blue) we propose the following definition:

MAINTENANCE AND REPAIR means  
 (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. Demolition of an external structural element
- b. Changes to the existing surface treatment of fabric, including
  - i. Painting of any previously unpainted surface;
  - ii. Rendering of any previously unrendered surface;
- c. Changes to the design, texture, or form of the fabric;
- d. Use of materials other than those the same as the original or most significant fabric, or the closest equivalent.
- e. The affixing of scaffolding to unless the work is reasonably required for health and safety;
- f. The damage of fabric from the use of abrasive or high-pressure cleaning methods, such as sand or water-blasting;
- g. 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.~~

### *Definition of “Reconstruction” and “Restoration”*

45. We support the inclusion of these definitions in the plan.
46. In our view, it is highly appropriate to use the *ICOMOS New Zealand Charter* definitions of ‘reconstruction’ and ‘restoration’ because the Charter is proposed to be included in the District Plan by reference, and it is the primary standard for heritage conservation in New Zealand.

### *Definitions of “Wāhi tapu” and “Wāhi tīpuna”*

47. We support the proposal to amend these definitions to align with the HNZPT Act definitions because this will ensure these places are more easily able to be scheduled and protected after they have been recognised by HNZPT.

### **Chapter introduction**

48. Wellington Heritage Professionals sought several amendments to the introduction chapter.

### *Reference to partial demolition be deleted as they consider it is captured by ‘alterations’*

49. Mr McCutcheon does not agree (146a.) that references to partial demolition should be removed because he considers that the reference is required to help distinguish it from total demolition, which is the complete destruction of a building. He notes that the term is commonly used in district plans and is commonly referred to in resource consents.
50. In our view, reference to partial demolition should be removed as it can still be distinguished from total demolition if captured under additions and alterations. Our concern is the signal that referring to partial demolition sends. Usually the best outcome for a heritage building is when demolition, partial or otherwise, can be avoided.

### *The section on ‘sustainable long term use’ in the introduction should explicitly allow for stabilisation and mothballing*

51. Mr McCutcheon does not agree (146c.) that ‘stabilisation’ and ‘mothballing’ should be included in the introductory paragraph for sustainable long-term use.
52. In his opinion, the focus of sustainable long term use provisions in the PDP is to focus on keeping heritage places in use. Mr McCutcheon notes that buildings that are left vacant are more likely to become the object of demolition by neglect.
53. In our view, stabilisation and mothballing is not comparable in any way to neglecting a place. Mothballing introduces measures to prevent degradation; for example: security, weathertightness, condition monitoring, and regular maintenance. The US National Parks Service ‘Preservation Brief 31: Mothballing Historic Buildings’ provides useful guidance.<sup>2</sup> We therefore think that these terms should be included in the relevant section of the introduction.

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<sup>2</sup> <https://www.nps.gov/orgs/1739/upload/preservation-brief-31-mothballing-buildings.pdf>

*Amending the description of heritage areas in the introduction to ensure they are protected to the same degree as individual buildings in heritage areas*

54. Wellington Heritage Professionals submitted that the following ODP wording should be retained: 'because of their contribution to the value of the heritage area the contributor buildings warrant the same treatment and control as listed heritage items in terms of building demolition, and the design of additions and alterations'.
55. Mr McCutcheon does not agree (146d-h.) that contributing buildings in heritage areas should be treated the same as individually scheduled buildings. He does not agree that it can be the case that contributing buildings have a similar status to scheduled heritage buildings.
56. According to Mr McCutcheon, the focus of an assessment of a resource consent for works to a contributing building as notified in the PDP is on the impact of works on the values of the heritage area as a whole, not solely on the building itself. We agree; however, an assessment of the impact of works on the individual building must be undertaken so as to understand the impacts on the heritage area.
57. According to Mr McCutcheon, the situation is further complicated by the assessment criteria 21B.2.1.6 in the ODP for heritage area works, which states that 'For modifications, alterations and additions the Council will have regard to relevant assessment criteria under Rule 21A.2.1 (which is the relevant rule for modifications to a scheduled heritage building, with assessment focussed on the values of the individually scheduled building)'.
58. In our experience working in a heritage advisor capacity for the Council, the text noted above was necessary to ensure conservation of heritage areas. There are three key reasons why it is important to retain this text from the ODP:
  - a. The first reason is that heritage areas are as important, if not more so, than individually listed heritage buildings. They are arguably some of our most distinctive and valuable places; for example: Cuba Street.
  - b. The second reason is that some heritage areas contain heritage buildings and, to conserve the values of the heritage area, changes to contributing buildings need to be assessed in terms of the building as well as the area. The criteria for assessing effects on buildings are in the heritage building rules. This is a pragmatic approach as it would be inefficient to relist the criteria for changes to buildings in the areas section. If this is confusing, a simple tweak to the wording of the text at Rule 21A.2.1 can make it clear that these considerations are also to be used when assessing applications to alter contributing buildings.
  - c. The third reason is that the contributor buildings have not been assessed to be of lesser value. In most cases, it is simply for reasons of history and efficiency that they have never been assessed for individual building protection.<sup>3</sup> The heritage area approach adopted in Wellington reflects the

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<sup>3</sup> The reference to the Bucket Fountain (1059-1064.) demonstrates a similar pragmatic approach. The bucket fountain, while evidently highly valued by the community, is not individually scheduled as a



shift in heritage practice internationally from 'monuments and sites' to 'areas and landscapes'. So, where previously there were clusters of individually listed buildings, an area was introduced. As it would be inefficient to list each building/structure in the Cuba Street Heritage Area individually, even though many would meet the threshold, the pragmatic approach was to list this as an area. This explains why there are listed and contributor buildings in areas.

59. Mr McCutcheon claims that 'there has long been confusion from plan users and resource consent planners alike as to how this can be consistent with the policy rationale for heritage areas, being that a series of buildings with similar heritage values can all be of the same significance as individually scheduled buildings.'
60. In our view, the confusion arises because the heritage area contains individually listed heritage buildings alongside contributors. This can lead to an inclination on the part of some decision makers to treat contributing buildings as lesser than the individually listed buildings. However, as we have explained above, the presence of contributor/individually listed buildings in heritage areas often simply reflects the iterative nature of heritage protection in Wellington i.e. we protected buildings first and then areas.
61. We have never found this wording confusing as it is very clear to us why this approach was mandated by the authors of the ODP.

#### **New provisions sought**

62. Wellington Heritage Professionals supports the proposal by Historic Places Wellington (HPW) (155.) to prevent façadism except in exceptional circumstances.
63. Mr McCutcheon (166.) does not agree with HPW's proposal and considers that only 'poorly executed' façadism is problematic. He suggests that HH-P7, supplemented by guideline G37 of the Heritage Design Guide, provides sufficient direction.
64. Our view is that there may be circumstances when retaining only the façade(s) of a heritage building is appropriate; for example: in the wake of a major earthquake. However, these circumstances are very specific, and there is otherwise no reason to permit façade-only retention. By its very nature, façadism is a poorly executed treatment of built heritage as it inevitably results in the destruction and loss of the majority of a building and an associated loss of its heritage values.

#### **Objectives**

65. Wellington Heritage Professionals raised concerns (202.) that the use of the term 'sustainable use' ['built heritage is well-maintained, resilient and kept in sustainable long-term use'] could lead to unnecessary demolition or unnecessary change to built heritage if a building's circumstances do not allow for a sustainable use.
66. Mr McCutcheon rejects the notion that the present wording of HH-O3 might lead to demolition or unnecessary change.

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structure in SCHED2. This is because it is considered to be adequately protected by being identified as a contributor to the heritage values of the Cuba Street Heritage Area.

67. Our view is that, while it is axiomatic that a used and well-maintained building is better off than a neglected one, the expectations this places on owners could potentially diminish the perceived value of places that might be unused for a period, or force an unwelcome change to a building to make it more useable. Put another way, the value of built heritage is not necessarily diminished by a period of disuse if it is appropriately stabilised and protected until an appropriate use is identified (refer to our comments on 'mothballing' in paragraph 53 above). On the contrary, this may eventually lead to a better outcome for the building and associated retention of its values.
68. We are concerned that this is a novel untested objective and we are not aware of this being successfully implemented in any other jurisdiction.
69. We suggest that one solution would be to introduce the word 'conserved' into the definition, as follows: 'Built heritage is conserved, well-maintained, resilient and kept in sustainable long-term use'.

## **Policies**

### *HH-P3 Internal works*

70. Wellington Heritage Professionals sought to have this policy rewritten to focus on 'conservation', as opposed to 'works' (221.).
71. Mr McCutcheon rejects this (243.) on the basis that the term 'works' reflects the range of matters the district plan regulates.
72. We maintain that in this and other relevant heritage matters, conservation practice is taking a back seat to a more rudimentary view of the Council's role in managing heritage outcomes.
73. Wellington Heritage Professionals asked that HH-P3 be altered to place restrictions on internal works where strengthening (221.) and new floors (222.) are visible from the exterior of buildings.
74. Mr McCutcheon largely retains the PDP as it stands or lowers the activity level even further. He acknowledges the poor outcome evident in the example we provided (195 Cuba Street, 227.) but then cites potential positive effects from visible internal strengthening, most of which have little or nothing to do with heritage outcomes (231.). He also concludes that permitted activity status will likely not have a widespread negative effect because 'such works will typically be bundled with other related works requiring resource consent.' (232.)
75. Our view is that, with regard to strengthening, it is not just the scrutiny that comes with the need to obtain a resource consent; it is the signal sent by the activity level that indicates the importance of the matter to all parties.
76. The use of 'controlled' status for listed heritage buildings will allow the imposition of conditions, but a higher activity level, as per the ODP, would be vastly preferable. It is also hard to understand the rationale for not doing the same for contributory buildings in heritage areas. Ultimately, there is nothing so unusual about seismic

strengthening that it cannot be subject to the application of good conservation practice. It is quite possible to design robust and cost-efficient strengthening schemes for heritage buildings without undermining heritage values. Some guidance on this has recently been published by the Council in its 'Guide to Seismic Strengthening for Heritage Building Owners'.<sup>4</sup>

77. Mr McCutcheon proposes using controlled (rather than restricted) status to manage the issue of visible floors through façades (237.).
78. Our view is that this ignores the fact that reconstituting floor levels is at the very heart of renovating large heritage buildings with high studs – to maximise the return on investment. Using controlled activity status to manage 'refinements' is, in our view, unlikely to deliver good conservation outcomes as it implies that any future changes will be confined to tweaks or enhancements, not substantial design changes.
79. Also, as we have already noted in our evidence (under the General submissions section above), we have seen nothing from the application of rules under the ODP that justifies dropping the activity status from 'restricted discretionary' to 'controlled'. In fact, the evidence suggests quite the reverse and that stronger rules, together with their firm application, would deliver much better outcomes.

#### *HH-P6 Removal of unreinforced masonry chimneys*

80. Wellington Heritage Professionals sought the removal of this policy in order to encourage the retention of chimneys in a listed building, a heritage area or a character area (271.). We recommended, instead, the use of the Heritage Design Guide to manage the assessment process for chimney removal and (where required) its replacement.
81. Mr McCutcheon concludes (276. & 279.) that it should stay, citing the need to be pragmatic about such matters in the wake of the Canterbury earthquakes and to align with subsequent Building Act changes.
82. Our view is that the policy is likely to lead to the unnecessary loss of heritage fabric of high value. The policy should be removed and the PDP should be focussed on effects on the environment; in this case, the potential loss of important elements from heritage buildings.
83. It is our position that chimneys should first be assessed by appropriately qualified consultants to determine, in the first instance, if they present a seismic risk at all, with degrees of intervention decided upon thereafter. There are many methods of pragmatically strengthening chimneys that reduce or remove the risk of collapse without requiring their demolition.

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<https://wellington.govt.nz/-/media/arts-and-culture/heritage/files/guide-to-seismic-strengthening-for-heritage-building-owners.pdf>

*HH-P7 Additions, alterations and partial demolition of heritage buildings and structures [and HH-P13]*

84. Wellington Heritage Professionals sought a reordering of the policy in order to promote the importance of heritage values and to place less emphasis on the need for buildings and structures to have a sustainable long-term use.
85. Mr McCutcheon rejected our suggestion (300.) (and that for HH-P13), and in doing so amended the wording of HH-P7 1 a. to 'Supports the heritage building or heritage structure having a sustainable long term use *and its ongoing functionality.*'
86. We oppose the addition of this clause. Sustainable long-term use and functionality are closely aligned terminology, so removing the latter will avoid repetition. Our preference would be to introduce the word 'conservation' into the statement to balance out the potential for there to be incompatibility between sustainable use and conserving a building's heritage values.
87. The policy should also reference stabilisation, such as mothballing, per our evidence at paragraphs 53 and 67 above.

## **Rules**

*HH-R7: Removal of unreinforced masonry chimneys from built heritage*

88. Wellington Heritage Professionals supports the removal of chimneys being a discretionary restricted status and that matters of discretion under HH-P6 should be removed and chimney removal assessed under the Heritage Design Guide.
89. Mr McCutcheon recommends retaining this rule as it stands (437.).
90. We remain of the view that chimney removals should be assessed under the Heritage Design Guide as stated in our evidence above on Policies in paragraphs 79-82.

*HH-R11 [and HH-R13]: Additions, alterations and partial demolition of buildings and structures within a heritage area, including non-heritage buildings and structures*

91. Wellington Heritage Professionals submitted (466.) that the same rule should apply regardless of where the heritage area is.
92. Mr McCutcheon has rejected this (474.) on the basis that the different zones have different height levels.
93. Our response is that, while we would prefer that assessment should be based on the heritage values of the place and not what zone the place is in, the real issue here is that different policies are being applied in different zones. Therefore, height is not being considered as an issue in Medium Density and High Density Residential Zones. We question why height is not a consideration in all zones.

## **Heritage design guide**

94. Wellington Heritage Professionals asked for changes to the Heritage Design Guide (see 640.) Two of these proposals (a) and (c) have been rejected by Mr McCutcheon. Proposal (a) is dealt with above under the policies for chimney removal (paragraphs 80-83). Proposal (c) was that the Area Specific Heritage Design Guides be reinstated and that is addressed in our evidence below.

### *Additional design guide matters*

95. Since Wellington Heritage Professionals' original submission, many members of the group have used the new Heritage Design Guide, including Mr Kelly, co-author of this evidence. This has revealed more matters that could be improved; and these and other matters are outlined below, with the permission of the commissioners.

### *Residential heritage areas*

96. There is no specific guidance for residential heritage areas or individual houses. The Residential Design Guide has very limited guidance and refers back to the Heritage Design Guide. The latter is very much focussed on commercial buildings and urban form. As we now have residential heritage areas to consider, with perhaps more to come, it is already clear that more comprehensive guidance is going to be needed to get good heritage and urban design outcomes in those areas.

### *Roof-top additions*

97. One of the most obvious challenges to Wellington's built heritage over the past 30 years has been the proliferation of roof-top additions, despite there being rules in place to manage alterations such as these and design guide content to discourage them. Roofs are the fifth elevation of a heritage building and should be treated like any other elevation. If change is proposed to roofs on listed heritage buildings or within heritage areas, there should be design guidelines to manage that.

### *Rear elevations*

98. Likewise, there should be mention of the role of rear elevations, particularly those that provide a distinctive element to the landscape. The reflexive attitude is to sacrifice rear elevations because they are little seen or are often architecturally inferior, but this is not always the case. Furthermore, heritage conservation is about much more than just architectural significance. This is probably most evident in and around the Cuba Street Heritage Area.

### *Windows*

99. Guidance is required on windows, specifically the need to avoid the use of inappropriate materials; for example: aluminium or uPVC in place of timber or steel.

### *Façade*

100. The guideline mentions façades (see G.37) but it needs to be more specific about the importance of avoiding façadism. We refer to our evidence in paragraph 63.

### *Relocation of buildings*

101. The guidance on relocation of buildings (G.30) is loose and imprecisely worded. It should be made clear that it is never appropriate to move a building unless there is no alternative.

### *Solar panels*

102. The guidance on solar panels (G.34) should be clearer about where such panels can be positioned. Specifically, they should be located away from the main or the most publicly visible elevation(s).

### *Area specific guidelines*

103. Under 'Other Heritage Design Guide matters', Wellington Heritage Professionals sought the reinstatement of area-specific guidelines.
104. Mr McCutcheon has rejected this (642.-645.) on the basis that they duplicated content from heritage assessments of the areas and 'contained content inconsistent and sometimes contrary to the objectives and policies of the PDP'.
105. We remain firmly of the view that the area-specific guidelines can continue to provide very useful guidance that draw on the particular characteristics of the area and help reduce adverse effects on heritage.

### **Schedules - SCHED1 Heritage Buildings and SCHED2 Heritage Structures**

106. Wellington Heritage Professionals sought that SCHED1 be retained as notified, but considers the entries are not likely to be representative of what is distinctive about Wellington, the region and New Zealand. Wellington Heritage Professionals submitted that the schedules do not adequately protect historic heritage nor reflect what Wellingtonians value. They support the addition of new places but are concerned that the lack of public engagement on the review will undermine its efficacy.
107. Our evidence in relation to this matter is above under the heading General submissions (paragraphs 17-26).

### *Submissions to remove items from schedule of buildings*

108. We support all of the recommendations made by Mr McCutcheon in relation to submissions to remove items from the schedule apart from 233 Willis Street - we agree with Ms Smith that this place should be listed.
109. We do not agree with Mr McCutcheon that because there is a consent for demolition it would be inefficient to list (828.). The fact that a consent to demolish exists does not, in and of itself, negate that the building has heritage values for which its listing is warranted. Further, if the consent to demolish were used, a plan change to remove need not be a priority and it could be bundled up into another change.

### *Ranking of items*

110. We agree that the schedule should not be ranked. Not necessarily for the same reasons as Mr McCutcheon, but because heritage management should be values-based.

### *Facades*

111. Wellington Heritage Professionals did not support the protection of façades only where heritage fabric exists in addition to the façade.
112. Mr McCutcheon agrees that protection of façades only can lead to adverse effects on heritage values (870.-873.).
113. According to Mr McCutcheon, as part of the review of the heritage schedules for the PDP, all partial listings were reviewed with the view of considering amending the listing to a full listing. Those that remain partially listed in the plan are so because the remainder of the building does not possess sufficient value to be listed.
114. We take the view that buildings should be listed, not façades. The nature/heritage value of the building behind the façade can and should be taken into account in any resource consent process. We have given evidence on facadism above under the headings New Provisions Sought and Policies (paragraphs 64 and 100).

### *Te Matapihi Wellington Central Library*

115. Mr Kelly has declared a conflict of interest in this site due to his involvement in a recent resource consent for Te Matapihi Wellington Central Library. The evidence on this place is therefore Ms Mulligan's alone.
116. HNZPT nominated Te Matapihi Wellington Central Library for inclusion in SCHED1. Given the level of change inevitable and already consented for the building, Ms Smith considers that it is appropriate for reassessment against the significance criteria to take place after works are completed. Mr McCutcheon agrees with her assessment (903.).
117. In my view the fact that changes to the building have already been consented is not sufficient grounds on which to decide that the place should not be assessed and included on the schedule now. I am concerned at the lack of consideration that the Council has given to the heritage values of this Category 1 Historic Place. See my evidence in relation to Civic Square in paragraphs 124-131 below.

### *Places nominated where engagement with owners has not been carried out*

118. There are a number of places nominated by HNZPT and others where Mr McCutcheon, on the advice of Ms Smith, takes the view that the places should not be scheduled at this time as no engagement has been undertaken with the owners.
119. We reluctantly agree that this approach is necessary. This evidence should not be interpreted as suggesting that we do not believe these places have value. Rather, we acknowledge that appropriate engagement with property owners is a necessary

part of the process of a district plan review or a district plan change that directly impacts upon them.

120. It is our position that the fact that these places were not captured in the heritage review work that informed the PDP is further evidence of the inadequacy and ineffectiveness of Council's engagement on the heritage chapter.
121. Further, it is of considerable concern to us that it may be many years before another change to the heritage schedules is proposed and the buildings may remain vulnerable until then. With regards to this, we refer the panel to the Council's decision on plan change 58 in 2008. The plan change was notified in 2007, and the provisions became fully operative in 2014. There were a number of places that were nominated by submitters for inclusion in the schedules. The Council did not assess them for inclusion, reasoning in its decision that 'it is anticipated that there will be an on-going exercise to list items of heritage value on the District Plan'.<sup>5</sup> However, this full district plan review is the first change to add items to the heritage schedules since 2007, a period of over 15 years.
122. We have been left to assume that these places were finally considered for listing as part of the PDP process, if they had not already been demolished in the meantime.
123. We have no confidence that the Council will notify a heritage plan change in a reasonable time, especially given the context of the current reform of the resource management system. We seek an assurance from Council that they will progress a plan change in good time.

*Civic Square ( 945.-955., 1047.-1058. and 1249.-1256.)*

124. Mr Kelly has declared a conflict of interest in this site due to his involvement in a recent resource consent for Te Matapihi Wellington Central Library. The evidence on this topic is Ms Mulligan's alone.
125. The Civic Trust nominated Michael Fowler Centre, Municipal Office Building, Civic Administration Building, Wellington Public Library for inclusion in SCHED1. They also sought that the City to Sea Bridge and the structures in the Civic Square be added to SCHED2. Historic Places Wellington submitted that Te Ngākau Civic Square should be added to SCHED3 as a heritage area.
126. The Civic Square Heritage Area which included these buildings was established in Plan Change 48 to the ODP. It is proposed to be removed in the PDP and replaced by the 'Te Ngākau Civic Square Precinct'.
127. Ms Smith recommends that the Council undertake research and assessment of the Te Ngākau Civic Centre Heritage Precinct to identify significant heritage buildings and structures for the purpose of policy CCZ-PREC01-P4, and for addition to the schedules. Mr McCutcheon notes (1055.) that what Ms Smith proposes is

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<sup>5</sup> 'Council Decision on District Plan Change 58: Proposed additions to listed heritage buildings, objects and areas', July 2008, p. 1  
<https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/changes/completed-changes/files/change58-decision.pdf?la=en&hash=0B57133040E83B965DD8C078545D3FF171D1570D>



consistent with the intent of the Te Ngākau Civic Precinct Framework (October 2021) which was agreed by Council and states that a Conservation Plan should be prepared for the precinct to guide how change can occur.

128. Ms Smith does not recommend inclusion in the schedule at this time, and Mr McCutcheon agrees.
129. In my view, little research is likely to be needed to be carried out as the existing assessments of value in the heritage area documentation form a solid basis for assessment of the buildings and structures that make up the square. An assessment would simply be a review of the existing evidence and is unlikely to be a resource-intensive task. In my view, it should take an appropriately qualified person a matter of hours. I acknowledge that a new assessment of the City to Sea Bridge would be required.
130. As Council is the owner, it could easily agree to inclusion. My view, therefore, is that this assessment likely could and should be done within the timeframe of the PDP hearings. This is especially important given how it has been established above that I have no confidence that the Council will notify any more heritage plan changes in a reasonable time.
131. I also have a lack of confidence in how seriously the Council takes the identified heritage values of Te Ngākau Civic Square. It is a reasonable conclusion to make that the Council has removed Te Ngākau Civic Centre from the heritage schedule to enable substantial development. In my view, it would have been entirely possible to assess such a development within the framework of a heritage area, particularly if a conservation plan was in place.

### *355 The Parade, Island Bay*

132. We note that the submitter considers the values that this building was proposed to be scheduled for are seen in other buildings in Wellington. We understand that the building was proposed for inclusion in SCHED1 in the Draft District Plan but that a decision was taken by the Council Pūroro Āmua | Planning and Environment Committee and it was not included in the PDP.
133. Ms Smith has provided no evidence on this place and Mr McCutcheon says he agrees with her (978.). We assume that this means he is of the view that the building should not be on SCHED1.
134. In our view, a substantial case has not been made for not including this building in the schedule. We have not been able to locate a heritage assessment for it; however, on page 174 of Section 32 - Part 2 - Historic Heritage Sites and Areas of Significance to Māori Notable Trees the building is deemed to meet the criteria.
135. The fact that 'the values that this building was proposed to be scheduled for are seen in other buildings in Wellington' is not a valid reason not to schedule an item. Heritage listing is not an exercise in 'stamp collecting' i.e. collecting one example of each type of place. Any item that meets the criteria is eligible for inclusion in the

schedule. Whether there are other examples that have similar values could be a valid consideration in a resource consent process.

*Mt Victoria Tunnel (1019.-1021.)*

136. The tunnel was nominated by a number of submitters.
137. Ms Smith's assessment appears to indicate that the tunnel was not previously considered in the review of heritage undertaken by the Council to inform the PDP. She therefore concludes that there is not enough information at present to list the tunnel.
138. If our understanding of Ms Smith's evidence is correct, we are surprised that this is the first time that the Council has turned its mind to the heritage values of the Mt Victoria Tunnel - an iconic structure in Wellington.
139. The tunnel is evidently of high social value to Wellingtonians, perhaps best illustrated by the fact that it featured prominently in a recent episode of 'Wellington Paranormal'. It is also recognised by Waka Kotahi NZ Transport Agency in their heritage inventory.
140. We do not consider it relevant that the tunnel has not been listed by HNZPT or that several other tunnels are listed in Wellington. Even if the tunnel had been assessed and rejected by HNZPT, this may not be relevant as the threshold for the New Zealand Heritage List is different (arguably higher) than the threshold for inclusion in the schedule. What is relevant is whether the tunnel meets the criteria for inclusion in the schedule.
141. In our view, this further demonstrates the limitations of the heritage review undertaken by the Council.

**Schedules - SCHED3 Heritage Areas**

*Submissions to remove areas from schedule*

142. We support the recommendations that Mr McCutcheon has made in respect of submissions to remove items from SCHED3.

*Assess Character areas*

143. Wellington Heritage Professionals submitted that the character areas are likely to meet the criteria for heritage areas.
144. Mr McCutcheon's response (1128.-1130.) is that the new listings in the PDP were informed by a thematic review which found that comparatively, residential housing in the inner suburbs is already well represented in the schedules.
145. As we have noted above, heritage conservation is not an exercise in 'stamp collecting'. The purpose of a thematic review is to find where there are gaps in representation in a schedule. It is therefore not relevant and nor is it a criterion under the assessment criteria that Wellington Regional Council have prescribed for

the region (see Appendix 1) whether the historical theme is already well represented.

146. The ODP character areas are some of the most distinctive parts of Wellington and are under threat. As such, they should have been prioritised for assessment for heritage value as part of the PDP. Wellington Heritage Professionals have been making this point in submissions since the draft Spatial Plan was consulted upon.
147. We welcome Mr McCutcheon's proposal (1130.) to add the character areas to the database of nominations. However, based on previous experience as outlined above, we have no confidence that the Council will progress any assessments or heritage plan changes within a reasonable time frame.

#### *Submissions to add areas to schedule*

148. There were a number of proposals made by submitters to add areas to the schedule (1225.-1305.). Mr McCutcheon has recommended that all of these proposals be rejected, apart from the Truby King Heritage Area. He suggests that the rejected proposals are added to the database of nominations for later consideration by the Council.
149. In our view, this is further evidence that the Council's engagement on heritage was inadequate as these proposals should have been picked up much earlier in the PDP process. As we have previously outlined, we have no confidence that the Council will prioritise assessment of nominated places or a plan change in a reasonable time.

#### *Lower Ellice Street*

150. We would like to make particular comment on the approach by Council to Lower Ellice Street as we think it a particularly egregious omission from the heritage schedules and the character areas.
151. Several submitters sought that a lower Ellice Street heritage area be added to SCHED3.
152. Ms Smith has concluded that the properties are likely to meet the criteria for scheduling however she does not recommend them for inclusion at this time due to a lack of information.
153. Mr McCutcheon has procedural concerns given that the owners have not had a chance to engage (1244.-1246.). He also mentions that this section of Ellice Street is adjacent to the site of upgrades identified in a Let's Get Wellington Moving (LGWM) Report that has been endorsed by the LGWM partners. Mr McCutcheon notes that 'the Council did not add new heritage protection for Ellice St in the PDP at the time because the area may have been needed for this new infrastructure and related city block reshaping'. According to Mr McCutcheon, there is now some certainty that the Ellice Street houses proposed for a heritage area will not be affected. He recommends that the area not be listed at this time but be considered for a future plan change.

154. Firstly, Mr Kelly produced a report on Ellice Street as part of the Mt Victoria Heritage Study in 2017, so sufficient information exists on the area to proceed with a significance assessment.
155. The Council will be well aware that in 2014 a Board of Inquiry (BOI) recommended that consent be declined for a flyover at the basin in part because of the effects on the heritage values of the surrounding area. The Board noted that:  
‘Our overall evaluation is not simply a matter of considering effects on listed heritage items or confining our evaluation to a consideration only of the loss or restoration of heritage fabric, although such historic heritage effects are part of the cumulative picture. We must consider the character and significance of the whole wider heritage area and the appropriateness of such a structure within it. ‘
156. We are therefore surprised that Council does not appear to have considered Lower Ellice Street or any areas surrounding the Basin Reserve for heritage protection. Instead they have reduced the protection of Lower Ellice Street and other streets in the vicinity of the Basin Reserve by removing character protections; for example, at Paterson Street.
157. In our view Council is setting itself, LGWM and other developers up for failure by not recognising these places that the community and decision makers (such as those involved in the BOI into the Basin Bridge) have placed value on. This recommendation and the comment by Mr McCutcheon quoted above with regards to choosing not to schedule Ellice Street, exhibits a fundamental misunderstanding about the purpose of identifying heritage places in plans. It is not to prevent development, but to ensure that consideration of heritage is triggered so that it can be protected from ‘inappropriate subdivision, use and development’ as required by s6f of the RMA.
158. Rather than avoiding consideration of heritage protection when development is proposed, this is exactly the time when it should be prioritised. It will be of great benefit to the LGWM project if the heritage significance of these areas was clarified in the PDP.

**Amanda Mulligan**

24 April 2023

**Michael Kelly**

24 April 2023

**BEFORE THE INDEPENDENT HEARINGS PANEL AT WELLINGTON CITY I MUA NGĀ  
KAIKŌMIHANA WHAKAWĀ MOTUHAKE NGĀMOTU**

**UNDER THE Resource Management Act 1991**

**IN THE MATTER OF the hearing of submissions on the Proposed Wellington City Plan**

**(Hearing Stream 3)**

**STATEMENT OF EVIDENCE OF EVA FORSTER-GARBUTT ON BEHALF OF  
WELLINGTON HERITAGE PROFESSIONALS**

**Introduction**

1. This Statement of Evidence is given on behalf of Wellington Heritage Professionals in accordance with their submission on the Proposed Wellington City District Plan (PDP) dated 22 September 2022. The members of this group commissioned me to compile this Statement for Hearing Stream 3 based on my relevant expertise.
2. My evidence will address the definition of 'archaeological sites'.

**Qualifications**

3. I am a PhD candidate at the School of Architecture and Design Innovation, Victoria University Wellington, and a heritage consultant providing archaeological and heritage services.
4. Prior to this I was a senior heritage advisor at Wellington City Council (2018-2021). Between 2015 and 2018 I was a branch manager and principal archaeologist at New Zealand Heritage Properties, Dunedin (2015-2018). Over the last twenty years I have also held several positions in the archive, art gallery and museum sector in New Zealand.
5. I hold a Master of Arts (with Distinction) in Principles of Conservation (University College London, London), a Bachelor of Arts with Honours (First Class) in Archaeology (University of Otago), and a Diploma in Records and Information Management (Open Polytechnic). I am a Winston Churchill Memorial Trust Fellow (2019), having completed research on how to improve the investigation and recording of heritage buildings in New Zealand.
6. I am a member of the New Zealand Archaeological Association (NZAA), Historic Places Wellington, and a Board Member of ICOMOS New Zealand.
7. My areas of expertise are: archaeology (practice), heritage conservation (principles), heritage management (under the RMA and Heritage New Zealand Pouhere Taonga Act (HNZPTA)), and the architectural history of New Zealand.
8. Disclosures: In my capacity as a senior heritage advisor I provided input into the drafting of the archaeology provisions of the draft Wellington District Plan during my time at Wellington City Council. Within this context I advocated for the exclusion of the pre-1900 cut-off date for the definition of a scheduled archaeological site. As a

member of NZAA, I also assisted with the drafting of the organisation's submissions on the Natural and Built Environments Bill (NBE) and the Spatial Planning Bill.

### **Code of Conduct**

9. I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my areas of expertise, being the areas identified above. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

### **Relief sought**

10. Wellington Heritage Professionals' submission on the PDP requested that the definition of 'archaeological sites' in the Definitions Chapter be amended to exclude the pre-1900 cut-off date. The reason given was that the cut off date as per the HNZPTA 2014 is an arbitrary date that does not reflect archaeological or historic heritage value. Wellington Heritage Professionals requested that the definition be amended to:

'Archaeological Sites' means:

- a. Any place in New Zealand, including any building or structure (or part of a building or structure), that -
    - i. was associated with human activity; and
    - ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and
  - b. includes a site for which a declaration is made under section 43(1) of the HNZPTA.
11. By changing the definition, a wider range of archaeological sites which add to our understanding of New Zealand's, and in particular Wellington's, history that meet the threshold for scheduling can be managed in the Wellington District Plan under the provisions for scheduled archaeological sites.
  12. Following questions and discussions from the commissioners during Wellington Heritage Professionals' presentation during Hearing Stream 1 (24 February 2023), for which a Statement of Evidence had been prepared by myself and Chessa Stevens which addressed the definition of archaeological sites, it became obvious that further clarification needed to be provided on the following:
    - a. The application and scope of the requested archaeological sites definition.
    - b. The values of post-1900 archaeological sites, specifically within the context of Wellington city.

13. This Statement of Evidence will expand on the evidence provided during Hearing Stream 1, provide clarification on the issues raised by commissioners during that hearing, and will respond to Mr McCutcheon's assessment pertaining to the archaeological site definition in the S42a report.

#### **Archaeological sites in Aotearoa**

14. As per the NZAA website, Aotearoa's archaeological record encompasses a history of around 800 years of human occupation, beginning with the settlement by Māori c1300AD and continuing up to the present.<sup>6</sup>
15. Archaeological sites can encompass anything from below ground features, such as middens, ovens and rubbish pits, to above ground structures.
16. The site recording scheme of the NZAA, which began in the 1950s and is now managed via the online portal ArchSite,<sup>7</sup> does not have a cut-off date after which a site can no longer be recorded as an archaeological site.
17. This is because archaeologists in Aotearoa do not define an archaeological site based on its date, but rather on its potential to reveal information about our country's history through archaeological methods.<sup>8</sup>

#### **Archaeological sites in the HNZPTA and RMA**

18. To ensure that Wellington's historic heritage is protected from inappropriate subdivision, use and development (RMA, s6f), and the PDP objective HHSASMO1 'significant buildings, structures, areas, and sites that exemplify Wellington's historical and cultural values are identified, recognised and protected' is achieved, the definition of 'archaeological sites' needs to be changed for scheduling purposes.
19. The current definition of 'archaeological sites' in the PDP is the same as the definition in the HNZPTA. This defines archaeological sites as evidence of human activity that occurred prior to 1900, can be investigated using archaeological methods, and provides evidence relating to the history of New Zealand (HNZPTA s6).
20. As alluded to by Mr McCutcheon (115., 116.)<sup>9</sup> the reason for applying this definition was purely pragmatic, in that it aligns with the definition in the HNZPTA, an approach of convenience adopted by most other Councils.

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<sup>6</sup> Refer to the ['About us' page of the NZAA website](#).

<sup>7</sup> Refer to the [ArchSite page of the NZAA website](#).

<sup>8</sup> 'Investigation using archaeological methods' being defined in the HNZPT Archaeological Policy (2015) as "... techniques used in the course of archaeological study to record, describe and investigate archaeological sites, such as manual and electronic surveys, visual inspections, site survey, mapping, surface collection, probing, augering, cleaning down existing exposed sections, test pitting, trenching, excavation and the removal of physical fabric and samples for laboratory analysis, post-excavation analysis and report writing."

<sup>9</sup> Numbers in parentheses refer to paragraph numbers in 'Section 42A Report - Hearing Stream 3 - Historic Heritage, Sites and Areas of Significance to Māori and Notable Trees'.

21. This default approach by the Council and many other Councils conflates the scope and purposes of the HNZPTA and the RMA, inappropriately limiting the scope of archaeological sites that can be protected in regional and district plans.
22. The HNZPTA provides for the overarching protection of Aotearoa's pre-1900 archaeological sites through the archaeological authority provisions (Part 3, Sub-part 2). Given that the purpose of this Act is to provide blanket protection for pre-1900 archaeological sites, both known (ie. recorded in ArchSite) and yet to be discovered, a clear definition needed to be applied. Hence, the inclusion of a cut-off date is a pragmatic approach.
23. The RMA includes archaeological qualities and sites within its definition of historic heritage and does not further define them with a date. This leaves the interpretation of what an archaeological site encompasses based on its qualities (values) and ability to 'contribute to an understanding and appreciation of New Zealand's history and cultures' (RMA s2).
24. The definition of archaeological sites for scheduling purposes within the current PDP does not adequately provide for the protection of historic heritage possessing archaeological values under the RMA. This is because the scope of scheduled archaeological sites which would add to our understanding of New Zealand's history and cultures, which arguably do not have an end date, would be unnecessarily limited to those of a certain age.

#### **Scope of requested 'archaeological sites' definition**

25. As clarified by me during Hearing Stream 1, the requested definition would apply only to scheduled archaeological sites. This is to provide for the scheduling and associated management of Wellington's archaeological sites that will be identified and assessed in the future.
26. In the current PDP the definition of 'archaeological sites' within all chapters, and the associated policies and rules (excluding appendices), applies only to scheduled archaeological sites, either through reference to Scheduled 4 (Scheduled Archaeological Sites), or in reference to archaeological sites within the Historic Heritage Chapter.
27. As such, the expanded definition of 'archaeological sites' requested by Wellington Heritage Professionals would only apply to a limited number of scheduled archaeological sites, rather than representing an expanded blanket approach over and above pre-1900 archaeological sites covered under the HNZPTA. This would allay Mr McCutcheon's concern (117.) that 'all land, buildings and structures associated with human activity' in Wellington, regardless of date, would have restrictions placed on this through the district plan.
28. Certainty would also be provided for landowners, given that scheduled archaeological sites would be clearly identified and mapped in the district plan.
29. Where reference is made in the PDP to the role of HNZPT as a regulator in terms of archaeological sites (Earthworks, Designations), archaeological sites are not



defined, which by default would mean that the definition as per the HNZPTA applies.

30. This differentiation within the current PDP between the 'archaeological sites' definition pertaining to scheduled sites versus that which applies to archaeological sites under the remit of HNZPT, would also allay Mr McCutcheon's concerns (116.) around the perceived confusion and inconsistency regarding the use of this term. Presumably this would also address the concerns of HNZPT.
31. The only places in the PDP where there is inconsistency in terms of the definition of 'archaeological sites' is within Part 4 - Historic Heritage Advice Notes. To resolve this, the link to the definition of 'archaeological sites' needs to be removed from the advice notes on ArchSite (the NZAA's archaeological site recording scheme), and the role of HNZPT and the accidental discovery protocol.

### **Values of post-1900 archaeological sites**

32. The question was raised by commissioners during Hearing Stream 1 regarding the values and benefits of scheduling post-1900 archaeological sites.
33. Archaeological sites are defined in the RMA and the NBE Bill as a subset of historic and cultural heritage, which does not cease having value and contributing to our understanding of New Zealand's history and cultures after a specified date.
34. A considerable proportion of Wellington's currently scheduled, and proposed, historic heritage items post-date 1900. This includes Lilburn house and garden (1951), St Marys of the Angels (1919-22), the Beehive (1970), and the National War Memorial and Carillon (1931-2, 1960-4).
35. Of the 538 recorded archaeological sites in Wellington city currently on ArchSite, 87 are associated with human activity post-1900.
36. Examples of recorded archaeological sites in Wellington city which post-date 1900 include: the military, farming, prison and reformatory sites and features on Motu Kairangi,<sup>10</sup> goldmining features associated with the Terawhiti Dykes Co (archaeological site Q27/116), and underground army shelters in Khandallah (archaeological site R27/585) and Mt Cook (archaeological site R27/586).
37. By excluding the ability for post-1900 archaeological sites to be identified, assessed and scheduled in the future, it is likely that Wellington's archaeological record, and its unique potential to reveal the history of the city through physical remains, would be severely impacted.
38. I agree with the recommendation made by Ms Smith (1062.) that the Council should consider undertaking a heritage study to identify further archaeological sites for inclusion on Schedule 4 (scheduled archaeological sites).

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<sup>10</sup> See Andy Dodd's "[Archaeological Assessment: Motukairangi/Miramar Peninsula](#)" (2021).

39. In addition to expanding this study to include post-1900 archaeological sites, it should also assess the values of recorded archaeological sites in addition to undertaking further research and assessments of as yet unrecorded archaeological sites within Wellington city.
40. Mr McCutcheon argues (120.) that post-1900 archaeological sites can still be managed by existing heritage provisions in the PDP, such as Wrights Hill Fortress (#19) and Fort Balance (#6).
41. Whilst I agree that the archaeological values of these and similar places can be recognised within their listings, these values would not be managed under the provisions for scheduled archaeological sites, which are tailored to protect archaeological features and values.
42. Whilst there are provisions in the HNZPTA for the declaration of post-1900 archaeological sites (s43), as Mr McCutcheon identified (119.), application of this mechanism is an exception. There are currently only eight declared archaeological sites in New Zealand<sup>11</sup> which are protected under the provisions of the HNZPTA.
43. Due to the default position in the PDP (and that of most other councils in New Zealand) to adhere to the definition of 'archaeological sites' in the HNZPTA, the post-1900 archaeological record associated with Aotearoa's history is in danger of being lost or diminished through inappropriate use, subdivision and development.
44. The NZAA has recognised this default approach within the RMA space due to the lack of a clear definition of 'archaeological sites'. It has included a recommendation within their submission on the NBE to provide a definition of archaeological sites, which is the same as that proposed by Wellington Heritage Professionals.<sup>12</sup>

**Eva Forster-Garbutt**

24 April 2023

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<sup>11</sup> See [HNZPT website, list of declared archaeological sites](#).

<sup>12</sup> See NZAA's submissions on the [NBE](#).