

Oral presentation from Wellington Heritage Professionals
Hearings Stream 3, Tuesday 16 May, 1.30pm

1. Kia ora koutou, I'm Cherie Jacobson and I am representing a group of 9 Wellington-based heritage practitioners comprising myself, conservation architects Chris Cochran, Lianne Cox, Russell Murray and Chessa Stevens; and heritage practitioners Lara Simmons, Amanda Mulligan, Michael Kelly and Eva Forster-Garbutt.
2. I'm here today with Amanda, Eva and Michael who we have commissioned to write expert evidence.
3. As outlined in detail in our submission, we bring decades of heritage experience and expertise (here in Wellington, nationally and internationally) as architects, archaeologists, consultants, local government heritage advisors and central government policy makers.
4. Many of us have significant experience working with the operative District Plan, whether as Council officials, or as consultants engaged by developers, property owners or the Council.
5. For example, of the three experts we have commissioned, Amanda and Eva have both worked as Senior Heritage Advisors at Wellington City Council. Michael has worked for decades as a consultant providing heritage services to several councils, including Wellington City.
6. Our submission reflects the deep understanding we have of the issues that surround the protection and conservation of Wellington's historic heritage, and our 'on-the-ground' experience of seeing our heritage diminished or lost due to current and past District Plan provisions.
7. We know that world-leading cities allow for transport and intensification in the right places while also protecting valued heritage. Heritage protections, including area overlays, are widely used in Australia, the UK, Canada and the US. Wellington should use the District Plan to help ensure the conservation of what is distinctive about this city so that the city can derive benefits from that distinctiveness.
8. We know that the Council has limited resources to commit to the Proposed District Plan process. We've volunteered our time to make written and oral submissions because with our expertise in historic heritage we think we can help to get a better plan.
9. I'd like to take this opportunity to thank members of our group for the huge amount of voluntary work they have put into these hearings to date, alongside their jobs and other commitments, as I know is the case for many other submitters.

Our concerns

10. Our key concern is that the shift towards a more permissive regime will unnecessarily put Wellington's historic heritage at risk.

11. This overarching concern can be broken down into into three main areas where we think the plan's approach to historic heritage can be improved:
 - a. definitions that are fit for purpose
 - b. heritage provisions based on sound evidence
 - c. more comprehensive heritage design guidance
12. We would also like to see a plan with a schedule of heritage items that better reflects Wellington's diverse history and heritage.

Heritage objectives, policies, rules, standards

13. The heritage provisions are proposed to be relaxed, but the Council has not provided a convincing evidence base in the Section 32 report for the problem that they are trying to solve.
14. In our view, weakening the provisions as proposed will lead to more unnecessary loss of Wellington's heritage, which at present only constitutes a small proportion of the city's built environment.
15. We are therefore seeking changes to the provisions proposed by the Council so that they are as least as strong as the operative district plan.

Heritage design guide

16. Mr McCutcheon's evidence [67] says that a parallel collaborative process is underway to review and amend the design guides to increase certainty and clarity of drafting. In principle, we are supportive of the Heritage Design Guide being included in that process, however, we know very little of what the process will entail.

Schedules of heritage items

17. We are concerned that the Council's approach to the schedule of heritage items appears to have been based, at least in part, on the assumption that heritage protection is a barrier to development.
18. Examples that Michael and Amanda have covered in their evidence are the removal of heritage protection from Te Ngākau Civic Square to 'enable' development, and the Council's reluctance to make Ellice Street a heritage area due to the potential for Let's Get Wellington Moving works in the vicinity.
19. Our view is quite the opposite, that one of the key purposes of heritage protection is to enable development by clearly articulating the values of places and applying rules so that these values can be considered. In the absence of this exercise, previously unidentified historic heritage values have the potential to cause expensive delays to development projects.
20. Finally, when discussing our overall views in his supplementary evidence [98], Mr McCutcheon points out the alternative view of Heritage New Zealand planner, Dean Raymond. Mr Raymond considers that the notified Proposed District Plan contains

appropriate and comprehensive provisions for historic heritage, and that the changes recommended in the Section 42A report further ensure this.

21. While we respect the expert planning input of Mr Raymond, he has given limited reasoning for some of his views. He also does not appear to have qualifications and experience in historic heritage that are comparable to those of Amanda, Michael and Eva.
22. I will now hand over to Amanda, Michael and Eva to outline their evidence.

Speaking notes for heritage experts appearing on behalf of Wellington Heritage Professionals

Wellington Proposed District Plan Hearing Stream 3

Amanda Mulligan and Michael Kelly

Statement of Supplementary Planning Evidence of Adam McCutcheon

1. We will verbally present our evidence, focussing on our more general points of concern and where our views differ from Mr McCutcheon's in relation to the heritage chapter objectives, policies, rules and the Heritage Design Guide.

General submissions

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

2. In our evidence (18-26], we have expressed our concerns that the heritage policies focus on enabling works, and that the overall direction of the policies is more permissive, apparently based on the misguided notion that heritage protection hinders development.
3. This is linked to our concern that this proposed permissive approach is founded on insufficient information. Specifically, the s32 report fails to make the case for a more permissive regime. We have outlined in detail in our evidence the failings of the s32 report.
4. In short, to recognise and provide for s6f of the RMA the Council should be strengthening, or at least retaining, the existing provisions instead of making them more permissive.
5. Mr McCutcheon [91-95] cites the need to balance development and intensification with heritage imperatives and the need to view heritage outcomes as in the same category as urban development, natural environment, resilience etc. Our view is that the plan already allows for this as heritage listings (places, areas, objects, archaeological sites etc.) occupy just a small fraction of the city's built environment. Heritage rules also anticipate and allow for change; all heritage places undergo some sort of change over their lives, often to make them suitable for modern uses.

Thematic review and prioritisation of new heritage listings

6. We are concerned that the new heritage listings lack credibility because of inadequate public engagement. The specific concerns we have over that lack of engagement are outlined in our evidence [27-36]. More widely, we feel the whole list needs an overhaul to better reflect the breadth of the city's heritage resources.
7. As noted in our evidence, the sheer number of places proposed for scheduling that have been raised at this late stage in the process demonstrates how inadequate the consultation process has been.

8. Mr McCutcheon says [96] that he doubts that only a 'tiny group of people' would have known about the process for heritage listings given it made the front page of the *Dominion Post* and the landing page of Stuff within hours of release. The proposed heritage listings certainly got wide coverage in the media, but that was after the new heritage list had been prepared. Our criticism is of the lack of engagement undertaken to inform the heritage listings process, not post-facto press coverage.

Definitions

Maintenance and repair

9. In our evidence we proposed an additional amendment to this definition to ensure that it wouldn't be used to permit the demolition of structural elements.
10. We note Mr McCutcheon's discussion of this definition [98] where he recommends that our proposed amendments be included but reframed to more clearly address those parts of the building intended to be captured by the term, being 'facades, exterior wall or roof'.
11. We have also noted the discussion of Mr Leary's evidence on this definition [131-151].
12. We agree with Mr McCutcheon on the recommended definition [151] in his supplementary evidence.

Non-scheduled buildings and structures

13. We didn't give evidence on a definition of non-scheduled buildings and structures, but if it will assist the panel, we think we can improve on the definition proposed by Mr McCutcheon [76].
14. In response to evidence from Ms Woodbridge from Kainga Ora, Mr McCutcheon has proposed a definition of 'non-scheduled buildings and structures' as follows:

'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'
15. Heritage value is a spectrum, not a binary. Those places with values high enough on the spectrum reach the threshold for protection. It is not simply a matter of having heritage value or not.
16. We therefore propose the following definition:

'means – buildings and structures on the site of a heritage building or structure which have been identified in SCHED1 as being of insufficient historic heritage value and excluded from the application of historic heritage rules, except for HH-R2 and HH-R9'.

Chapter Introduction

Partial demolition

17. We remain of the view [49-50] that references to partial demolition should be removed from the introductory text. Partial demolition can still be distinguished from total demolition if captured under additions and alterations. Our primary concern is that even referring to partial demolition sends the wrong message. In most cases, demolition is best avoided, partial or otherwise.

Stabilisation and mothballing

18. We remain of the view that 'stabilisation' and 'mothballing' should be included in the introductory paragraph for sustainable long-term use. These are standard and valid processes that can provide a useful step in the conservation of a place. Mr McCutcheon [101] is unmoved on this subject but does not explain why. We will elaborate on this matter further on in our presentation.

Heritage areas

19. We remain firmly of the view that the ODP wording (or something similar) should be retained, viz: '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'.
20. We note that Mr McCutcheon is not inclined to change his views on this matter [101] and leans on his S42A report to support his stance. We would like to see evidence that the approach in the ODP needs to be undone.
21. It is crucial, for the reasons we outlined in our evidence [54-61], that contributing buildings in heritage areas enjoy the same level of protection as a single place. This will ensure that the sum of the parts of an area is treated like a single place. There are a number of reasons why contributor buildings might not have been individually listed, but it does not mean that they necessarily lack sufficient value. In fact, there is a real danger that, by treating them differently, valuable heritage could be lost.
22. Concerns about assessing contributors using the criteria for individual buildings are unfounded. The current regime works as it was intended because of the emphasis placed both on the values of the area and its components.
23. We note that policy HH-P10 of the PDP relating to total demolition currently excludes contributors (i.e. it only mentions heritage buildings and structures) so if our recommendation is accepted, this rule will need to be amended.
24. Not treating contributor buildings as individually listed buildings means that contributors like the Toomath's Building on Ghuznee Street would not be subject to the tests set out in HH-P10 before being demolished.



Toomath's Building, Ghuznee Street 2015

Objectives

25. We gave evidence [65-69] that objectives HH-01 and HH-02 adequately capture the objectives of the heritage chapter heritage i.e. that heritage is recognised, retained and protected from inappropriate subdivision, use and development.
26. We do not think that objective HH-03 'Sustainable long-term use' is necessary and we are concerned that it could lead to unnecessary demolition of built heritage where current circumstances do not allow for a sustainable use. While use of built heritage often encourages conservation, stabilisation and mothballing may also be appropriate approaches depending on the circumstances.
27. It is difficult to see how stabilisation and mothballing could be supported activities under the objectives as currently proposed.
28. So, for the reasons laid out in our submission, we remain of the view that a period of disuse can be acceptable as long as a place is looked after properly. The Canterbury Provincial Council Buildings, one of the country's most important heritage places, are currently being treated in exactly this way for over 10 years while funding is found to undertake restoration.
29. This approach ensures that the opportunities for future generations to enjoy our heritage are not unnecessarily lost.



Canterbury Provincial Council Buildings, 2019

Policies

HH-P3 Internal works

30. We have argued [70-79] that the WCC should carry over restrictions on internal works with respect to strengthening and new floors from the ODP.
31. Mr McCutcheon [109] does not consider it justified in light of the 24 Strategic Objectives of the PDP which seek both resilience and heritage outcomes. He also considers [108] that his role is to find a middle ground between submitters that is consistent with the strategic direction of the plan.
32. In our view it remains unclear what problem this change seeks to address as, in our experience, strengthening of heritage buildings has not been prevented by the current rules.

HH-P6 Removal of unreinforced masonry chimneys

33. We said in our evidence [88-90] that to help retain chimneys on a listed building, in a heritage area or character area, the council should use the Heritage Design Guide (with appropriate guidance prepared) to manage the assessment process.
34. Mr McCutcheon [110] says that not having any policy approach on this matter is undesirable and will lead to variable consenting outcomes.
35. We do not agree that it is undesirable to not have a policy approach, especially if there was guidance in place. There is a lack of evidence from the Council that there is a problem with the current approach to unreinforced masonry chimneys under the ODP that warrants this change. In our experience the restricted discretionary status is appropriate.
36. We agree with Mr McCutcheon that the approach in the ODP will lead to variable consenting outcomes. This is also appropriate, as the outcomes will depend on the circumstances of the chimney in question, which is exactly why we consider that the removal of unreinforced masonry chimneys should remain a discretionary activity rather than subject to a blanket permission.

HH-P10 Total demolition of heritage buildings and heritage structures

37. We understand that the approach to 'total demolition' outlined in HH-P10 may have been raised earlier in the hearing of this stream.

38. While we did not provide written evidence on this topic, if it assists the panel our view is that, to establish that there are no reasonable alternatives to total demolition, it needs to be shown that ALL of the options from 1-5 have been considered and discounted before any consent is granted.

Façadism

39. We have seen nothing to resile from our view that façadism should not be permitted unless in the most extreme situations e.g. post-earthquake recovery.

Rules

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

40. As we have noted in relation to policy HH-P6 we support the removal of chimneys remaining a discretionary restricted status.

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

41. We submitted (91-93) that the same rule should apply regardless of where the heritage area is.
42. Mr McCutcheon [112-114] has explained that his approach is based on the need to distinguish between Medium Density Residential Zone areas, which have a set height limit of 11m, and High Density Residential Zones, which have height limits that might be unacceptably high from a heritage perspective.
43. He has suggested that if the panel decided to lift height standards in the Medium Density Residential Zone or upzone a heritage area, a height limit of 11m should be introduced into standard HH-S1 to manage possible heritage effects of taller buildings in these areas.
44. We accept the explanation Mr McCutcheon has proffered and support the solution he has proposed.

Heritage Design Guide

45. We have provided evidence suggesting a number of areas where the Heritage Design Guide could be improved. As Cherie has alluded to, we understand that a process is underway to review and amend the design guides to increase certainty and clarity of drafting. We support this in principle, but would welcome more detail on what this review might cover.
46. We also agree with Mr McCutcheon that the design guides should be a statutory part of the plan [66].

Digital Signs

47. Mr Francis Costello provided evidence on behalf of Go Media relating to G22 and third-party signs on heritage buildings which we rebutted.

48. We generally agree with Mr McCutcheon's proposed changes to G22 [15-30]. However G22 as originally drafted did not specify that it was only for application to heritage buildings but could be applied to other heritage items. We also do not agree that the architectural values of heritage places should be singled out as digital signs could affect other heritage values.
49. Therefore we seek further amendment to G22 as follows (Mr McCutcheon's edits shown in black and ours in blue):
50. G22. ~~Illuminated and~~ 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 values of heritage buildings, areas and structures. ~~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, areas and structures from passersby and in long views.~~

Schedules - SCHED1 Heritage Buildings and SCHED2 Heritage Structures

51. The panel will have noted our recommendations for additions and changes to the schedules. We have no additional comments to make on these but we are happy to take questions on these matters.

Statement of Supplementary Planning Evidence of Adam McCutcheon

1. Wellington Heritage Professionals' (WHPs) submission put forward that the definition of archaeological site should not be limited to the pre-1900 cut-off date in the Heritage New Zealand Pouhere Taonga (HNZPT) Act because this is an arbitrary date which implies that archaeological values lapse after a certain calendar date.
2. My statement of evidence clarified that WHP intended the amended definition to only apply for scheduling purposes, and not to request an expanded blanket protection of archaeological sites in Wellington City over and above that provided in the HNZPT Act (para 28).
3. The responses by Mr Raymond (Heritage New Zealand Pouhere Taonga) to our submission, and Mr McCutcheon's statement in the supplementary planning evidence (para 117 & 118), both come from a planning (and planner's) perspective.
4. However, the primary focus should be on meeting the requirements of Section 6f of the RMA (to protect historic heritage from inappropriate subdivision, use and development) and the proposed district plan heritage chapter objectives that stem from this. The second step is to structure and word the plan in such a way to achieve this. I am an expert on the former, whereas Mr McCutcheon and Mr Raymond are experts on the latter.
5. In my statement of evidence I outlined several reasons why a pre-1900 cut-off date for scheduling purposes is arbitrary, and does not meet the legislative requirements of the RMA and will not ensure that places of identified archaeological value that add to our understanding of Wellington's history are managed for the benefits of future generations. These are:
 - Archaeologists in New Zealand do not see that archaeological sites have an end date. The ArchSite database includes sites that post-date 1900.
 - There are already post-1900 archaeological sites recorded on Archsite for the Wellington region that would likely meet the threshold for scheduling. I outlined these in paragraph 36 of my evidence. There are bound to be others that would be identified within the context of a future archaeological study of the Wellington area.
 - District Plans are prepared under the RMA and not the HNZPT Act. The scope and definition of an archaeological site, which in the RMA is based on 'archaeological values' should guide plans prepared under this, and take the broadest approach in line with archaeological best practice.
 - The New Zealand Archaeological Association (NZAA) has recognised the current legal gap in the definition of archaeological values and sites in the RMA, and has proposed the inclusion of the same definition as that provided

by WHP in their submission on the NBEB and SPA to avoid the ongoing de facto approach being applied in District Plans nationwide of simply adopting the definition from another Act (HNZPT).

6. Mr Raymond even acknowledges in his statement of evidence that archaeological values are not limited to pre-1900 features (para 9).
7. I disagree with Mr McCutcheon's statement that post-1900 archaeological sites can be managed under the rules for heritage buildings, structures or areas, as he assumes that "these would have more physical features and structures intact."
8. With due respect, Mr McCutcheon is not an archaeologist. In most cases archaeological sites are complex palimpsests of both above and below ground features and associated values that need to be understood and managed holistically.
9. Mr McCutcheon's comments highlight the management issues with archaeological sites in New Zealand, which fall between two acts (HNZPT & RMA) and within the context of district plans that require historic heritage to be shoe-horned into 'buildings', 'structures', 'areas' and 'archaeological sites' with separate rules for each. This does not acknowledge the fact that archaeological sites at times encompass some or all of these, focussing their management on physical fabric (which is assumed to mostly be below ground) rather than values.
10. If the concerns of Mr Raymond and Mr McCutcheon are solely based on plan users reading of the term 'archaeological site' in the district plan, then the solution could be to:
 - Remove the broad 'archaeological site' definition from the Introduction to the plan,
 - Add the definition proposed by WHP to the definition for 'scheduled archaeological site' in the Introduction,
 - Where reference is made in the plan to archaeological sites within the context of scheduling (ie. in the Historic Heritage Chapter), add the prefix 'scheduled' and link this back to the definition for 'scheduled archaeological site' in the Introduction.

This approach will involve some tweaking to the wording, especially within the Historic Heritage Chapter, so that this reads appropriately. As these are the areas of expertise of planners, such as Mr McCutcheon and Mr Raymond, this task would be in their remit.