

**WELLINGTON CITY COUNCIL**

**Hearing of Submissions and Further Submissions**

**on**

**Proposed District Plan**

**Report and Recommendations of Independent Commissioners**

**Hearing Stream 3**

**Report 3A**

**Historic Heritage  
Sites and Areas of Significance to Māori  
Notable Trees**

**Commissioners**

**Trevor Robinson (Chair)  
Rawiri Faulkner  
Heike Lutz  
David McMahon**

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## **EXECUTIVE SUMMARY**

1. This report addresses submissions the Hearing Panel heard on Historic Heritage, Sites and Areas of Significance to Māori, and Notable Trees.
2. As regards Historic Heritage generally, we reject submissions suggesting that the Historic Heritage provisions are both too permissive, and materially more permissive than the Operative District Plan. We consider the latter assessment overly simplistic with changes from the ODP pointing in different directions. Thus, while the policy direction might be considered more permissive, rule status has generally shifted further along the spectrum towards greater regulation. We do not find that the end result is likely to arrest the loss of heritage sites we were told has occurred under the ODP, but we did not consider the alternatives put to us offered a better prospect of success in that regard than that of the Proposed Plan.
3. In particular, we support the emphasis in the Historic Heritage objectives and policies on providing for adaptive reuse of heritage buildings as the best option to secure their long-term survival, particularly in view of the challenges posed by seismic hazards.
4. We support the Reporting Officer's recommendations to provide greater policy direction around 'demolition by neglect', while acknowledging practical limitations of the District Plan to prevent this.
5. We support also the Reporting Officer's recommendations to clarify the definition of 'repair and maintenance' to enable an appropriate range of activities to occur with a minimum of regulation. There is a link to the previous point. Making repair and maintenance easier contributes to reducing neglect. We have recommended additional changes to the provisions with the same objective. Some of these suggested changes are potentially out of scope and we recommend them on that basis.
6. We recommend a range of other amendments to the Historic Heritage chapter provisions that seek to enable their more efficient and effective operation, rather than bringing about any material change to what we understand to be the proposed intent of the chapter.
7. We recommend deletion of the Heritage Design Guide for the plan because the Design Outcomes and Guidance Points in it are too generic and unrelated to heritage. In our view, they add little value to the objectives and policies in the Plan at

present. We strongly recommend that Council consider whether a restructured and better directed Design Guide might be reinserted into the Plan through a future Plan Change.

8. We heard a large number of submitters who sought either additions to heritage listings, or deletions from the schedule of listings. As regards the former we generally considered it inappropriate to add new listings if we could not be satisfied that the owners had been consulted. We also generally accepted Officer recommendations that for a number of nominations, further research and assessment was required.
9. Having said that, we found the response for Council to a large number of well researched and documented cases seeking recognition of the historic heritage values of specific properties somewhat troubling; that while of merit, they should be put in the Council's database for future assessment. There appeared to be no certainty whether, or when, this might occur. Section 6(f) of the RMA directs that decision makers recognise and provide for the protection of historic heritage from inappropriate subdivision, use and development. We recommend that Council take appropriate steps as soon as practicable to review the many buildings and areas identified as candidates for heritage listing, and either take them off that list, or progress them to the listing stage through a future Plan Change.
10. As regards challenges to heritage listings, we found that a number of submitters presented a sound case for removal of their properties from the heritage schedules and that, upon analysis, the Council case for listing retention had either not considered or put insufficient weight on what, in our view, were important considerations. The Council case for such listings suffered because the site had generally been viewed only from roadside vantage points, and landowners could put to us information that Council had not considered in its assessment.
11. We have also recommended a significant reduction in heritage controls governing item 415 (1 Ranfurly Terrace). In our view, the level of regulation proposed over a private home, in particular of internal features, was not justified in that case.
12. Sites and Areas of Significance to Māori were the subject of relatively few submissions seeking material change to either the provisions or the identified sites and areas, and even less evidence. The only recommended changes are by way of clarification. However, we draw Council's attention to a number of recommendations we have made, suggesting further consultation be undertaken with mana whenua and, if appropriate, a Plan Change developed to address outstanding issues.

13. The evidence we heard reinforced the view we had formed in Stream 1, that progressing meaningful provisions to enable papakāinga should be a priority for Council, among the actions arising from the hearing process.
14. The Notable Trees provisions also drew a relatively limited number of submissions. Submissions presented no fundamental challenge to the provisions; rather, they tended to lend support and/or seek amendments to improve their effectiveness.
15. It is with that object of effectiveness in mind that we recommend the adoption of a more practical, technically up-to-date means of measuring the 'root protection area'; a key definition that determines the consent status of works within proximity to notable trees. We also recommend amendments to address the risk of kauri dieback, remove extraneous references to 'terminal decline' as a rationale for tree removal, and more clearly explain the relationship with contemporaneous provisions in the Infrastructure chapter.
16. We have also identified an issue with the mechanics of Rule TREE-R4. In our view this rule is insufficiently precise, and this compromises its intended purpose, which is to act as a default 'catch-all' for activities otherwise not catered for under other rules. In the absence of a suitable submission, we do not have scope to recommend a suitable change to this rule, but we invite Council officers to consider the matter further.

## **1. INTRODUCTION TO STREAM 3**

### **1.1 Topics of Hearing**

17. The first three topics were the subject of a single Section 42A Report authored by Mr Adam McCutcheon. Viewshafts were the subject of a separate Section 42A Report authored by Ms Anna Stevens.
18. This Report addresses the matters the subject of Mr McCutcheon's Section 42A Report. Report 3B addresses the separate topic of Viewshafts.
19. This Report should accordingly be read in conjunction with Report 3B, Report 1B, which addresses strategic objectives, and with Report 1A which sets out background on:

- (a) Appointment of commissioners;
- (b) Notification and submissions;
- (c) Procedural directions;
- (d) Conflict management;
- (e) Statutory requirements;
- (f) General approach taken in reports.
- (g) Abbreviations used.

## **1.2 Hearing Arrangements**

- 20. As discussed in Report 1A, while eight independent hearing commissioners were appointed to hear submissions on the PDP, not all commissioners sat on every hearing.
- 21. The commissioners who sat on Hearing Stream 2 were:
  - (a) Trevor Robinson (Barrister) as Chair;
  - (b) Rawiri Faulkner (Resource Management Commissioner)
  - (c) Heike Lutz (Building Conservation Consultant)
  - (d) David McMahon (Planner);
- 22. The Stream 3 hearing commenced on 9 May and concluded on 19 May 2023.
- 23. Over the course of the hearing, we heard from the following parties:
  - (a) For Council:
    - Nick Whittington (Counsel);
    - Adam McCutcheon (Planning);
    - Moira Smith (Historic Heritage);
    - Morrie Love (Cultural Heritage);
    - William Melville (Arboriculture);
    - Anna Stevens (Planning);

- Deyana Popova (Urban Design);
  - Dr Farzad Zamani (Urban Design);
- (b) For Ian Attwood and Opoutere Trust<sup>1</sup>:
- Ian Attwood;
- (c) For HNZ<sup>2</sup>:
- Dean Raymond (Planning);
  - Dr James Jacobs (Heritage);
- (d) For Jane and Turi Park<sup>3</sup>:
- Ian Gordon (Counsel);
  - Jane Park;
  - Turi Park;
  - Dr Sam Kebbell (Architecture);
  - Joe Jeffries (Planning);
- (e) Go Media Limited<sup>4</sup>:
- Frank Costello;
- (f) For EW Limited<sup>5</sup>:
- Steven Isaacs;
  - Ngaire Isaacs;
  - Howard Symms;
- (g) For Claire Nolan et al<sup>6</sup>:
- Margaret Franken;

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<sup>1</sup> Submission #79; Further Submissions #3 and #16

<sup>2</sup> Submission #70; Further Submission #9

<sup>3</sup> Submission #73

<sup>4</sup> Submission #236

<sup>5</sup> Submission #45

<sup>6</sup> Submission #275



- James Fraser;
- (h) For Wellington Amusement Holdings<sup>7</sup>:
- Iain Macleod;
- (i) For Parliamentary Services<sup>8</sup>:
- David Wills;
  - Peter Coop (Planning);
- (j) Barry Insull<sup>9</sup>;
- (k) Tony De Lorenzo<sup>10</sup>;
- (l) For Dean Knight and Allen Wendt<sup>11</sup>:
- Dean Knight;
- (m) For LIVE WELLington<sup>12</sup>:
- Jane O’Loughlan;
- (n) For Mount Victoria Historical Society<sup>13</sup>:
- Joanna Newman;
- (o) For Wellington Branch NZIA<sup>14</sup>:
- Ric Slessor;
  - Angela Foster;
- (p) For Thorndon Residents Association<sup>15</sup>:
- Richard Murcott;

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<sup>7</sup> Submission #22

<sup>8</sup> Submission #375; Further Submission #48

<sup>9</sup> Submission #32

<sup>10</sup> Submission #9

<sup>11</sup> Submission #265

<sup>12</sup> Submission #154; Further Submission #96

<sup>13</sup> Submission #214

<sup>14</sup> Submission #301

<sup>15</sup> Submission #333; Further Submission #69

- (q) For Lower Kelburn Neighbourhood Group<sup>16</sup>:
  - Dr Rosalind Macintosh;
- (r) Jez Partridge<sup>17</sup>;
- (s) For Camjec Commercial Limited<sup>18</sup>:
  - Ian Leary;
  - Cameron de Leijer (Planning);
- (t) For Wharenui Apartments<sup>19</sup>:
  - Ian Leary;
  - Amber Young;
- (u) For Quayside Property Trust<sup>20</sup>:
  - Ian Leary;
  - Ian Bowman (Heritage);
- (v) For David Walmsley<sup>21</sup>:
  - Cameron de Leijer (Planning);
  - David Walmsley;
- (w) For Tapu-te-Ranga Trust<sup>22</sup>:
  - Gabriel Tupou;
  - Paul Eagle;
  - Papuwai Porter-Samuels;

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<sup>16</sup> Submission #356; Further Submission #123

<sup>17</sup> Submission #102

<sup>18</sup> Submission #268

<sup>19</sup> Submission #358

<sup>20</sup> Submission #104

<sup>21</sup> Submission #229

<sup>22</sup> Submission #297

- (x) For Tyers Stream Group<sup>23</sup>:
  - Lynn Cadenhead;
- (y) David Lee<sup>24</sup>;
- (z) For Mark Levett Estate<sup>25</sup>:
  - Susan Levett;
  - Henry Levett;
- (aa) For Olympus Apartments<sup>26</sup>:
  - Suzanne Trounson;
  - Gabrielle;
  - David and Jan Fulton;
  - Stephanie O'Connor;
- (bb) For WCCT<sup>27</sup> and HPW<sup>28</sup>:
  - Duncan Ballinger (Counsel);
  - Felicity Wong;
  - Christina Mackay;
  - Bill McKay;
  - Michael Kelly (Heritage)
  - Victoria Stace;
- (cc) For Eldin Trust<sup>29</sup>:
  - Duncan Ballinger (Counsel);

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<sup>23</sup> Submission #221

<sup>24</sup> Submission #434

<sup>25</sup> Submission #7

<sup>26</sup> Submission #473

<sup>27</sup> Submission #233; Further Submission #82

<sup>28</sup> Submission #182; Further Submission #111

<sup>29</sup> Submission #287

- Hon Sir Douglas White KC;
- (dd) Philip Cooke<sup>30</sup>;
- (ee) For Claire Bibby<sup>31</sup>:
- Claire Bibby;
  - Barry O'Donnell;
- (ff) For WHP<sup>32</sup>
- Cherie Jacobsen;
  - Amanda Mulligan (Heritage);
  - Michael Kelly (Heritage); and
  - Ella Forster-Garbutt (Archaeology);
- (gg) For Argosy<sup>33</sup>:
- Bianca Tree (Counsel);
  - David Spencer (Arboriculture);
- (hh) Sophie Kahn<sup>34</sup>;
- (ii) Sarah Cutten and Dr Matthew Keir<sup>35</sup>;
- (jj) Richard Murcott<sup>36</sup>;
- (kk) For TRoTR<sup>37</sup>:
- Dr Onur Oktem-Lewis;
- (ll) For Escape Investments Limited<sup>38</sup>:
- Leo Archer;

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<sup>30</sup> Submission #465

<sup>31</sup> Submission #329

<sup>32</sup> Submission #412

<sup>33</sup> Submission #383

<sup>34</sup> Submission #161; Further Submission #76

<sup>35</sup> Submission #415; Further Submission #91

<sup>36</sup> Submission #322; Further Submission #71

<sup>37</sup> Submission #488; further Submission #138

<sup>38</sup> Submission #384; Further Submission #136

(mm) For Shirley Smith Family Trust<sup>39</sup>:

- Alastair Luke;

(nn) Anna Kemble Welsh<sup>40</sup>;

(oo) For Kāinga Ora<sup>41</sup>:

- Jennifer Caldwell and Natalie Sommerfield (Counsel);
- Victoria Cassin (Heritage);
- Victoria Woodbridge (Planning);

(pp) For Taranaki Whānui<sup>42</sup>:

- Kara Puketapu-Dentice;
- Morrie Love;

(qq) For WIAL<sup>43</sup>:

- Jenna Raeburn;
- John Kyle (Planning);
- Jo Lester.

24. We record that during the course of the hearing, Commissioner McMahon declared a conflict in respect of Go Media Limited. He was not present for the hearing of that submitter's presentation and took no steps in our deliberations regarding the issues the submitter had raised.

25. We also record that following the appearance of Ms Kahn, we made an order as to the confidentiality of the commercial information she had provided as part of her presentation pursuant to Section 42(2)(b) of the RMA.

26. Following their appearance, we received additional material from a number of parties who appeared before us:

(a) Clarification from Ms Isaacs on behalf of EW Limited on three issues arising

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<sup>39</sup> Submission #187

<sup>40</sup> Submission #434

<sup>41</sup> Submission #391

<sup>42</sup> Submission #389

<sup>43</sup> Submission #406, Further Submission #36

from her appearance (11 May 2023);

- (b) An email from Mr Leary on behalf of Wharenui Apartments Limited providing a response to questions the Commissioners had asked him at the hearing (17 May 2023);
- (c) An emailed correction from Mr Kelly on behalf of WHP (17 May 2023);
- (d) Additional material from Mr Keir and Ms Cutten on management of modernist heritage and valuation issues (18 May 2023);
- (e) An emailed clarification from Mr David Lee (18 May 2023);
- (f) Comments from Mr Philip Cooke about issues he had identified from belatedly being able to read the Section 42A Report and Appendices;
- (g) Additional points of clarification on factual issues from Mr David Walmsley (18 May 2023);
- (h) Advice from HNZ on the extent of consultation it had undertaken regarding selected heritage properties (22 May 2023);
- (i) Additional material from Ms Woodbridge on behalf of Kāinga Ora in relation to HH-P7 and Mount Victoria North Townscape Precinct process issues (26 May 2023); and
- (j) Additional commentary from WIAL regarding the drafting of SASM-R3 (26 May 2023).

27. We received tabled comments from only one party, Willis Bond.

28. The Hearing Panel undertook site visits of three properties proposed for heritage listing:

- (a) 1 Ranfurly Terrace (Emeny House);
- (b) 53 Trelissick Crescent (Kahn House); and
- (c) 28 Robieson Street (Toomath House).

29. The Hearing Panel is grateful to the owners in each case for their hospitality in showing us through their homes.

30. The Hearing Panel undertook more informal site visits, viewing a number of heritage properties from the street during the course of the hearing.
31. The Council provided a comprehensive written reply on 5 July 2023. This was followed up by a marked up version of the Historic Heritage and SASM Chapters supplied on 1 August.
32. Following the conclusion of the hearing, the Hearing Panel requested and received independent legal advice from Mr James Winchester, Barrister, regarding issues arising in relation to the Viewshafts Chapter. Mr Winchester's opinion dated 27 July 2023 was circulated to Stream 3 parties, who were given the opportunity to provide comment. We received in response:
  - (a) Memorandum of Counsel for Kāinga Ora dated 18 August 2023;
  - (b) A Memorandum of Counsel for the Trustees of the Eldin Family Trust dated 8 September 2023;
  - (c) A Memorandum of Counsel for WCCT, also dated 8 September 2023;
  - (d) Legal submissions from counsel for Council together with an additional Reply from Ms Stevens, both dated 14 September 2023.
33. Lastly, we note that in the wrap-up/integration hearing, we received additional material related to Stream 3 matters, in the form of:
  - (a) Evidence from Mr Heale on behalf of Kāinga Ora addressing, among other things, the Heritage Design Guide;
  - (b) Legal submissions from Mr Ian Gordon as counsel and evidence of Tim Castle and Thomas Broadmore for Ill Casino Apartments Body Corporate<sup>44</sup>, Thomas Broadmore<sup>45</sup> and Juliette Broadmore<sup>46</sup> in relation to retention of ODP Viewshaft 21.
34. By the time of the wrap-up/integration hearing, as noted in Report 1A, Commissioner Faulkner had retired from the Panel. He did not sit on the wrap-up/integration hearing and accordingly, did not participate in the Hearing Panel's consideration of the issues canvassed in this additional material.

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<sup>44</sup> Submission #426

<sup>45</sup> Submission #417

<sup>46</sup> Submission #471

35. We note also that for personal reasons, the Chair was unable to sit on the wrap-up/integration hearing. However, following the hearing, he has reviewed all of the pre-circulated written material and watched the live stream of the entire hearing. Accordingly, he has participated in finalisation of the Hearing Panel's position on these additional matters.

## **2. HISTORIC HERITAGE**

### **2.1 Introduction**

36. The purpose of the Historic Heritage Chapter is to manage buildings, structures and areas of historic heritage significance and thereby to comply with Section 6(f) of the Act, which identifies the protection of historic heritage from inappropriate subdivision, use and development as a matter of national importance that has to be recognised and provided for.
37. The introduction to the Chapter makes it clear that it does not purport to recognise or manage mana whenua heritage. That is addressed in the SASM Chapter, which is the subject of Section 3 of this Report.
38. The introduction to the chapter provides general background, including noting the relevance of Policy 21 of the RPS. It also refers readers to Schedules 1, 2, 3 and 4 that identify heritage buildings, heritage structures, heritage areas and archaeological sites respectively.
39. The introduction also notes the relevance of Appendix 1 which contains historic heritage advice notes.
40. The Chapter has three objectives, worded as follows:

#### ***HH-O1 - Recognising Historic Heritage***

*Historic heritage recognised for its contribution to an understanding and appreciation of the history, culture and sense of place of Wellington City, the Wellington region and New Zealand.*

#### ***HH-O2 - Protecting Historic Heritage***

*Historic heritage is retained and protected from inappropriate use, subdivision and development.*

#### ***HH-O3 – Sustainable Long-Term Use***



*Built heritage is well-maintained, resilient and kept in sustainable long-term use.*

41. Those objectives are supported by 21 policies.
42. The first Policy (HH-P1) relates to all historic heritage, and directs its identification.
43. HH-P2-P6 relate to built heritage and variously address its maintenance and repair, internal works, an enabling approach to works, conservation plans and removal of unreinforced masonry chimneys.
44. HH-P7-P10 relate to heritage buildings and structures. They deal variously with:
  - (a) Additions, alterations and partial demolition of heritage buildings and structures;
  - (b) New buildings and structures, and modifications to existing non-scheduled buildings on the site of a heritage building or structure;
  - (c) Repositioning and relocation of a heritage building or structure;
  - (d) Total demolition of heritage buildings and heritage structures.
45. Heritage areas are the subject of a further six policies (HH-P11-P16). Those policies deal variously with:
  - (a) Height of development in heritage areas;
  - (b) Non-heritage buildings and structures;
  - (c) Additions and alternations to, and partial demolition of buildings and structures within heritage areas;
  - (d) New buildings and structures within heritage areas;
  - (e) Repositioning and relocation of contributing buildings and structures;
  - (f) Total demolition of contributing buildings and structures.
46. A further five policies (HH-P17-P21) relate to scheduled archaeological sites. Those policies address variously:

- (a) Information, advocacy and advice;
- (b) Archaeological site maintenance;
- (c) Vegetation removal and planting;
- (d) Modification of scheduled archaeological sites and earthworks within their extent;
- (e) Total demolition of scheduled archaeological sites.

47. Those policies are then the subject of 28 rules that are generally grouped in the same way as the policies, but with two specific rules (HH-R27 and R28) dealing with specific heritage buildings and areas.
48. Then follow seven standards and a short section setting out relevant heritage orders, and the applicable Heritage Protection Authority. There are six heritage orders in respect of which HNZ is the Heritage Protection Authority, and one other order. That order relates to Erskine College, in respect of which the Save Erskine College Trust is the Heritage Protection Authority.
49. As above, Schedules 1-4 provide relevant information on heritage sites. Schedule 1 lists 581 heritage buildings in tabular form<sup>47</sup>, Schedule 2 lists 55 heritage structures in tabular form<sup>48</sup>. Schedule 3 identifies 43 heritage areas in tabular form<sup>49</sup>. Schedule 4 identifies three scheduled archaeological sites. Review as part of the preparation of the PDP has resulted in the addition of 51 new buildings, 4 new structures, 10 new heritage areas compared to the ODP. All 3 archaeological sites are new to the PDP.
50. The other document of relevance to the Historic Heritage chapter is the Heritage Design Guide. We will address submissions on that also.
51. As noted above, the Historic Heritage Chapter was the subject of a comprehensive Section 42A Report authored by Mr Adam McCutcheon, supported by expert advice and evidence from Ms Moira Smith, conservation architect and heritage adviser.
52. Mr McCutcheon noted that the following parts of the Historic Heritage Chapter and related materials were notified under the ISPP:

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<sup>47</sup> 532 of those are rolled over from the ODP

<sup>48</sup> 51 of those are rolled over from the ODP

<sup>49</sup> 33 of those are rolled over from the ODP, 2 in a modified form.

- (a) All objectives;
- (b) All policies except HH-P17-21 inclusive;
- (c) Rules HH-R1-R16 inclusive, HH-R20 and HH-21;
- (d) Standards HH-S1-HH-S5;
- (e) Those heritage buildings, heritage structures and heritage areas identified in Schedules 1-3 inclusive that are located within the urban environment;
- (f) The Heritage Design Guide;
- (g) Three definitions, being those for “original use”, “maintenance and repair”, and “demolition”.

53. It follows that the balance of provisions and material referred to above<sup>50</sup> fell within the ‘normal’ First Schedule process.
54. Mr McCutcheon undertook a systematic analysis of submissions on all of these matters. Our report follows the structure of the Section 42A Report for convenience.
55. We note that where the only submissions Mr McCutcheon noted on a particular provision or topic sought retention of the relevant or other material as notified, we have not addressed the matter further.

## **2.2 General Submissions**

56. The first set of general submissions Mr McCutcheon noted expressed concern that the historic heritage provisions were too permissive<sup>51</sup>. WHP sought to reinforce this position when its representatives appeared to give evidence. The joint brief of Amanda Mulligan and Michael Kelly noted the WHP submission that heritage policies have a focus on enabling works as distinct from enabling conservation and pointed to a table in the Section 42A Report showing that “*the majority of restricted discretionary activities [in the ODP] are proposed to be controlled or permitted*”. They challenged Mr McCutcheon’s view that the current historic heritage provisions are generally working as intended, suggesting that Wellington has struggled to retain its historic heritage and continues to lose listed and unlisted heritage places of national significance.

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<sup>50</sup> Together with the definitions for “archaeological site”, “reconstruction” and “restoration”.

<sup>51</sup> Andrew Haddleton [#23.1]; WHP [#412.32]; HPW [#182.2] and [#182.10]; Murray Pillar [#393.10-11]; Mike Camden [#226.2]; Paul Rutherford [#424.13]; Cherie Jacobsen [#251.2]

57. The WHP witnesses also challenged the emphasis in the HH Chapter on finding sustainable uses, arguing that greater attention needed to be given to stabilisation and mothballing of heritage structures and buildings as an option.
58. In response, Mr McCutcheon noted that the witnesses appeared to be coming from solely a historic heritage position, whereas in the context of historic heritage within an urban environment, the NPSUD requires limitation of development only to the extent necessary to accommodate qualifying matters such as historic heritage.
59. We agree with that. We also note Mr McCutcheon's advice that the biggest threat to historic heritage in Wellington is the need to strengthen large numbers of heritage buildings to protect against seismic risk. We agree that against that practical background, the focus of the chapter on sustainable end uses is entirely appropriate.
60. We also found the criticism of the regulatory framework made by Ms Mulligan and Mr Kelly somewhat at odds with Mr McCutcheon's analysis of the rule framework. The table Ms Mulligan and Mr Kelly referred to did not indicate that a majority of activities had more a permissive rule status under the PDP. It identified that one activity (internal seismic strengthening visible from the exterior) had gone from Restricted Discretionary status in the ODP to Permitted status in the notified PDP, and one Permitted Activity in the ODP (new floor levels and walls visible from the exterior in contributory buildings within heritage areas) had gone from Permitted Activity status to Restricted Discretionary Activity status. All of the other activities listed had the same status. We also note that in relation to the former, Mr McCutcheon recommended a shift from the notified PDP to a position of greater regulation (through a Controlled Activity rule).
61. We observed separately that the rules governing total demolition of heritage buildings and structures had gone from a Restricted Discretionary Activity status in ODP to Discretionary Activity status in the notified PDP.
62. We wondered whether Mr McCutcheon's table in his Section 42A Report might be showing as only a partial picture and so we asked him to fill it out, giving us a complete breakdown of rules, which he did. The complete breakdown did not suggest a materially different picture, which to our mind, suggests that if anything, the status of activities affecting historic heritage in the PDP is more restrictive than the ODP, rather than the reverse. And to the extent that there are exceptions, this relates to the need to address the urgent problem of seismic hazards.

63. We also note the evidence we heard of the practical application of historic heritage provisions. A number of lay witnesses were sharply critical of the Council's administration of the ODP in this regard, suggesting that Council Staff brought a focus on ensuring heritage buildings remained unchanged, which had imposed unnecessary and unjustified costs on property owners. While Mr McCutcheon robustly defended his colleagues, the picture the witnesses painted did not support WHP's characterisation of the situation.
64. Overall, we do not find there to be widespread problem of insufficient regulation. That is not to say that a case cannot be advanced that greater levels of regulation might be appropriate in specific situations. However, at the general level which the submissions we have noted were pitched, we recommend their rejection.
65. The next area of general submissions Mr McCutcheon noted related to climate change and emissions, where submitters suggested that regard needed to be had to the adverse climate implications through release of carbon into the atmosphere following demolition of wooden heritage housing and, by the same token the positive contribution historic heritage protection can make to Wellington's climate change goals<sup>52</sup>.
66. Mr McCutcheon's response to such submissions was to refer us to his analysis in Hearing Stream 1, where he noted that considered at scale, the benefits sought to be noted by submitters are outweighed by reduced carbon emissions over the life of more intensive use of a site and associated transport emission reductions. He accepted, however, that he did not have to hand any quantitative research to this effect.
67. The difficulty with Mr McCutcheon's analysis is that while the Plan might provide for greater levels of intensity, there is no assurance that that will actually occur.
68. We think that the better answer is, as already noted, the PDP imposes greater levels of control over total demolition of heritage buildings than was the case in the ODP. The policy direction of the Historic Heritage provisions of the PDP, notably restrictions on demolition of heritage buildings is, in our view, generally consistent with and recognises the climate change benefits of retaining existing buildings.

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<sup>52</sup> David Lee [#454.2]; Cherie Jacobsen [#251.2]; WHP [#412.3]

69. Next, Mr McCutcheon noted submissions variously seeking that heritage areas be expanded<sup>53</sup>, acknowledging the differentiation between Historical Heritage and Character Precincts<sup>54</sup> and considering there to be insufficient evidence of Brooklyn's suburbs character or heritage value<sup>55</sup>.
70. In response, Mr McCutcheon noted that a number of new heritage areas had been added as part of the Plan review process. We did not hear from Mr Fordyce as to where he considered further expansion was required, and why. We have addressed the distinction between Historic Heritage and Character Precincts in Report 2B. We do not repeat our reasoning as to why that is appropriate. As regards the Greater Brooklyn Residents Association submission, we note that no Character Precincts have been proposed for the suburb of Brooklyn. Nor are there any heritage areas proposed in Brooklyn. Last but not least, there are a grand total of five listed heritage buildings in the suburb. We are therefore unsure as to the basis of the Residents Association's concern, and it did not appear to tell us about it. We recommend its submission be rejected.
71. The next subset of general submissions seeking amendment to the Plan Mr McCutcheon noted related to two submissions from Willis Bond<sup>56</sup> and from Taranaki Whānui<sup>57</sup>, seeking greater certainty so that Plan users understand where heritage protections apply in proximity to historic heritage, and that the section of the Introduction cross-referencing other relevant District Plan provisions include reference to the SASM Chapter respectively.
72. Mr McCutcheon considered that the proposed provisions already contain a necessary and sufficient degree of certainty. We observe that in its tabled comments, Willis Bond did not pursue this issue at a general level, but rather focussed on one suggested amendment to HH-P11 which Mr McCutcheon had supported. We will return to that specific provision, but at the general level at which the Willis Bond submission is pitched, we recommend that it be 'accepted in part'.
73. As regards Taranaki Whānui's submission, Mr McCutcheon observed that the provisions cross referenced in the Introduction manage activities affecting heritage

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<sup>53</sup> Peter Fordyce [#431.3]

<sup>54</sup> HN2 [#70.1]

<sup>55</sup> Greater Brooklyn Residents Association Inc [#459.1]

<sup>56</sup> Submission #415.54

<sup>57</sup> Submission #389.64

buildings, areas or scheduled archaeological sites, whereas that is not the case with the SASM Chapter, which operates in parallel with the Historic Heritage Chapter.

74. We accept that explanation as to the Plan structure, and recommend Taranaki Whānui's submission be rejected.
75. Mr McCutcheon noted a series of submissions from WHP<sup>58</sup> criticising the evidence supporting the heritage content in the PDP, the lack of public consultation throughout the planning process and flawed analysis, particularly around character areas. In WHP's view, the end result was an Historic Heritage Chapter that does not adequately protect historic heritage. WHP also considered that there was a lack of evidence indicating that existing heritage and character provisions are affecting the housing market in Wellington.
76. Mr McCutcheon had a robust response to the WHP submissions, pointing to the amount of work that had been done in preparation for notification of the PDP, resulting in identification of new heritage sites, which were then the subject of consultation with property owners. Ms Smith supplied the detail around the process in her evidence.
77. We observed that we have already addressed some of WHP's criticisms in our review of Character Precincts (refer Report 2B), generally finding them to be unfounded.
78. From our point of view, WHP does raise some legitimate points of concern. We noted observations from the representatives of HPW, for instance that their nominations for new heritage sites did not appear to bear fruit. We also observed, in a number of cases, that the response from Ms Smith to suggestions of new heritage listings was that they needed to be analysed, and should go on the Council's secondary list with a view to that occurring. Her description, however, gave us little confidence as to when, or even whether, this would occur.
79. We also heard somewhat trenchant criticism from landowners whose properties were the subject of new listings about the extent to which they had been 'consulted'. While we accept that landowners were advised of the Council's proposal, we had less confidence around the extent to which Council was prepared to listen to the feedback it was getting. Having said that, we accept also that in an area which turns on expert

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<sup>58</sup> Submission #412.6-9, #412.12, #412.30-31 and #412.33

assessment, the concerns of residents about the restrictions heritage status would have on the use of their properties will likely create an inevitable tension.

80. Ultimately, however, we can only respond to the evidence before us. We discuss in Sections 2.18-2.19 below the submissions we heard on specific heritage listings: both those already in the Plan, and those proposed to be in the Plan.
81. At the general level at which these submissions were pitched, we recommend they be rejected.
82. Mr McCutcheon noted a submission from Penny Griffith<sup>59</sup> seeking that the Council formally recognises HPW as an organisation with specialist knowledge and consult it on heritage policy issues. We agree with Mr McCutcheon's view that this is not a District Plan, or even an RMA matter, but rather a Council process issue. We recommend the submission be rejected, while acknowledging that HPW can play a valuable role in the heritage space in Wellington. We do not wish to be thought suggesting otherwise.
83. Mr McCutcheon noted two submissions seeking greater setbacks from heritage areas, heritage items/buildings/sites or historic reserves<sup>60</sup>. Mr McCutcheon's view was that such issues were best addressed in relation to the provisions of the particular zone the adjacent property is in. We agree with that view. We do not consider a general setback or a universal height in relation to boundary (**HIRB**) standard to be appropriate. We therefore recommend rejection of this submission.
84. WHP also sought that the Council continue its programme of waiving resource consent fees for heritage items. Mr McCutcheon advised that there was no proposal that the existing reimbursement scheme would change. We note that advice, but observe that equally, there can be no assurance that that will remain the position. More to the point from our perspective, however, while we consider that the existing scheme is valuable as a tangible contribution the Council can make to sustainable use of heritage sites, it is also necessarily a Council policy that operates in parallel with the PDP and is subject to the provisions of the Local Government Act governing Council's financial commitments. For these reasons, we recommend rejection of this submission.

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<sup>59</sup> Submission #418.5

<sup>60</sup> Tim Wright [#75.4]; Halfway House Heritage Gardeners [#203.1]



85. The last general submission Mr McCutcheon noted was from Dean Knight and Allan Wendt<sup>61</sup> seeking that different heritage zone controls apply to the Salisbury Garden Court Heritage Area. We address that matter in the context of the related submission regarding that heritage area.

### 2.3 Definitions

86. Under this heading, Mr McCutcheon noted submissions related to the definitions of the following terms:

- Restoration;
- Original use;
- Archaeological site;
- Maintenance and repair;
- Demolition.

87. Specifically, GWRC<sup>62</sup> sought that the definition of 'restoration' be amended to align with the definition in the NRP. Mr McCutcheon did not support that relief on the basis that the NRP definition (unsurprisingly) is focussed on the natural environment. Having said that, he noted that the term is not actually used in the Historic Heritage Chapter and on this basis the existing heritage-orientated definition is unnecessary. He recommended its deletion.

88. For similar reasons, he recommended the term 'reconstruction' be deleted, notwithstanding WHP's submissions<sup>63</sup> seeking its retention. We agree with Mr McCutcheon's recommendations. If the terms are not used in the sense in which they are defined (i.e. in relation to heritage) they should be deleted. We regard this as a minor correction.

89. Rimu Architects<sup>64</sup> observed that the current definition of 'ongoing use' in fact describes a continuing original use. It sought that the defined term amended to 'original use'. Mr McCutcheon agreed with that submission as a logical amendment. We concur and likewise recommend both the change in term and the grammatical changes Mr McCutcheon recommended as a result.

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<sup>61</sup> Submissions #265.1-6]

<sup>62</sup> Submission #351.46

<sup>63</sup> Submissions #412.20-21

<sup>64</sup> Submission #318.3

90. Turning to 'archaeological site', the current definition references the definition in the HNZPT Act, which has a year 1900 cut-off. WHP<sup>65</sup> sought that the date cut-off be removed so that an archaeological site is defined to be any place that was associated with human activity and provides, or may provide, evidence related to the history of New Zealand through investigation by archaeological methods. HNZ opposed the submission<sup>66</sup>, and Mr McCutcheon disagreed with it also. He considered it important that there be alignment with the HNZPT Act in this regard, given that this is the primary legislation through which archaeological sites are regulated. He also noted that the 1900 date in the legislation is well established and understood.
91. Ms Forster-Garbutt (for WHP) accepted that aligning with the definition in the HNZPT Act is both pragmatic and an approach that has been adopted by most other Councils. However, she considered that there was scope for scheduled archaeological sites to add to understanding of New Zealand's history and cultures and that post-date 1900. She emphasised that the requested definition would apply only to scheduled archaeological sites.
92. Mr McCutcheon remained of the view that alignment with the HNZPT Act was desirable and told us that in his view, having a different definition in the PDP to the HNZPT Act would promote confusion. He also considered it likely that more recent sites would have more physical features and structures intact that might be managed under the heritage buildings and structure or heritage area rules. He also noted that Mr Raymond supported that position on behalf of HNZ.
93. We agree that pragmatism and convenience are relevant issues. We were unconvinced that recognition of post-1900 archaeological sites would be of practical benefit in the implementation of the PDP and we accept Mr McCutcheon's concern that having a different definition to the HNZPT Act would potentially create confusion.
94. We recommend that this submission be rejected.
95. Turning to maintenance and repair, the notified definition was worded as follows:

*"means*

- a. To make good decayed or damaged fabric to keep a building or structure in a sound or weatherproof condition or to prevent deterioration of fabric;  
and*

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<sup>65</sup> Submission #412.16

<sup>66</sup> Submission #FS9.1

- b. *regular and on-going protective care of a building or structure to prevent deterioration.*

*(For the purposes of the HH-Historic heritage chapter)*

*In addition to the above, maintenance and repair of built heritage must not result in any of the following:*

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

96. WHP made submissions<sup>67</sup> seeking amendments to include ‘demolition of a structural element’ in the list of matters that are not maintenance and repair, and clarification as to what is meant by surface treatment, and removal or replacing a single glazed clear window with a double glazed one.

97. Addressing the request in relation to structural elements first, in his Section 42A Report, Mr McCutcheon expressed a lack of clarity as to the intent underlying the submission. If it was to trigger resource consents for demolition of structural elements internal to buildings, he did not support it. By contrast, where works affect the exterior of a building and are not within the scope of ‘maintenance and repair’, he did not consider an expansion of the definition to be required because such works would constitute an addition or alteration.

98. Accordingly, he did not recommend amendment to the definition in this regard.

99. In their evidence, Ms Mulligan and Mr Kelly explained that they were not concerned about internal structural changes, but rather about the potential for the definition of maintenance and repair to be used as a basis for demolition or replacement of

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<sup>67</sup> Submission #412.17-19

significant portions of buildings as a permitted activity. They referenced the wording of the ODP which prevents the wholesale demolition of external walls and facades.

100. To provide clarification of their intent, they suggested that the additional element to the definition be worded:

*“Demolition of an external structural element.”*

101. In his supplementary evidence Mr McCutcheon noted this explanation. This prompted him to reconsider his recommendation, as he saw some merit in the point being made. Having said that, he was of the view that any addition to the definition should be more tightly expressed to focus on what Ms Mulligan and Mr Kelly was the concern.

102. Accordingly, he suggested as an additional matter that maintenance and repair must not result in, as follows:

*“Demolition of any façade, exterior wall or roof.”*

103. When they appeared, Ms Mulligan and Mr Kelly indicated agreement with that revised wording. We likewise consider that is of value and adopt Mr McCutcheon’s recommendation.

104. Turning to surface treatments, in his Section 42A Report, Mr McCutcheon explained that this was a catchall to the more specific criteria listed below such as painting fabric that is not currently painted. Recladding wooden weatherboards with aluminium weatherboards would be another example. He suggested that greater clarity might be achieved by making the specific examples inclusive i.e. adding the word *“including”* after *“changes to the existing surface treatment of fabric”*.

105. This amendment to the definition was the subject of evidence from Mr Ian Leary on behalf of Wharenui Apartments. Mr Leary queried what it meant, asking whether simply painting a building a different colour was a change to the existing surface treatment of fabric.

106. In reply, Mr McCutcheon suggested that critics of the definition such as Mr Leary had overlooked the chapeau and put undue focus on the quasi standards contained within it.

107. The problem with that view is that the definition contains the statement, *“in addition to the above, maintenance and repair of built heritage must not result in any of the*

*following:....*". It seems to us that Mr Leary was right to focus on the quasi standards below because if those quasi standards are triggered, the chapeau of the definition will not apply.

108. At paragraphs 105 and 106 of his Reply, Mr McCutcheon said:

*"In respect of the question asked whether there needs to be clarification on the extent of painting and resurfacing – in my view my rebuttal definition provides the clarity that is sought that surface preparation and painting on existing painted surface is permitted, but painting fabric that is not already painted is not considered repairs and maintenance.*

*With respect to changing the existing surface treatment, this is in my view reasonably clear with the removal of the word 'including' as contained in my rebuttal. This more clearly encompasses activities such as the below (figure 5), where bricks are being rendered where they are not at present."*

109. Mr McCutcheon's commentary is confusing because his recommended definition continues to have the word "*including*" in it.

110. It seems to us that if changes to the existing surface treatment of fabric include the two specified items, they necessarily include other unspecified changes. We therefore find that Mr Leary's concern is well justified and that the word "*changes*" needs to be qualified because otherwise there is, to our mind, a real question as to whether merely repainting a wall a different colour would be a change to the existing surface treatment of fabric and therefore not within the definition of maintenance and repair.

111. We recommend that what is now point (d) be further amended to read:

*"Changes to the nature of the existing surface treatment of fabric, including:*

*i. Painting of any previously unpainted surface;*

*ii Rendering of any previously unrendered surface..."*

112. Mr Leary had other issues with the definition. We will respond to them, and to Mr McCutcheon's reply on those issues shortly.

113. First, however, we should address the remaining point of submission from WHP, who sought clarity around the provision for removal or replacement of a single glazed clear window with a double glazed one. Review of the WHP submission prompted Mr McCutcheon to recommend removal of the exemption for replacement of single glazed clear windows with a clear double glazed pane. He agreed with the submitter that otherwise, there was potential for adverse effects on heritage values as a

permitted activity, given the absence of Council supervision over the extent of modifications considered necessary to insert a double glazed pane. In combination with the suggested deletion, Mr McCutcheon recommended a new controlled activity rule. This would still be a lesser level of regulation than in the ODP (where the activity status is restricted discretionary activity), but Mr McCutcheon regarded that as appropriate in the circumstances. He noted also that the suggested new rule would form part of the ISPP process given that it stems from the definition of maintenance and repair.

114. Responding to this recommendation, Mr Leary noted that Wharenui Apartments have a practice of routinely swapping out sashes and replacing them with a stock of refurbished sashes. We discussed the matter further when Mr Leary and the representatives of the Wharenui Apartments appeared. We considered that their approach was a very practical way to deal with maintenance issues of their particular building. We note Mr McCutcheon had a similar view, commenting in reply that the apartment company is doing good job at protecting the heritage values of the building and keeping it in a good state of repair through their programme of rotating through restored windows.
115. In his rebuttal evidence, Mr McCutcheon largely agreed with Mr Leary's point. He observed that the definition would require a resource consent for removal or replacement of a window regardless of whether it was 'like for like' and advised that that was not the intention.
116. Having reflected on the matter, Mr McCutcheon considered that with the specific issue of double glazing having been removed and addressed in a standalone rule, there was no need to provide specifically for modification, removal or replacement of windows. He recommended that part of the definition be deleted.
117. We agree with that suggestion although, as we will be seen shortly, that is not the end of the matter.
118. Another issue raised by Mr Leary in his evidence is the practical implications of a requirement that scaffolding can only be affixed if the work is reasonably required for health and safety. He asked how this would be established.
119. Mr McCutcheon agreed that amendments were required to better reflect the issue that was intended to be managed – the drilling of holes and attaching of scaffolding

directly to a building which can damage the fabric of the building. He recommended that point (g) be amended to read:

*“The affixing of putlog or similar form of scaffolding directly to a building or structure.”*

120. We agree that that addresses the practical problems Mr Leary drew our attention to as well as being clearer. We adopt Mr McCutcheon’s recommendation.
121. The final issue Mr Leary raised was in relation to the ambiguities of a test focussing on the damage of fabric *“from the use of abrasive or high-pressure cleaning methods”*. He observed that water and sand-blasting are regularly undertaken on older buildings during painting and queried what might be considered damage. He asked for instance whether removal of the paint (which is the point of the exercise) might be considered ‘damage’. In his rebuttal evidence, Mr McCutcheon noted Ms Smith’s advice regarding the difficulties ascribing a standard or water pressure to a substrate and that sand-blasting essentially will always have detrimental effect on heritage fabric. He confessed himself unable to find a way to tighten up the clause in a way that would fit the multiple variations.
122. Reviewing the matter afresh in reply Mr McCutcheon suggested that the requirement be qualified by the word *“permanent”* i.e. so that it targets permanent damage of fabric.
123. Considering the competing policy objectives, on the one hand enabling genuine repair and maintenance to parts of buildings to repair or remedy deterioration, and on the other, preventing changes to buildings which should be addressed as additions or alterations, Mr McCutcheon suggested a need for a pragmatic balance. Accordingly, he made two further recommendations for restricting of the definition. The first is to shift reference in the exclusions to use of materials other than those the same as the original or most significant fabric or the closest to equivalent, into the chapeau, and express it positively. Accordingly, the start of the definition would read:

*“Maintenance and repair means:*

- a. To make good decayed or damaged fabric to keep a building or structure in a sound or weatherproof condition or to prevent deterioration of fabric using materials the same as the original most significant fabric, or the closest equivalent of a similar design or form....”*

124. We think that there is considerable merit in reversing the emphasis in this regard. However, we have two concerns with the suggested rewording. The first is that the

closest equivalent may not practically be available. As Mr McCutcheon observed, as maintenance is required to respond to damage, it must allow for “a readily available replacement”.

125. Secondly, reference to “*form*” is ambiguous in this context.
126. Accordingly, we recommend further amendments to the addition Mr McCutcheon suggests so that it would read:

*“Maintenance and repair means:*

*a.... using materials the same as the original or most significant fabric, or the closest reasonably available equivalent of a similar design ~~or form~~ and appearance.”*

127. The same change needs to be made to what was notified as exclusion (d).
128. In a similar vein, Mr McCutcheon recommended that the exclusion for changes to the design, texture, or form of the fabric be amended to refer to “noticeable changes”.
129. We agree that this is a helpful amendment and we adopt it.
130. As a result, our recommended definition of ‘maintenance and repair’ would read as follows:

*“...means*

- a. To make good decayed or damaged fabric to keep a building or structure in a sound or weatherproof condition or to prevent deterioration of fabric using materials the same as the original or most significant fabric, or the closest reasonably available equivalent of a similar design and appearance; and*
- b. Regular and on-going protective care of a building or structure to prevent deterioration.*

*(For the purposes of the HH-Historic heritage chapter)*

*In addition to the above, maintenance and repair of built heritage must not result in any of the following:*

- a. Demolition of any façade, exterior wall or roof;*
- b. Changes to the nature of the existing surface treatment of fabric, including;*
- i. Painting of any previously unpainted surface;*
- ii. Rendering of any previously unrendered surface;*
- ~~b. Painting of any previously unpainted surface;~~*
- ~~c. Rendering of any previously unrendered surface;~~*



- c. Noticeable cChanges to the design, or 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 putlog or similar form of scaffolding directly to a building or structure to unless the work is reasonably required for health and safety;
- f. The permanent 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 ....”~~

131. We observe that some of these suggested changes go beyond the WHP submission points. Mr Leary justified his commenting on the definition on the basis that Wharenui Apartments sought removal of the heritage listing over the property. He said that in default of that relief, his client sought amendments to this definition. That is all very well for Wharenui Apartments, but it does not justify amendments to the definition as it applies to the rest of the community.
132. The addition of point (c), the suggested amendments to (d) and the deletion of what is shown as point (i) above all fall within the WHP relief. The balance of the changes are arguably outside that relief. For the avoidance of doubt, we recommend them as an out-of-scope series of changes.
133. The final defined term of the subject of submission was the definition of “demolition”. Kāinga Ora<sup>68</sup> sought its deletion. Mr McCutcheon did not agree. He commented that it is a commonly used definition and rule trigger that is applied across plans throughout the country to assess effects on heritage values.
134. In her evidence for Kāinga Ora, Ms Woodbridge clarified the concern. She noted that the Historic Heritage Chapter refers to ‘demolition’, ‘total demolition’, and ‘partial demolition’, all of which are defined terms. In his rebuttal evidence, Mr McCutcheon acknowledged that he had misunderstood the submission point, and the fact that it was made in the context of the Character Precinct provisions (and Kāinga Ora’s

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<sup>68</sup> Submission #391.34

opposition to those provisions). As he observed, that matter has been addressed in our Report 2B.

135. In this context, we do not see that there is an issue. As Ms Woodbridge notes, the definition of 'demolition' is specific to Character Precincts. It is clearly not applicable to heritage sites which use the related terms 'total demolition' and 'partial demolition'.

136. We recommend rejection of this submission point.

## **2.4 Chapter Introduction**

137. Under this subheading, Mr McCutcheon noted submissions seeking relief, as follows:

- Where APP1 is referred to, an additional note is included that 'APP1 also contains reference to the provisions of the Heritage New Zealand Pouhere Act 2014 which protects all archaeological sites'<sup>69</sup>;
- Mention the recognised heritage values of buildings<sup>70</sup>;
- Delete reference to partial demolition on the basis that it is captured by 'alterations'<sup>71</sup>;
- Clarify reference to 'continuity of buildings and structures' as it relates to heritage areas<sup>72</sup>;
- Amend the discussion of 'sustainable long-term use' to explicitly allow for stabilisation and mothballing<sup>73</sup>;
- Amend the description of heritage areas to ensure that contributory buildings have the same protection as listed heritage items<sup>74</sup>;
- Amend cross references to other relevant District Plan provisions so that scheduled archaeological sites are not referenced and managed by earthworks provisions<sup>75</sup>;
- Clarify the application of objectives, policies, rules and standards to scheduled heritage buildings, non-scheduled heritage buildings

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<sup>69</sup> HNZ [#70.13-14]

<sup>70</sup> Council [#266.71]

<sup>71</sup> WHP [#412.35]

<sup>72</sup> WHP [#412.36]

<sup>73</sup> WHP [#412.37]

<sup>74</sup> WHP [#412.38]

<sup>75</sup> WHP [#412.39]

considered to be contributing, and non-scheduled buildings that are non-heritage<sup>76</sup>;

- Include reference in the 'sustainable long-term use' discussion to the importance of ensuring that built heritage can continue to be used in a practical and functional way<sup>77</sup>.

138. Mr McCutcheon agreed that the note HNZ suggested would be desirable and that the addition Council proposed in its submission was appropriate. We agree with his reasoning and adopt his recommendations.
139. Mr McCutcheon accepted that partial demolition is an 'alteration'. However, he considered that there was value in specific reference to it, to distinguish it from total demolition.
140. In response, Ms Mulligan and Mr Kelly continued to express concern about 'the signal' that referring to partial demolition sends. In their view, the best outcome for a heritage building is when demolition, partial or otherwise, can be avoided.
141. Mr McCutcheon's response in turn was that it is a commonly used and plain English description of works where parts of a building are removed.
142. We agree with Mr McCutcheon. We do not think that the Historic Heritage Chapter should shrink from using plain English descriptions of activities because of the signal the mere reference to those activities might send. The chapter needs to confront issues and give clear direction as to how they are managed.
143. As regards stabilisation and mothballing, Mr McCutcheon's view was that the focus of sustainable long-term use provisions is on keeping heritage places in a use so that they contribute to a well-functioning urban environment. He regarded that as being at odds with leaving a building vacant for an indeterminate period, observing that vacant buildings are more likely to be the object of demolition by neglect. He emphasised that the discussion in the Introduction does not infer that if there is no current use, then demolition is the only other option.
144. In their evidence Ms Mulligan and Mr Kelly sought to emphasise that stabilisation and mothballing is not comparable to neglecting a place. Stabilisation/ mothballing requires active management.

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<sup>76</sup> Kāinga Ora [#391.163-164]

<sup>77</sup> Parliamentary Service [#375.1-2]

145. We discussed the matter further with them given our understanding that there were examples of public buildings that had been stabilised/mothballed in post-earthquake Christchurch. We queried whether this was not a concept that the private sector was likely to embrace.
146. The WHP witnesses responded that while it is probably more likely that a public building might be stabilised/mothballed, it should still be allowed.
147. Reflecting on the point, we think that while stabilisation and mothballing is theoretically an option, and it would clearly be better than doing nothing and allowing a building to progressively deteriorate, the emphasis in the Introduction is appropriately on finding active uses for heritage buildings. As Mr McCutcheon noted, Building Act deadlines for seismic strengthening will bite during the life of this Plan, and heritage buildings are in our view much more likely to be strengthened and retained if they have a clear ongoing use.
148. We therefore recommend rejection of the WHP submission.
149. Mr McCutcheon's reasons for disagreeing with the WHP submissions on the regulation of contributory buildings within heritage areas stemmed from his view that the heritage value of such buildings varies on a continuum of significance. He accepted that the ODP stated that such buildings should have the same treatment and control as listed heritage items, but observed that this had given rise to confusion because of its inconsistency with the policy rationale for heritage areas. He emphasised that the assessment of works in relation to a contributory building within a heritage area is on the impact of those works on the values of the heritage area as a whole, not simply on the building itself.
150. Ms Mulligan and Mr Kelly disagreed. They emphasised the importance of heritage areas, and that some heritage areas contain heritage buildings, so that to conserve the values of the heritage area, changes to contributory buildings need to be assessed in terms of the building as well as the area. They also noted that, in practice, buildings within heritage areas had often not been assessed for the individual building protection.
151. We prefer Mr McCutcheon's reasoning. If a building within a heritage area is individually listed, works on it will need to satisfy the tests relevant to listed heritage buildings, as well as those for heritage areas. We also consider that we cannot base

the degree of regulation on the possibility that contributory buildings within heritage areas might qualify for an individual listing, if they have not been assessed as such.

152. In summary, we recommend that WHP's submission on this point be rejected.
153. Mr McCutcheon considered that the remaining two WHP submissions should be accepted. He agreed that heritage areas do not always have a continuity of buildings and structures. He also agreed that the cross reference to the Earthworks Chapter should be qualified so that it did not reference scheduled archaeological sites, given that the Earthworks Chapter does not in fact manage such activities, and HH-R18 does do so. We agree with Mr McCutcheon on both points and recommend acceptance of the amendments he suggested to the Introduction as a result.
154. In his Reply, Mr McCutcheon suggested an additional amendment to the Introduction to clarify the role of non-scheduled heritage buildings and structures. This amendment stemmed originally from a suggestion in Ms Woodbridge's evidence for Kāinga Ora that a definition for 'non-scheduled buildings and structures' would be useful. In his rebuttal evidence, Mr McCutcheon accepted that point and recommended a new definition be inserted in the PDP worded 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.”*

155. We discussed with Mr McCutcheon at the hearing whether the suggested definition might be improved from a grammatical perspective. The draft definition was also the subject of comment from Ms Mulligan and Mr Kelly for WHP, who observed that it could not be assumed that non-scheduled buildings and structures had no heritage value.
156. Mr McCutcheon gave the matter further thought in his Reply and suggested both a revised, and in our opinion, better expressed definition, together with a related amendment to the Introduction.
157. The suggested revised definition would read:

*“means – buildings and structures located on the same site as a heritage building or heritage structure, but have no historic heritage value.*

*Non-scheduled buildings and structures are identified as exclusions in the 'protections required' column of SCHED1 and are excluded from the application of Historic Heritage Rules, except for HH-R2 and HH-R9.”*

158. As revised, the definition is still open to the same criticism as above. We think that that can readily be addressed by turning it round. Accordingly, we recommend that a new definition of 'non-scheduled buildings and structures' be inserted reading:

*“means – buildings and structures located on the same site as a heritage building or heritage structure that have not been identified as being of historic heritage value.*

*Non-scheduled buildings and structures are identified as exclusions in the ‘protections required’ column of SCHED1 and are excluded from the application of Historic Heritage Rules, except for HH-R2 and HH-R9.”*

159. Mr McCutcheon’s suggested addition to the Introduction was to similar effect and we think it might be amended in a similar way to read:

*“Known buildings and structures located on the same site as heritage buildings and heritage structures which have not been identified as having heritage value themselves are categorised as ‘non-scheduled heritage buildings and structures’. These are listed as exclusions in the ‘protections required’ column of SCHED1. The historic heritage rules do not apply to them except for HH-R2 and HH-R9.”*

160. We regard these changes as useful clarification of what is already in the PDP, rather than a substantive change, and we recommend their addition.

## **2.5 New Provisions Sought**

161. Under this heading, Mr McCutcheon noted submissions:

- Opposing facadism as an outcome for heritage buildings and seeking a new policy or rule to make it clear that only in exceptional instances will facadism be appropriate, and only if consistent with ICOMOS Guidelines<sup>78</sup>;
- Seeking greater protection for stained and decorative heritage glass windows in heritage buildings<sup>79</sup>;
- Seeking a new objective to reflect the positive contribution heritage, character, quality design and the ability to read stories in the urban landscape make to overall wellbeing<sup>80</sup>;

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<sup>78</sup> HPW [#182.11]

<sup>79</sup> Mike Camden [#226.3]; Murray Pillar [#393.12]; Peter Fordyce [#431.4-5]; HPW [#182.12]; WCCT [#233.12]; Rachel Underwood [#458.3]

<sup>80</sup> Paul Rutherford [#424.12]

- Seeking that the Council provide heritage incentives to encourage appropriate recognition and protection of places of historic heritage value<sup>81</sup>;
- Seeking a new policy to avoid “*demolition by neglect*”<sup>82</sup>;
- Seeking bulk and shading controls at or near the boundaries of sites adjoining heritage listed sites to protect the context and curtilage of heritage listed buildings<sup>83</sup>;
- Seeking clarity regarding the identification of historic heritage and the extent of its protection, recognising the importance of establishing a balance between heritage protection and enabling new development<sup>84</sup>;
- Seeking addition of a heritage demolition control applying to areas identified in Boffa Miskell’s pre-1930s character area review as ‘primary’, ‘contributory’ or ‘omitted’, together with areas identified in HNZ’s submission on the Draft Spatial Plan<sup>85</sup>;
- Seeking a process of specific heritage identification and assessment, heritage values for all buildings in the inner city suburbs<sup>86</sup>;
- Seeking clarification that additions, alterations and demolition of non-listed heritage features of scheduled heritage buildings and heritage structures be permitted<sup>87</sup>;
- Seeking that the Historic Heritage Chapter, among others, should recognise the potential for accidental discovery of archaeological sites and wāhi tapu, and require appropriate consents to include an accidental discovery protocol<sup>88</sup>.

162. Mr McCutcheon undertook a point-by-point consideration of these issues finding variously that:

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<sup>81</sup> Paul Burnaby [#44.1] and [#44.3]

<sup>82</sup> HPW [#182.13]; Christina Mackay [#478.8]

<sup>83</sup> HPW [#182.14]

<sup>84</sup> Willis Bond [#416.55-56]

<sup>85</sup> HPW [#182.15-16]

<sup>86</sup> WCCT [#233.11]

<sup>87</sup> Argosy [#383.32]

<sup>88</sup> GWRC [#351.15]

- Existing provisions already adequately addressed poorly executed facadism;
- Existing controls on alterations were sufficient to protect stained and decorative heritage glass windows in heritage buildings;
- The suggested new objective was not necessary as the relevant matters were already sufficiently covered in the Strategic Objective Chapters;
- There are already height in relation to boundary standards or policies to manage effects on heritage values from developments outside their curtilage in the relevant zone chapters;
- Incentives already exist and operate outside the ODP with their funding governed through the Long Term and Annual Plan processes under the Local Government Act;
- The matters sought to be addressed by HPW were already the subject of existing provisions;
- The extent of protection required for listed heritage buildings and structures is clear on the face of the relevant schedule;
- A heritage demolition control on all of the areas specified in the HPW submission was not appropriate. The issue is managed through the identification of Character Precincts.
- Blanket demolition controls on pre-1930s buildings were not appropriate;
- The process of adding new heritage buildings, structures and areas requires a Plan Change process, and in any event, the effectiveness and efficiency of undertaking a comprehensive assessment of all inner suburb buildings is highly questionable; and
- There are sufficient references already to accidental discovery protocols in APP1 in the Earthworks and Historic Heritage Chapters.

163. We agree with Mr McCutcheon's reasoning on each of these points.

164. Mr McCutcheon found merit in the HPW submission related to demolition by neglect. He identified this as a difficult issue to manage because buildings may be in a deteriorated state for a range of reasons, some justifiable, and some not. For this



reason, he did not agree with the concept of a blanket policy not to consider the current state of a building and why works may have been deferred.

165. Rather, Mr McCutcheon considered that a more effective approach would be to take into account financial savings that an owner may have accrued through deferral and provide direction to consider the reasons why deferral has occurred with the policy assessment of total demolition. Accordingly, he suggested that the policy for total demolition of heritage buildings and structures (HH-P10 as notified) be amended to require demonstration that there are no reasonable alternatives to total demolition, including:

*“Maintenance and repair, including the extent to which it has been regularly undertaken.”*

166. We agree with Mr McCutcheon’s reasoning, but we had issues with his suggested wording, as above, because it did not convey to us any direction as to what relevance the extent to which maintenance and repair has been regularly undertaken would have to the inquiry.
167. Mr Ballinger, counsel for WCCT, suggested a variation to Mr McCutcheon’s wording, but we did not think that his wording provided materially greater or clearer direction.
168. Mr McCutcheon considered the issues afresh and presented a revised version of the same sub-policy in his Reply worded as follows:

*“Avoid the total demolition of heritage buildings and heritage structures unless it can be demonstrated that there are no reasonable alternatives to total demolition, including:*

*1. Undertaking maintenance and repair – considering the extent to which any earlier deferral has negatively impacted building condition while producing financial savings where poor building condition is a factor in the intention to demolish;*

*...”*

169. While wordier than ideal, we consider that this appropriately captures the point within the structure of renumbered HH-P11. We adopt Mr McCutcheon’s recommendations accordingly.
170. The second point that Mr McCutcheon considered had merit related to Argosy’s submission seeking an additional rule specifying that additions, alterations and demolition of non-listed heritage features of scheduled heritage buildings and heritage structures are permitted. While Mr McCutcheon did not think a new rule was

necessary, he did agree that the issue deserved clarification and he suggested that the most efficient way to do that would be to amend the definition of heritage building, as follows:

*“A building or protected parts of a building identified in SCHED1- Heritage Buildings.”*

171. We had some concern about the implications of the suggested change if an exterior part of a heritage building was not scheduled. We can imagine scenarios where additions and alterations to the unscheduled part might adversely affect the rest of the building. However, we would be surprised if there was an actual example of that situation and certainly, we were not aware of any. On the basis that the only unscheduled parts of a heritage building are internal elements, we consider that this is a good way to provide the clarification the submitter was seeking, and we adopt that recommendation.

172. The last area where Mr McCutcheon considered an amendment to the PDP was warranted was in response to the submission of GWRC. While, as we have noted, Mr McCutcheon was of the view that the Earthworks and Historic Heritage Chapters had sufficient reference to accidental discovery protocols, the same was not the case, in his view in relation to the SASM Chapter. Accordingly, he recommended an addition to the Introduction to the SASM Chapter reading:

*“Heritage New Zealand Pouhere Taonga is responsible for issuing an archaeological authority for any earthworks that may affect an archaeological site (refer to Appendix 1 for more information).”*

173. We agree with that suggestion and adopt Mr McCutcheon’s recommendation accordingly.

## **2.6 Objectives**

174. The only submission Mr McCutcheon noted seeking amendment to the first two objectives in the Historic Heritage Chapter was that of WHP<sup>89</sup>, who sought a minor grammatical amendment to HH-01.

175. Mr McCutcheon agreed that the objective would read better as amended and we concur. Accordingly, we recommend that HH-01 be amended to read:

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<sup>89</sup> Submission #412.40

*“Historic Heritage is recognised for its contribution to and understanding and appreciation of the history, culture and sense of place of Wellington City, the Wellington region and New Zealand.”*

176. Turning to HH-03, which seeks that built heritage is “*well maintained, resilient and kept in sustainable long-term use*”, Mr McCutcheon noted the following submissions:

- General support, but requires amendment to more clearly recognise the need to ensure heritage buildings can continue to be used in a practical way<sup>90</sup>;
- Concern that the objective could lead to unnecessary demolition of built heritage where current circumstances do not allow for sustainable use<sup>91</sup>;
- Supports retaining historic buildings of significance in the Newtown Shopping Centre as closely as feasible to their historic presence<sup>92</sup>;

177. Mr McCutcheon did not recommend any changes to the objective. He considered that read in the light of the amended Introduction, it already addressed the Parliamentary Service concern.

178. He also did not agree that the objective will lead to unnecessary demolition. He pointed to onerous tests on demolition in the heritage policies.

179. In the evidence of Ms Mulligan and Mr Kelly, while they accepted that a used and well-maintained building is better off than a neglected one, they suggested that 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. They suggested that one solution would be to add the word ‘conserved’ into the definition.

180. We do not agree with the suggested insertion of the word ‘conserved’. While HH-O3 seeks that heritage buildings have a sustainable long-term use, that objective does not operate in isolation. The objectives need to be read as a whole, and HH-O2 seeks retention and protection of historic heritage from inappropriate use, subdivision and development.

181. More generally, we agree with Mr McCutcheon’s reasoning. We do not consider that the objective carries any implication for demolition. What it does do is support adaptive reuse which, as above, we regard as a legitimate approach to historic

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<sup>90</sup> Parliamentary Service [#375.3-4]

<sup>91</sup> WHP [#412.41]

<sup>92</sup> Anna Kemble Welch [#434.6]

heritage, particularly given its susceptibility to seismic hazards unless structurally modified.

182. We recommend that HH-O3 be retained as notified.

## 2.7 General Policies

183. As above, there is a single policy that applies to all historic heritage. As notified, HH-P1 read:

***“Identifying historic heritage”***

*Identify buildings, structures, areas and archaeological sites with significant historic heritage values, or that contribute to an understanding and appreciation of Māori history and culture.”*

184. Mr McCutcheon noted two submissions in relation to it. The first, from Wellington City Council Environmental Reference Group<sup>93</sup>, considered that more emphasis was needed on Māori heritage. Secondly, Taranaki Whānui<sup>94</sup> considered it appropriate to amend to include objectives, policies, rules and standards to minimise impact of earthworks or developments on cultural value to Taranaki Whānui.

185. In his Section 42A commentary on these submissions, Mr McCutcheon noted that the policy was originally proffered by mana whenua, which caused him to be somewhat cautious about suggesting amendments along the lines requested by the Environmental Reference Group. In any event he considered that the issue raised by this and the Taranaki Whānui submission were better addressed in the context of the SASM Chapter. He did not recommend any amendment to the policy. We concur with Mr McCutcheon’s reasoning and adopt his recommendation that the policy remain as notified.

## 2.8 Built Heritage Policies

186. Notified Policy HH-P3 relates to internal works. Mr McCutcheon noted two submissions on it. The first, from Argosy,<sup>95</sup> opposed heritage controls on new floor levels where only the exterior of a heritage building is scheduled. It sought that the policy be deleted. By contrast, WHP<sup>96</sup> sought that the policy be re-written with a focus on conservation as per the ICOMOS New Zealand Charter. WHP also<sup>97</sup> sought amendment to deter structural strengthening that is visible from the exterior of

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<sup>93</sup> Submission #377.64

<sup>94</sup> Submission #389.66

<sup>95</sup> Submission #383.37

<sup>96</sup> Submissions #412.42-43

<sup>97</sup> Submission #412.44

buildings. Mr McCutcheon noted a further WHP submission<sup>98</sup> seeking like relief in relation to non-heritage buildings in heritage areas.

187. Mr McCutcheon noted that the ODP approach is to make internal seismic strengthening and new floor levels visible from the exterior of a heritage building a restricted discretionary activity. Conversely, it treats all internal works within heritage areas as a Permitted Activity.
188. By contrast, the PDP makes internal seismic strengthening of heritage buildings and structures a Permitted Activity. The status for new floor levels within heritage buildings has not changed.
189. Mr McCutcheon accepted that there were some particularly visible examples of heritage strengthening in Wellington, but he did not accept that they provided poor outcomes.
190. He also noted that typically seismic strengthening is accompanied by related additions and alterations to help achieve a sustainable long-term use, and thus permitted activity status for the former is often of nominal value.
191. On balance, however, Mr McCutcheon considered that internal seismic strengthening should be changed to a controlled activity for heritage buildings, while remaining permitted for buildings in heritage areas on the basis that this would send a clear signal to the market that the PDP seeks to ensure that heritage buildings are an attractive proposition for regeneration, strengthening and reuse.
192. In relation to new floor levels, he considered that as works undertaken to support reuse are similar to internal seismic strengthening visible from the exterior, they should be managed using a similar rule framework.
193. On a related point, Mr McCutcheon recommended that temporary works including invasive seismic investigations be included as new permitted activity rules on the basis that they are typically urgent, and delays even to obtain a controlled activity resource consent would be undesirable.
194. As regards the language of the policy, and the reference in it to 'works' Mr McCutcheon considered this preferable to the focus on conservation suggested by WHP, because it reflects that the District Plan is managing a range of activities.

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<sup>98</sup> Submission #412.55

195. Reflecting his reasoning, Mr McCutcheon recommended that the policy be amended to focus on heritage buildings (rather than all built heritage) and to reflect his recommendation to apply a controlled activity status. The amended policy would be worded:

***“Internal Works***

*Control works internal to heritage buildings, including any interiors or interior features that are specifically scheduled.”*

196. The joint evidence of Ms Mulligan and Mr Kelly for WHP expressed concern about Mr McCutcheon’s proposed approach, observing that conservation practice is taking a back seat to a more rudimentary view of the Council’s role in managing heritage outcomes. The witnesses accepted that Controlled Activity status would allow for the imposition of conditions, but argued that a higher activity level status would be much more preferable. Among other things, it would send a signal indicating the importance of the matter to all parties.

197. As regards reconstituting floor levels, they were of the view that this is at the heart of renovating large heritage buildings with high studs. They did not consider that controlled activity status would likely deliver good conservation outcomes as it implied that future changes will be confined to tweaks or enhancements, not substantial design changes.

198. In his rebuttal evidence, Mr McCutcheon observed that restricted discretionary activity status (as per the ODP) for internal seismic strengthening and new floor levels would be the most restrictive in any District Plan he was aware of, and he did not consider it justified.

199. The response of the WHP witnesses at the hearing was that they were unclear about the problem the change seeks to address. Their experience was that strengthening of heritage buildings has not been prevented by the current rules.

200. In his reply, having reflected on the matter, Mr McCutcheon considered that the policy should revert to be enabling, since all other internal works are permitted. His final recommended policy (showing changes from the notified version) was accordingly worded:

*“Enable works internal to built heritage, except where they involve interiors or interior features which are specifically scheduled”*

~~1. The works involve interiors or interior features which are specifically scheduled; or~~

~~2. New floor levels will be visible from the exterior of buildings.”~~

201. Essentially the issue is whether, in this context, it is necessary to preserve the ability to reject resource consent applications. In the context of earthquake strengthening, we struggle with the implication that this would ever be the preferable outcome. We think also that WHP are incorrect as a matter of law. The scope to impose conditions is very wide and if we are focussing on what signals are being sent by different activity statuses, we consider that the desirable signal to send is that seismic strengthening is encouraged.
202. The position is more arguable regarding new floors visible from outside the building, but in our view, Controlled Activity status is consistent with the desire for heritage buildings to have an ongoing productive use and, as above, the scope to impose conditions should not be underestimated.
203. We think also, with respect, that the WHP witnesses were being unduly precious with their concern about the policy referring to ‘works’. Ultimately, District Plans control activities. In this context, the relevant activities are works on heritage buildings and structures and in our view, it is appropriate that the policy says that.
204. In summary, we prefer Mr McCutcheon’s reasoning and adopt his recommended amended policy wording.
205. Turning to HH-P4, this provides an enabling approach to works that meet one of four criteria. In his Section 42A Report, Mr McCutcheon noted submissions seeking:
- Amendment to enable works to built heritage to be undertaken in accordance with recognised conservation principles and methods<sup>99</sup>;
  - Amendment to ensure that the concept of sustainable long-term use captures the need to ensure buildings are retained in a state that ensures they can continue to be used in a practical way<sup>100</sup>;
  - Clarification that enabling a sustainable long-term use includes adaptive reuse<sup>101</sup>.

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<sup>99</sup> Council [#266.72]

<sup>100</sup> Parliamentary Service [#375.5-6]

<sup>101</sup> Argosy [#383.38]

206. Mr McCutcheon agreed with the Council's suggested amendment as this would align with permitted activity status for maintenance and repair and reinforce the idea that works following best conservation practice should be favoured.
207. Mr McCutcheon did not support inserting reference to adaptive reuse. He did not think that was necessary, but he did agree that some reference to functionality was desirable as an alternative to sustainable long-term use.
208. We agree with Mr McCutcheon's reasoning on the first two points, but are less sure on the third point. We would have thought that a building with a sustainable long-term use is functional, by definition, and vice versa. We therefore struggle with the idea that they might be considered alternatives. We do not have a problem with mentioning functionality, but we think that that link should be clearer.
209. Accordingly, we recommend that the policy be reworded as follows:

***"Enabling Approach to Works***

*Enable works to built heritage that:*

1. *Increase resilience through seismic strengthening, either in isolation or as part of additions and alterations;*
2. *Support the ongoing functionality of a building by providing a sustainable long term use;*
3. *Are undertaken in accordance with recognised conservation principles and methods;*
4. *Increase accessibility and support means of escape from fire; or*
5. *Provide the opportunity to promote, enhance, recover or reveal heritage values."*

210. Notified HH-P5 related to conservation plans. Mr McCutcheon noted two submissions seeking amendment to it. The first, from Foster+Melville Architects Limited<sup>102</sup> sought that preparation of conservation plans be encouraged for items of the greatest significance.
211. The second submission, from WHP<sup>103</sup>, suggested that the order of policies should be changed and that this particular policy should be inserted at the start of the Built

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<sup>102</sup> Submission #141.1

<sup>103</sup> Submission #412.45



Heritage Policy section given that conservation planning follows identification, and precedes works of all kinds.

212. Mr McCutcheon agreed with the second point but not the first. He noted that the policy is an 'encourage' policy. As a result, he recommended that the policy be renumbered HH-R2, and other policies be renumbered to follow that, but otherwise that it remain without change. We agree. Suggesting that conservation plans should be encouraged in some cases, but not others, requires clear direction as where the line is fixed. We do not think that that is necessary given that, as Mr McCutcheon observes, this is just an 'encourage' policy. We have no difficulty with the suggested re-ordering. It follows that we agree with Mr McCutcheon's reasoning and adopt his recommendation.
213. Notified HH-P6 provided for the removal of unreinforced masonry chimneys where one of two situations applies, and the replacement is both an accurate replica and reuses the fabric from the original chimney where practical. The sole submission seeking amendment to the policy was from WHP<sup>104</sup>. The submission considered that the PDP should be encouraging conservation of unreinforced masonry chimneys, not enabling their demolition.
214. In his Section 42A Report, Mr McCutcheon characterised this policy as seeking to provide guidance on a practical issue that has arisen relatively frequently in recent years. He considered the option proposed by WHP to delete the policy and relevant rule in its entirety and rely on design guidance, but on balance, was of the view that the proposed regulatory framework was appropriate. Accordingly, he recommended retention of the policy as notified.
215. Addressing the point in their evidence, Ms Mulligan and Mr Kelly were of the view that the policy was likely to lead to unnecessary loss of heritage fabric of high value, that it should be deleted, and that chimneys should be assessed by appropriately qualified consultants to determine in the first instance if any present a seismic risk at all, with degrees of intervention to be determined thereafter.
216. Mr McCutcheon did not reconsider his recommendation, noting in his rebuttal evidence that the policy already addresses the points of concern the WHP witnesses had raised. In reply, Mr McCutcheon also confirmed that having reflected upon the matter, he was satisfied that there was no regulatory misalignment as between

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<sup>104</sup> Submission #412.46

treatment of masonry chimneys within Character Precincts compared to built heritage, an issue he has noted previously as a possible concern.

217. We prefer Mr McCutcheon's reasoning on this matter. We think it is better to rely on clear policy guidance than to defer to design guidance, and we are satisfied that the policy directs consideration of the relevant issues.

218. Accordingly, we adopt Mr McCutcheon's recommendation that his policy remain as notified.

## **2.9 Heritage Building and Structure Policies**

219. HH-P7 provides guidance related to additions, alterations and partial demolition of heritage buildings and structures. In his Section 42A Report, Mr McCutcheon noted several submissions seeking relief as follows:

- Delete reference to retaining the main determinants of the architectural style or design of the building or structure<sup>105</sup>;
- Include reference to design in sub-policy 1(d)<sup>106</sup>;
- Make specific provision for consideration of the viability of the building or structure with or without the work, and for the efficient, effective and safe functioning of parliament and the executive within the Parliamentary Precinct<sup>107</sup>;
- Clarify that sustainable long-term use includes adaptive reuse<sup>108</sup>;
- Remove blanket reference to the Heritage Design Guide and reference 'scheduled' heritage buildings and structures<sup>109</sup>;
- Reorder the content of the policy<sup>110</sup>.

220. We deal with the Heritage Design Guide and the policy provisions referencing it in Section 2.13 below. Addressing the other aspect of Kāinga Ora's submission, Mr McCutcheon did not consider that that amendment was necessary to refer to

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<sup>105</sup> Foster+Melville Architects Limited [#141.2]

<sup>106</sup> Council [#266.73]

<sup>107</sup> Parliamentary Service [#375.7-8]

<sup>108</sup> Argosy [#383.39]

<sup>109</sup> Kāinga Ora [#391.165]

<sup>110</sup> WHP [#412.47]

'scheduled' heritage buildings as the terms 'heritage building' and 'heritage structure' are defined in a way that links to the relevant schedules.

221. Mr McCutcheon also did not agree that reference to architectural style or design should be deleted on the basis that many buildings had been scheduled by reason of their architectural merit.
222. He agreed, however, with the Council's submission that design should be referenced in sub-policy 1(d), for reasons of consistency.
223. Mr McCutcheon did not recommend reordering the policy, observing that initial reference to sustainable long-term use was appropriate and that the balance of considerations are in no order of hierarchy.
224. We agree with Mr McCutcheon's reasoning on all of these points.
225. Mr McCutcheon did not consider that a specific provision for the Parliamentary Precinct was necessary, and he suggested an alternative approach to considering viability, recommending that sub-policy 1(a) reference ongoing functionality, in addition to sustainable long-term use.
226. We heard from two parties about the issues raised by this policy. Firstly, counsel for WCCT suggested amendments to this policy consistent with the Trust's support for facadism to be available only in exceptional instances, and for incorporation by reference of the ICOMOS NZ Charter and other policy documents and guidelines referenced in APP1.
227. Mr McCutcheon regarded the latter as problematic because the document can be updated at any time. That poses a legal hurdle that WHP did not address. Mr McCutcheon considered it more appropriate to include relevant Charter principles within the drafting of the PDP where appropriate and advised us that this had already been done. We agree with that reasoning. We were also unconvinced by the other suggested amendments to the policy. The suggestion, for instance that the integrity of all components of a heritage building or heritage structure be retained would have far reaching affect, cutting across the selective protection provided by the descriptions in Schedule 1.
228. We also heard from Mr Coop, giving planning evidence for Parliamentary Service. He continued to support specific reference to the Parliamentary Precinct in the policy. While we acknowledge the importance of the operation of Parliament and the

Executive, we remain unclear why the more general provisions supporting sustainable long-term use of heritage buildings and structures could not work perfectly adequately for the Parliamentary Precinct.

229. We record that Mr Coop noted that in consultation prior to notification of the PDP, he had suggested that it would be appropriate to have a Parliamentary Precinct Zone and he expanded on that issue verbally, referring us to the way Council had addressed the new Te Ngākau Civic Square Precinct.
230. On the latter point, we think that Mr Coop made a valid point. We struggled to understand the logic of treating the Parliamentary area differently from Te Ngākau Civic Square Precinct- why a precinct was appropriate for one but not the other.
231. However, Mr Coop did not provide us with the evidence that would have been necessary to justify a new precinct and Parliamentary Services' submission did not clearly seek such relief in any event. We therefore take that matter no further.
232. As regards the amendment Mr McCutcheon did suggest, while we have no difficulty with the concept of acknowledging the desirability of heritage buildings and structures having ongoing functionality, the amended policy wording could not in our view capture the close relationship between functionality and sustainable long-term use. We consider that it would be better expressed as follows:
- “a. Supports the ongoing functionality of a heritage building or heritage structure ~~having~~ so that it has a sustainable long term use.”*
233. HH-P14(1)(a) (related to Heritage Areas) has identical wording, and we recommend the same amendment be made to it as an out-of-scope change.
234. In reply, Mr McCutcheon noted that the reference in this policy and HH-P14 to advice from HNZ had caused some confusion. The intention was not that owners should have to seek advice from HNZ when places are not otherwise listed by it. He suggested an amendment to clarify that intention. We agree that this is a helpful clarification. Mr McCutcheon did not refer us to a submission seeking that amendment as relief either in this context or in relation to HH-P14 and so, for the avoidance of doubt, we recommend that change as an out-of-scope amendment to both policies.
235. In summary, therefore, save for the reworded sub-policy 1(a) as above, we accept Mr McCutcheon's reasoning and adopt his recommendations.
236. Notified HH-P8 addressed new buildings and structures, and modifications to existing non-scheduled buildings on the site of a heritage building or structure.

237. Mr McCutcheon noted a Council submission<sup>111</sup> seeking that reference be included to 'design' and 'heritage values'. Mr McCutcheon supported the first amendment but not the second. He considered that the latter was sufficiently addressed already. We agree with his reasoning on both counts.
238. Mr McCutcheon also noted a Kāinga Ora submission<sup>112</sup> seeking similar relief to that sought in relation to HH-P7. As above, we will deal with the design guide aspects of that submission in Section 2.13 below. Mr McCutcheon had the same response in relation to the request to add the word 'scheduled'. We agree with his reasoning in this context also.
239. In summary, we adopt Mr McCutcheon's recommendation that the sole amendment to HH-P8 made in response to these submissions is to insert the word 'design' in sub-policy 1(a).
240. As notified, HH-P9 addressed repositioning and relocation of a heritage building or structure.
241. In his Section 42A Report, Mr McCutcheon noted submissions seeking relief as follows:
- Using stronger wording to protect heritage values from inappropriate relocation<sup>113</sup>;
  - Add an additional reference to repositioning or relocation occurring only when it can be demonstrated that that work is undertaken in accordance with recognised conservation principles and methods<sup>114</sup>;
  - Reword to make the policy less subjective and in particular delete reference to the position as considered by Council<sup>115</sup>.
242. Mr McCutcheon considered in response to these submissions that the policy would be clearer if relocation were separated from repositioning and given its own policy. He agreed with the Council's submission that in both contexts, works should be undertaken in accordance with recognised conservation principles and methods.

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<sup>111</sup> Submission #266.74

<sup>112</sup> Submission #391.167

<sup>113</sup> HN2 [#70.15-16]

<sup>114</sup> Council [#266.75]

<sup>115</sup> Waka Kotahi [#370.166-177]

243. He also agreed with Waka Kotahi that it is inherent that the Council or alternative decision-maker will decide on a resource consent under this policy and that that does not need to be spelt out.
244. Lastly, he agreed that the policy direction could be further clarified by setting out the hierarchy of actions with relocation being the penultimate option before total demolition.
245. We note that Mr Raymond agreed with Mr McCutcheon's suggested approach to these matters in his planning evidence for HNZ.
246. We too agree with and adopt Mr McCutcheon's recommendations both to amend HH-P9, and to insert a new HHP10, which causes consequential renumbering of the subsequent policies.
247. The renumbered HH-P10 (now HH-P11) was addressed above, in the context of HPW's submission regarding demolition by neglect. Mr McCutcheon did not identify any additional submissions that needed to be addressed.

## **2.10 Heritage Area Policies**

248. Notified HH-P11 addressed the height of development in heritage areas. In his Section 42A Report, Mr McCutcheon noted submissions variously:
- Seeking amendment to the heading to refer to the height of development 'within' heritage areas<sup>116</sup>;
  - Seeking amendment to the policy as the form of development does not relate to the height of the building and the height of development should be conversant of the sites provided for in the zone<sup>117</sup>;
  - Seeking clarification that this policy only applies within heritage areas<sup>118</sup>;
  - Seeking amendment to the policy to allow heights up to six storeys in the Newtown Shopping Centre Historic Area provided increased height of new structures is set back from the street<sup>119</sup>.

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<sup>116</sup> Council [#266.76]

<sup>117</sup> Kāinga Ora [#391.169-170]

<sup>118</sup> Willis Bond [#416.60-61]

<sup>119</sup> Anna Kemble Welch [#434.7]

249. Mr McCutcheon agreed that both the policy title and the text should be amended so that they relate to development “*within heritage areas*”. We agree that this is a helpful clarification.
250. Mr McCutcheon disagreed, however, with Kāinga Ora’s submissions. He considered that the similarity of form, scale and style of buildings within heritage areas is a relevant consideration. He did not consider further amendment was necessary.
251. Ms Woodbridge suggested that amendment was desirable in her planning evidence for Kāinga Ora. In particular, if the word ‘setting’ were used, that would allow for consideration of the context of the heritage area within Centre Zones in light of the increased height provided for in the PDP (and sought in Kāinga Ora’s submission) and that rather than referring to form and scale, the policy should reference the identified values of heritage areas.
252. Her suggested rewording was accordingly:
- “~~Manage~~ Require the height of building development to recognise and respect the setting and identified values ~~unique form and scale of~~ heritage areas in the City Centre Zone, Centre Zones and the Waterfront Zone.”*
253. Responding in rebuttal, Mr McCutcheon preferred a more direct reference to form and scale since, in his view, this cuts to the core of what is being assessed, rather than a more general reference to heritage values. He noted that broader consideration of heritage values is addressed at the start of notified policy HH-P14.
254. More generally, Mr McCutcheon did not accept the implication of Ms Woodbridge’s evidence and suggested amendments that heights in heritage areas should be managed in light of greater heights outside those areas.
255. We also prefer Mr McCutcheon’s wording, regarding it as simpler and clearer.
256. Accordingly, we recommend that notified Policy HH-P11 (now renumbered HH-P12) is reworded to say:

***“Height of Development within Heritage Areas***

*Manage the height of development within heritage areas to recognise and respect their unique form and scale of ~~heritage areas~~ in the City Centre Zone, Centre Zones and the Waterfront Zone.”*

257. Notified HH-P13 addressed additions and alterations to, and partial demolition of buildings and structures within heritage areas. In his Section 42A Report, Mr McCutcheon noted submissions seeking as relief:
- Amendments including reference to ‘design’ for consistency<sup>120</sup>;
  - Clarification that sustainable long-term use includes reuse<sup>121</sup>;
  - Reordering of the content of the policy<sup>122</sup>;
  - Amendment to allow for essential earthquake strengthening in the Newtown Shopping Centre Historic Area<sup>123</sup>.
258. Mr McCutcheon agreed with insertion of reference to ‘design’ in sub-policy 1(d).
259. He did not consider that reference to reuse was necessary, noting that rules do not limit the use within buildings, only the extent and effect of modifications undertaken to enable them.
260. Mr McCutcheon did not consider that reordering of the policy content was necessary. Similarly, he did not recommend acceptance of Ms Welch’s submission noting that the policy already addresses the extent to which the work increases structural stability. He also referenced the enabling approach provided in HH-P4.
261. We agree with Mr McCutcheon’s reasoning on all of these matters and adopt his recommendation save that we consider that a minor grammatical addition is desirable to sub-policy 1(d) so that it would read:
- “Is compatible with the scale, form, proportion, design and materials that have been identified as forming part of the heritage values of the heritage area.”*
262. The only submissions on notified HH-P14 related to the cross reference to the Heritage Design Guide, and we deal with that in Section 2.13 below.
263. Notified Policy HH-P15 addressed repositioning of contributing buildings and structures. In his Section 42A Report, Mr McCutcheon considered it together with the following Policy (HH-P16), which related to total demolition of contributing buildings and structures.

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<sup>120</sup> Council [#266.77]

<sup>121</sup> Argosy [#383.41]

<sup>122</sup> WHP [#412.48]

<sup>123</sup> Anna Kemble Welch [#434.8]



264. Mr McCutcheon noted the following relevant submissions:

- Seeking stronger wording to protect heritage values from inappropriate relocation<sup>124</sup>;
- Align the wording for demolition of contributing buildings with a policy for demolition of scheduled buildings<sup>125</sup>;
- Amend the title of both policies to specify that they relate to buildings and structures “*within heritage areas*”<sup>126</sup>;
- Delete reference to Council consideration<sup>127</sup>.

265. Mr McCutcheon suggested that specific reference to the policies governing buildings and structures ‘within heritage areas’ would increase clarity. We agree in principle but, as will be seen shortly, it does have some consequential effects that need to be addressed.

266. He also agreed with Waka Kotahi’s submission for the same reasons as in relation to HH-P9. We likewise agree for the same reasons.

267. With reference to HNZ’s submissions, Mr McCutcheon did not necessarily agree that relocation of a building outside of a heritage area was any better or any worse than demolition, noting the point made earlier, namely that the effects assessment in this context is on the effects of the heritage area, rather than being solely focussed on the building or structure itself.

268. He also emphasised the difference in contribution individual buildings within heritage areas might make to the heritage values of the area. This reasoning prompted him to recommend that relocation be shifted from notified HH-P15 to HH-P16, so that it would be considered as akin to demolition, and be subject to the same tests.

269. Mr McCutcheon also recommended that the third criteria for relocation or total demolition should be reframed to focus on whether there are no reasonable alternatives.

270. We note that Mr Raymond agreed with Mr McCutcheon’s recommended reformulation of these policies in his planning evidence for HNZ. We also agree with

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<sup>124</sup> HNZ [#70.17-18]

<sup>125</sup> HNZ [#70.17] and [#70.20]

<sup>126</sup> Council [#266.78-790]

<sup>127</sup> Waka Kotahi [#370.168-171]

Mr McCutcheon's reasoning, but we identified two drafting issues that we considered needed further work. The first point was that revised Policy HH-P15 directed that repositioning not detract from the identified values of the heritage area, whereas revised Policy HH-P16 directed that there be no significant adverse effects on the identified heritage values of the heritage area. This appeared the wrong way round to us, if different tests are appropriate, and also inconsistent with Mr McCutcheon's agreement with HNZ's submission that relocation and total demolition should be seen as last resorts. In reply, Mr McCutcheon agreed that HH-P15 set too high a bar. He recommended that repositioning also have a test of 'no significant adverse effects'.

271. Secondly, because of the addition of the words "*within heritage areas*" to the policy title of revised HH-P16, the end result was that the title of the policy read:

*"Relocation... within heritage areas"*

This appeared to us to be the same activity as repositioning within heritage areas.

272. Again, addressing the point in reply, Mr McCutcheon agreed that there was an issue with the drafting, and recommended an amendment to the policy title so it made it clear that the revised HH-P16 relates to relocation "*outside of a heritage area*".
273. We note that the marked-up version of the Historic Heritage Chapter Mr McCutcheon provided to us did not capture this amendment. Accordingly, while we largely agree with what we understand to be Mr McCutcheon's recommendations for these two policies, now renumbered HH-P16 and HH-P17, for the avoidance of doubt, the wording we recommend (showing changes from the notified versions) is as follows:

***"HH-P156 Repositioning ~~and relocation~~ of contributing buildings and structures within heritage areas"***

*Only allow the repositioning ~~and relocation~~ of contributing buildings and structures within heritage areas where it can be demonstrated that:*

- 1. ~~The works are~~ It is necessary to save the contributing building or structure from damage or destruction from natural hazard risks; or*
- 2. ~~For repositioning within the heritage area, the works will not detract from the~~ There are no significant adverse effects on the identified values of the heritage area.; ~~or~~*
- 3. ~~Relocation outside of the heritage area is the only practical alternative to avoid total demolition. relocation is considered by Council to be a reasonable option.~~*

**HH-P167 Total demolition of contributing buildings and structures within heritage areas and relocation of contributing buildings to outside of a heritage area**

Avoid the relocation outside or total demolition of contributing buildings and structures within heritage areas unless it can be demonstrated that:

1. There are no significant adverse effects on the identified heritage values of the heritage area; or
2. ~~The works are~~ It is necessary to save the contributing building or structure from damage or destruction from natural hazard risks; or
3. There are no reasonable alternatives to relocation or total demolition. Alternatives to total demolition have been explored and total demolition is considered by Council to be a reasonable option. “

## **2.11 Historic Heritage Rules**

274. The first rule the subject of submission seeking amendment was HH-R3. Mr McCutcheon noted a Council submission<sup>128</sup> suggesting that HH-P5 (Conservation Plans) and HH-P6 (removal of unreinforced masonry chimneys) be added to the list of matters of discretion in respect of additions, alterations and partial demolition of heritage buildings and heritage structures. Mr McCutcheon also noted an Argosy submission<sup>129</sup> supporting the rule as notified, subject to amendments to HH-S1.1.(b).
275. Mr McCutcheon noted that the latter point is an aspect of Argosy’s submission in relation to new internal walls or floor levels visible from the exterior of heritage buildings which he had already addressed ( and which were the subject of our recommendations above). We accept his recommended new rule (numbered HH-R6) to address that issue in principle, but we asked Mr McCutcheon to consider whether external visibility posed too broad a test. In his reply<sup>130</sup>, he confirmed our assumption that the intention was to capture building changes that are visible from footpaths and adjoining streets. He was therefore comfortable that the rule title might be qualified accordingly.
276. We recommend therefore that the title of new HH-R6 be amended to read:
- “Works involving the creation of new internal floor levels or internal seismic strengthening of a heritage building that are externally visible from a public place”*
277. Returning to HH-R3, Mr McCutcheon agreed with the Council’s submission on the basis that the policies were relevant to the activity the subject of the rule. We concur,

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<sup>128</sup> Submission #266.80

<sup>129</sup> Submission #383.44

<sup>130</sup> At paragraph130

while noting that with the renumbering of policies, the policies now referenced are HH-P2, HH-P5, HH-P6 and HH-P7.

278. We observe that with the addition of new rules recommended by the Reporting Officer, the numbering of subsequent rules has changed. Notified Rule HH-R3 is accordingly, now HH-R7.
279. Another consequence of the insertion of new rules with Permitted or Controlled Activity status governing different alterations to heritage buildings and structures is that there is room for argument as to which rule applies. To resolve that we recommend that the rule title of what is now HH-R7 be amended as follows:

*“Additions, alterations and partial demolition of heritage buildings and heritage structures not falling under HH-R1 - HH-R6”*

280. In relation to notified HH-R4 (new buildings and structures on the site of heritage buildings and heritage structures), Kāinga Ora<sup>131</sup> sought that the rule not be subject to compliance with HH-S2. The practical effect would be to remove the constraint on the size and height of accessory buildings. Mr McCutcheon did not agree. He regarded the rule as already more permissive than most other District Plans, and noted that the standards were intended to allow garden sheds, other similar accessory buildings and fences, letterboxes etc. He did not consider amendment was warranted. We concur and note that in her planning evidence for Kāinga Ora, Ms Woodbridge did not pursue the matter further.
281. Notified Rule HH-R5 governed additions and alterations to non-scheduled buildings and structures on the site of heritage buildings and structures. Mr McCutcheon noted Kāinga Ora’s submissions<sup>132</sup> seeking that the reference to HH-S3 and consequently the limitation on modifications to less than 10% (where there are no additional storeys to the existing building) be removed. Mr McCutcheon accepted Kāinga Ora’s point that these matters could be managed by underlying zone provisions, but considered that without a specific rule and standard in the Historic Heritage Chapter, adverse effects on heritage building and structure values could occur. He therefore did not recommend removing the notified standards. We concur, and note that Ms Woodbridge did not pursue this matter in her evidence either.
282. We record, however, that the rule is now consequentially renumbered HH-R9.

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<sup>131</sup> Submission #391.174-175

<sup>132</sup> Submissions [#391.176-177]

283. In relation to notified HH-R7, Mr McCutcheon noted submissions from WHP<sup>133</sup> supporting the rule, subject to an amendment to remove HH-P6 as a matter of discretion. Mr McCutcheon considered that this submission was consequential on WHP's submission seeking deletion of HH-P6 which he had recommended be rejected. We have accepted that recommendation, and it follows that we likewise recommend rejection of WHP's submission on this rule. We note also that the submission is inherently flawed in any event, because if reference to HH-P6 were removed, there would be no specified matters of discretion, and therefore nothing that a decision maker could consider.
284. In relation to notified HH-R8 (now HH-R12 – relocation of heritage buildings and heritage structures beyond the existing site), the only submission was a Council submission<sup>134</sup> seeking amendments to include information requirements to accompany applications under the rule.
285. Mr McCutcheon recommended acceptance of the submission subject to editing of the suggested information requirements. We discuss information requirements in greater further in relation to renumbered HH-R13. Unlike that rule, we did not hear detailed opposition to the proposed requirements at the hearing, and we did not consider that the information requirements Mr McCutcheon recommended in this context created the same issues as there. We therefore accept his assessment that the revised information requirements will increase the administrative efficiency of the resource consent process and adopt his recommendation.
286. In relation to notified HH-R9 (now HH-R13 – total demolition of heritage buildings and heritage structures, the Council again sought<sup>135</sup> additional information requirements. Other submissions<sup>136</sup> opposed the mandatory public notification provision. Argosy's submission sought also that the number of Information Requirements be reduced to one (a detailed seismic analysis for earthquake prone buildings).
287. Mr McCutcheon supported the suggested information requirements, subject to editorial amendments, and recommended a further line item, consequential on his recommended amendment to Policy HH-P11 discussed above.
288. As part of her legal submissions, counsel for Argosy, Ms Tree, argued that the information requirements in this rule are potentially onerous and inappropriate. Ms

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<sup>133</sup> Submissions #412.49-50

<sup>134</sup> Submission [#266.81]

<sup>135</sup> Submission #266.82

<sup>136</sup> Argosy [#383.48] and Fabric Property Limited [#425.23-25]

Tree tabled an amended version of the information requirements for our consideration.

289. We asked Mr McCutcheon to respond to this criticism and he did so in his Reply<sup>137</sup> recording that the suggested requirements had been developed in consultation with the Council's resource consent team based on previous and current processing of consents under the ODP policy framework. He noted his view that it is more efficient to require information upfront rather than go through the Section 92 process, but that if the Panel were of the view that the requirements were overly onerous, the provision could be converted to an advice note to forewarn applicants about the nature of information that will likely be required. Mr McCutcheon suggested as a further alternative that the requirements be qualified so that they apply "*where relevant*". As he noted, however, that might have the effect of only postponing disagreement about the relevance of information to a Section 92 request.
290. We had a number of issues with this suggested information requirement. The first is that as Mr McCutcheon noted for a different purpose, there might be situations where a building presents an imminent threat to safety necessitating a truncated application process. His response to that was that Section 330 of the Act provides for emergency works. However, as we discussed with him, that section only authorises such works if undertaken by the Council (or a network utility operator), or at the Council's direction. A private building owner acting on their own initiative would need to apply for a consent. Mr McCutcheon acknowledged that the rule was not intended to apply to such a situation. If that is the case, we think that needs to be made clear.
291. Secondly, as regards the content of the information requirements, we had two concerns. The first and more general issue is that there was no clear line of sight visible to us between these information requirements and the matters made relevant by revised Policy HH-P11. The latter poses a test as to whether "*it can be demonstrated that there are no reasonable alternatives to total demolition*" and specifies a number of possible alternatives that need to be covered off. It was not immediately obvious to us how an assessment of market demand and pricing for comparable buildings and floor space, or a valuation of the building following completion of works and the financial return on investment expected would bear on that question.

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<sup>137</sup> Paragraphs 56-59

292. In addition, a number of the mandatory information requirements would apply in some situations, but not others. A requirement to provide costings of the works required to increase seismic resilience would not be relevant if seismic hazards are not a factor in the intention to demolition.
293. There are other flaws in the drafting that we noted. It is difficult to understand the point of a valuation of a building following completion of works when the rule relates to total demolition. Following completion of the works, there will be no building left to value.
294. Likewise, the requirements talk of increases in seismic resilience, while leaving it open as to what increases might be assessed.
295. The addition Mr McCutcheon recommended corresponding to his recommended amendment to HH-P11(1) is also problematic. He proposed a requirement worded:

*“Information detailing the history of regular maintenance and repair undertaken on the building or structure.”*

296. We struggle to understand why the focus is solely on ‘regular’ maintenance and repair. We would assume that irregular maintenance and repair activities are equally relevant.
297. More substantively the revised policy wording has a precondition:

*“...where poor building condition is a factor in the intention to demolish.”*

298. That qualification has not been carried over into the information requirement.
299. For these reasons, we recommend a substantial amendment to the structure and content of this rule. While we could attempt to redraft it in a way that would be satisfactory for a mandatory information requirement, we are concerned that there may be scenarios that we cannot currently foresee.
300. We prefer the option that Mr McCutcheon put to us of an advice note of matters the Council is likely to require.
301. Our recommended revision of the rule on that basis, reads as follows:

“Advice Note:

Applicants for resource consent under this rule should note that the Council will likely require information to be provided supporting the application, as follows:

~~Section 88 **information requirements** to accompany applications for total demolition of heritage buildings and structures:-~~

~~An application under this rule for the total demolition of heritage buildings and structures must be accompanied by:~~

- ~~1. Where poor building condition is a factor in the intention to demolish, information detailing the history of maintenance undertaken on the building or structure;~~
- ~~2. A Heritage Impact Assessment for the total demolition of a building;~~
- ~~3. Where seismic hazard risk is a factor in the intention to demolish:
  - ~~a. A detailed seismic analysis (DSA) where the building is identified as earthquake prone, and a detailed description and methodology of the works required to increase seismic resilience to an acceptable standard, provided by a suitably qualified structural engineer; and~~
  - ~~b. Costings of the works required to increase seismic resilience provided by a suitably qualified quantity surveyor~~~~
- ~~4. Where the building is identified as being beyond repair, a condition survey report of the building provided by a suitably qualified professional;~~
- ~~5. Costings of the works required to increase seismic resilience provided by a suitably qualified quantity surveyor~~
- ~~6. Estimates of contributions that are available, including funding, grants, consent fee reimbursement and rates relief; if the building/ structure is not demolished;~~
- ~~7. An assessment of market demand and pricing for comparable buildings and floor space;~~
- ~~8. A valuation of the:
  - ~~a. Building following completion of works; and~~
  - ~~b. Financial return on investment expected upon completion of the works;
    - ~~i. Depending on the proposal this could be by way of lettable income on floorspace as well as forecast sales price; and~~~~~~
- ~~9. An assessment of alternatives to total demolition that have been considered by the applicant, including options for seismic strengthening, reuse, or restoration where applicable, and evidence demonstrating why none of these are reasonable, including detailed cost comparisons of the identified alternatives with the estimated net return to the owner if demolition proceeds.~~



*The Council will likely obtain a peer review by a suitably qualified professional of the information provided by the applicant.”*

302. Argosy’s submission provides scope for most of the changes we have recommended, save for the information requirement around detailed seismic analysis. To the extent that we have qualified that requirement, we recommend that change as an out-of-scope amendment.
303. The other aspect of the rule that we need to address are the submissions opposing mandatory public notification. Mr McCutcheon regarded this as justified, given the policy focus on total demolition being a last resort, and the fact that historic heritage is a matter of national importance.
304. We agree with that analysis, as far as it goes. However, for the reasons set out above, we consider that there needs to be an exception when application is made in case of emergency. We therefore recommend that the notification status statement be amended to read:

*“An application for a resource consent made in respect of HH-R13 must be publicly notified other than in cases of emergency where there is an immediate risk of loss of life, injury or serious damage to property.”*

305. Turning to notified HH-R11, Mr McCutcheon noted Council submissions<sup>138</sup> seeking reference to additional policies under the matters for discretion.
306. In addition, Kāinga Ora<sup>139</sup> sought clarification of the rule to reflect that the associated standard does not apply to non-heritage buildings. Mr McCutcheon noted also a submission from WHP<sup>140</sup> seeking that the approach to works should be based on the heritage values of the place, not what zone the place is in, and to ensure that there are no different considerations depending on the zone, and from Peter Fordyce<sup>141</sup> seeking that pre-1930s dwellings in heritage areas have increased demolition protection.
307. Responding to these submissions in his Section 42A Report<sup>142</sup>, Mr McCutcheon noted that the rule manages additions, alterations and partial demolition of both contributing buildings and structures and non-heritage buildings within heritage areas. As regards the latter, he told us that the purpose of managing those works is to

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<sup>138</sup> Submission #266.84-85

<sup>139</sup> Submission #391.178

<sup>140</sup> Submission #412.51

<sup>141</sup> Submission #431.6

<sup>142</sup> At Section 4.7.11.2

recognise that additions and alterations to non-heritage buildings can have adverse effects on heritage values, for example, from increases in height or changes to design, material and form.

308. Mr McCutcheon noted further that the effect of making the permitted activity rule subject to compliance with HH-S1 is that internal works to non-heritage buildings and structures, and internal seismic strengthening to contributing buildings are both permitted, and that the addition of new internal floor levels and walls is a restricted discretionary activity.
309. Mr McCutcheon agreed with Kāinga Ora that there was room for clarification of the application of the rule. He did not agree, however, that any modifications to non-contributing buildings should be permitted.
310. As regards Argosy's submission, Mr McCutcheon noted that if accepted, it would have the effect of making additional internal floor levels and walls permitted alongside internal seismic strengthening.
311. Consistent with his recommendations in relation to submissions on HH-P3, Mr McCutcheon recommended that internal works to buildings in heritage areas be a permitted activity.
312. Responding to WHP's submission, Mr McCutcheon explained the rationale for separating the rule by zones. In his view, the end result was clearer and more effective. Consideration of WHP's submission, however, prompted him to recommend that reference should be added to HH-P4 in relation to activities within the CCZ, Waterfront and Centres Zones. We note that Ms Mulligan and Mr Kelly accepted Mr McCutcheon's explanation when they appeared at the hearing.
313. Mr McCutcheon noted in respect of Mr Fordyce's submission that the PDP proposed new heritage areas, and the issue of protecting buildings built prior to 1930 have been addressed in Stream 2.
314. Lastly, in relation to the Council's submission, Mr McCutcheon recommended that some of the suggested additional policies be added as matters of discretion for reasons that he set out in his Section 42A Report.
315. In the result, therefore, Mr McCutcheon recommended that the permitted activity step of notified HH-R11.1 be deleted, and new rules governing the relevant activities substituted, together with amendments to introduce additional matters of discretion

for the reasons he had already discussed. We accept Mr McCutcheon's reasoning and largely adopt his recommendations, with two qualifications. The first is that the suggested new Rule HH-R17 should be amended in the same way that we have recommended in relation to HH-R6, that is to say that it should read:

*“Internal works to all buildings, including works involving the creation of new internal floor levels or internal seismic strengthening that are externally visible from a public place.”*

316. Secondly, because there are now a number of other rules ascribing permitted and controlled activity status to activities that involve additions, alterations and partial demolition of buildings and structures within heritage areas, the title to now renumbered HH-R19 should have, on the end, *“not falling within HH-R14-HH-R18”* to make the interrelationship between these various rules clear.
317. Notified HH-R13 related to new buildings and structures within heritage areas. Mr McCutcheon noted submissions as follows:
- Suggesting a minimum size to allow for small structures in heritage areas<sup>143</sup>;
  - Suggesting deletion of reference to HH-S2<sup>144</sup>;
  - Amendments to the rule so that it is based on the heritage values of the place, not what zone it is located in<sup>145</sup>;
  - Preclusion of public notification where the rule defaults to restricted discretionary activity status<sup>146</sup>.
318. Mr McCutcheon noted what appeared to be an error in the Council submission relief. He therefore only accepted the Council's reasoning in part, insofar as it would permit structures that are associated with the legal road, structures not exceeding 1.5 metres in height or a lamp post.
319. Mr McCutcheon disagreed with Kāinga Ora's submission for the same reasons as in relation to HH-R4.

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<sup>143</sup> Council [#266.86]

<sup>144</sup> Kāinga Ora [#391.180-181]

<sup>145</sup> WHP [#412.52]

<sup>146</sup> Willis Bond [#416.64-65]

320. Mr McCutcheon had a similar response to WHP as in relation to HH-R11. Again, we note that Ms Mulligan and Mr Kelly accepted that explanation.
321. Lastly, Mr McCutcheon did not agree with Willis Bond's suggestion that public notification be precluded. He considered it was appropriate that the tests under Section 95 of the Act should apply.
322. The tabled statement for Willis Bond sought to reinforce its submission, noting that due to sensitivities in heritage areas, Council decision-makers would be pressured towards public notification, even though public notification is not likely to yield any additional useful information.
323. Willis Bond proposed a more limited public notification preclusion if the height standards in HH-S4 are achieved.
324. We agree with Mr McCutcheon that a public notification preclusion cannot be justified in this situation. We have considered the more limited position proffered by Willis Bond, but we do not consider that would be appropriate either. While height is obviously an important issue, it is not the only issue for new buildings within heritage areas.
325. We therefore agree with Mr McCutcheon's reasoning and his recommendation that renumbered HH-R21 is amended to enable permitted structures in all zones with the standards included within the rule, and therefore deleting the requirement for compliance with HH-S2 (and that standard).
326. Notified HH-R15 related to relocation of contributing buildings and structures to a location out of a heritage area. The only submission seeking amendment to it noted by Mr McCutcheon was a Council submission<sup>147</sup> seeking to include information requirements.
327. Mr McCutcheon noted his previous recommendation as regards the balance between repositioning, relocation and total demolition in the rules related to heritage buildings and structures. For the same reasons, he suggested that this rule address both total demolition and relocation. As he noted, notified Rule HH-R16 would be deleted in consequence. The Council had made a parallel submission<sup>148</sup> seeking information requirements. Mr McCutcheon noted a submission from Peter Fordyce<sup>149</sup> also in

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<sup>147</sup> Submission #266.87

<sup>148</sup> Submission #266.88

<sup>149</sup> Submission #431.7

relation to that rule, seeking increased demolition protection coverage for pre-1930s dwellings.

328. Mr McCutcheon's response to Mr Fordyce's submission was the same as in relation to notified HH-R11. We accept his reasoning and his recommendation in that regard.

329. As regards information requirements, Mr McCutcheon recommended a set of information requirements largely but not entirely duplicating those he recommended in relation to notified HH-R13. We have dealt with the matter at some length in that context, and we have the same view about information requirements under this rule. Some of the information requirements also need to be amended further to fit the context and to align with renumbered HH-P17. In summary, we recommend that they be converted to an advice note, with the content amended to read:

"Advice Note:

Applicants for resource consent under this rule should note that the Council will likely require information to be provided supporting the application, as follows:

1. A Heritage Impact Assessment that evaluates the potential effects on the heritage values of the heritage area resulting from demolition of the building or structure or its relocation outside of the heritage area, as applicable;
2. Where seismic hazard risk is a factor in the intention to demolish or relocate:
  - a. A detailed seismic analysis (DSA) and a detailed description and methodology of the works required to increase seismic resilience to an acceptable standard, provided by a suitably qualified structural engineer: and
  - b. Costings of the works required to increase seismic resilience provided by a suitably qualified quantity surveyor
3. Where the building is identified as being beyond repair, a condition survey report of the building provided by a suitably qualified professional;
4. Estimates of contributions that are available, including funding, grants, consent fee reimbursement and rates relief; if the building/ structure is not demolished;
5. An assessment of alternatives to total demolition or relocation that have been considered, including options for seismic strengthening, reuse, or restoration where applicable, and evidence demonstrating why none of these is considered reasonable, including detailed cost comparisons of the identified alternatives with the estimated net return to the owner if demolition or relocation proceeds."

330. Notified Rule HH-R20 relates to alterations to enable building access in a specific property on The Terrace (The Braemar Building). WHP<sup>150</sup> opposed the rule. Mr McCutcheon noted in his Section 42A Report<sup>151</sup> that this rule reflects the consent order made in Environment Court proceedings in 2008. He did not propose that the consent order outcome be relitigated through the PDP process and recommended that the established outcome be rolled over.

331. We concur and note that WHP did not pursue the matter when it appeared.

## **2.12 Historic Heritage Standards**

332. HH-S1 as notified set out standards for permitted additions, alterations and partial demolition. Mr McCutcheon noted submissions from Argosy<sup>152</sup> and from WHP<sup>153</sup> raising issues which overlap with his consideration of submissions on notified HH-P3 and HH-P11. He made corresponding recommendations on the standard. In addition, Mr McCutcheon recommended that the standard be deleted and its contents, modified to reflect his recommendations being incorporated in the relevant rules. We agree both with Mr McCutcheon's reasoning and adopt his recommendation.

333. Notified standard HH-S2 related to new buildings and structures on the site of heritage buildings or structures and on sites within heritage areas. Mr McCutcheon noted submissions from Wharenui Apartments<sup>154</sup> opposing the standard and seeking its amendment to allow the development of new buildings on sites of heritage buildings, and from Kāinga Ora<sup>155</sup>, seeking an amendment to remove the size and height limits for accessory buildings.

334. Again, Mr McCutcheon noted the overlap in issues with notified Rule HH-R13.

335. Based on Ms Smith's advice, he recommended that rather than amend the rule, the spatial definition of the Wharenui Apartment site should be amended. We address that suggestion further in Section 2.16.3 below.

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<sup>150</sup> Submission #412.53

<sup>151</sup> At Section 4.7.19.2

<sup>152</sup> Submission #383.52

<sup>153</sup> Submission #412.54

<sup>154</sup> Submission #358.1-2

<sup>155</sup> Submission [#391.182-184]

336. Again, Mr McCutcheon recommended as a matter of drafting structure that the standard be deleted in its content, modified to fit the context, be incorporated into the relevant rules.
337. We accept Mr McCutcheon's reasoning and adopt his recommendations in this regard.
338. There were no submissions seeking amendment to notified Standard HH-S3, but Mr McCutcheon recommended the same drafting change as with the two previous standards. The change is not substantive and, in our view, provides greater clarification. We agree, therefore, with Mr McCutcheon's recommendation.
339. Notified Standard HH-S4 sets out minimum and maximum heights for heritage areas in the City Centre Zone, Centres Zone and Waterfront Zone. Mr McCutcheon noted submissions from Parliamentary Service<sup>156</sup> seeking clarification as to where the specified height limits for the Parliamentary Precinct apply, and from Kāinga Ora<sup>157</sup> seeking amendments to align with Residential and Centre Zone height and HIRB standards.
340. Mr McCutcheon's discussion of these submissions in his Section 42A Report<sup>158</sup> explained the way in which the height standards were intended to operate, and the fact that they represented both a clearer and less restrictive approach than the ODP.
341. He recommended the description of the Parliamentary Precinct Area within which one set of height limits applied (currently described as between Parliament Buildings and Museum Street) be amended. Mr Coop advised as part of his planning evidence for Parliamentary Service that he agreed with that recommendation. We have no basis to disagree with it and accept it.
342. As regards Kāinga Ora's submission, Mr McCutcheon disagreed with the basis for the submission, noting that development at levels outside HH-S4 is not prohibited, but rather subject to assessment in the context of Policy HH-P11. He referenced his reasoning in relation to that policy, which we have accepted. We accept also his recommendation that no further amendment is required to this rule in response to Kāinga Ora's submissions.

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<sup>156</sup> Submissions #375.9-10

<sup>157</sup> Submissions [#391.185-186]

<sup>158</sup> Section 4.8.4.2

343. Under this heading, Mr McCutcheon also addressed the submission of Anna Kemble Welch<sup>159</sup>. Although, as noted above, that submission was directed at notified HH-P11, it goes directly to height limits in the Newtown Shopping Centre Heritage Area. Ms Kemble Welch sought an amendment to allow heights up to 6 storeys provided that the street frontages are retained and the increased height is set back from the street. Mr McCutcheon noted that the notified maximum height for this heritage area was 12 metres, which might be considered somewhat low given that the ODP provided a 18 metre height limit.
344. Mr McCutcheon took into account also the LGWM process, identifying a mass rapid transit option from Wellington Rail Station to Island Bay via Newtown that was being progressed concurrently, along with the direction provided by Policy 3(d) of the NPSUD. These considerations prompted him to recommend an amended maximum height limit of 18m. HNZ opposed that increase. Dr Jacobs gave evidence that the heritage area is typified by Victorian and Edwardian commercial buildings, with the uniformity of architecture and form. He considered that an increase to 18 metres would have a detrimental effect on the heritage value. The Council's own heritage adviser, Ms Smith concurred.
345. We have a number of issues with Mr McCutcheon's recommendation. The first is that Ms Kemble Welch's submission did not seek an unconstrained increase to the Newtown Heritage Area height limit. Mr McCutcheon's recommended relief is out of scope, insofar as it would provide for 18 metre buildings at the street frontage.
346. While that might be overcome with an out-of-scope recommendation, it seems to us that Mr McCutcheon has not taken account of the most significant thing in this context, being the effect on heritage values. The evidence of the experts is clear in that regard.
347. While NPSUD Policy 3(d) provides important direction, that is subject to consideration of what heights are necessary in order to address the heritage values the heritage area seeks to protect.
348. Nor do we think that the possible desirability of increased intensification on Riddiford Street to facilitate LGWM weighs particularly heavily in the balance. As Mr McCutcheon noted, the initial decision favouring a Newtown route was for the purpose of proceeding to a business case. To say there is a lot of water to go under

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<sup>159</sup> Submission #434.7



the bridge before a mass rapid transit service through the heritage area is a reality is an understatement<sup>160</sup>. The option is of course always open to Council to initiate a Plan Change when and if plans for rapid transit services through the area are more advanced.

349. We have considered Ms Kemble Welch's actual relief as an alternative to the amendment Mr McCutcheon recommended. However, it seems to us that this is exactly the sort of variation from a height limit that should be considered on a case-by-case basis in a resource consent setting.
350. In summary, we do not recommend an amendment to the Newtown Heritage Area height limit.
351. We note that during our review of notified HH-S4, we noted that the first line item relates to the "*BNZ Centre*". We queried Mr McCutcheon as to whether this is a correct description of the heritage area in question. He agreed that it should be relabelled 'BNZ/Head Offices Heritage Area'. We concur. This is not a substantive amendment.
352. Mr McCutcheon considered whether it was appropriate to delete the standard and absorb the detail into the rules, as he had recommended with other standards. However, in his view, this particular standard was too complex to allow that outcome. We concur. As a result, this standard needs to be renumbered HH-S1. The only amendments to it from the notified version are the change to the description of the 'BNZ Centre' and the amendment Mr McCutcheon recommended to the description of the Parliamentary Precinct location.
353. There were no submissions on the final three standards but, as with HH-S1-S3, Mr McCutcheon recommended that they be deleted, and their content absorbed into the relevant rules. We agree with that recommendation for the same reasons as set out above.

### **2.13 Heritage Design Guide**

354. The Heritage Design Guide is one of a number of design guides that forms part of the District Plan. In Report 2A, at Section 6, the Hearing Panel discussed the issues that it identified with the Residential Design Guide, the process that it directed to review

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<sup>160</sup> Announcement of the new Central Government's intention to terminate LGWM tends to reinforce that view.

that and other design guides, and the recommendations it received and considered as part of the wrap-up/integration hearing.

355. While we directed that the Heritage Design Guide might be considered at least in part as part of that process, to promote consistency as between good design guides, ultimately we did not receive recommendations from the Council for its amendment arising out of that process.
356. We have considered submissions on the Heritage Design Guide on the same basis as the Hearing Panel arrived at in relation to the Residential Design Guide, namely that it should be retained in the District Plan if it is clear and adds value to the management of the relevant resources (in this case historic heritage), and not otherwise.
357. Consideration of that question logically precedes our consideration of the submissions on the content of the Heritage Design Guide summarised in Section 4.9 of Mr McCutcheon's Section 42A Report.
358. Consideration of that question also needs to occur in the context of consistent submissions from Kāinga Ora<sup>161</sup> that both the Heritage Design Guide and cross references to it in the body of the Historic Heritage Chapter be removed. Those cross references typically took the form of an instruction to consider the extent to which works "*fulfil the intent of the Heritage Design Guide*". That is the wording contained in notified HH-P7, HH-P8, HH-P13 and HH-P14.
359. We can state our conclusions relatively simply. While, as we have said, the review of design guides did not produce any recommendations brought back to us by Council in the wrap up/integration hearing, we did hear evidence in that hearing from Mr Heale for Kāinga Ora who drew our attention to the extent to which the Heritage Design Guide picked up outcomes and guidelines from the Residential and Commercial and Mixed Use Design Guides. He supported deletion of the Heritage Design Guide from the Plan.
360. Mr Heale's evidence prompted us to look afresh at the Heritage Design Guide and, in summary, we largely share his view. There is a lot of generic material in it that has little or nothing to do with management of heritage values. There are no specific guidance points or design outcomes related to retention of heritage values. To the extent that the Heritage Design Guide does contain material relevant to management

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<sup>161</sup>Submissions #391.165-168,,391.171-172

of heritage values, this is in the form of advice notes, against the background of very detailed policies that we have discussed already, managing those values.

361. Overall, our view is that the Heritage Design Guide in its current form adds little value to the management of historic heritage beyond the direction already provided by the policies in this chapter. We recommend that it be removed from the Plan and, in consequence, references to it in notified Policy HH-P7(1)(j), HH-P8(1)(c), HH-P14(1)(j) and HH-P15(1)(d) be deleted. We do not consider that Kainga Ora's associated relief in relation to HH-P14 is necessary. We accept Mr McCutcheon's reasoning in that regard.
362. Although we have recommended deletion of the Heritage Design Guide in its current form, we consider that there is a role for such a document if it is actually focussed on historic heritage. We recommend that Council give consideration to undertaking further work in this area with a view to re-inserting a restructured and better directed Heritage Design Guide in the Plan by way of a future Plan Change.

#### **2.14 Appendix 1 – Historic Heritage Advice Notes**

363. In Section 4.10 of his Section 42A Report, Mr McCutcheon noted three submissions on this Appendix. The first, from HNZ<sup>162</sup> sought that an additional sentence be added to the discussion worded:

*“Where the discovery [of a previously unrecorded archeological site] is of Māori origin the relevant iwi representatives will need to be notified.”*

364. That amendment was supported by TRoTR<sup>163</sup>.
365. The other submissions were from the Council<sup>164</sup>. They first sought clarification of the final sentence of the section addressing the ICOMOS NZ Charter and other policy documents and guidelines, and secondly sought amendment of the description of conservation plans to align with the definition in the ICOMOS NZ Charter.
366. As regards HNZ's submission, Mr McCutcheon did not initially support the suggested amendment. He noted that the Protected Objects Act directs that if any taonga te tūturu are found, the Chief Executive of the Ministry of Culture and Heritage must be notified. The Chief Executive then has the responsibility of notifying interested parties.

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<sup>162</sup> Submissions #70.36-37

<sup>163</sup> Further Submission #138.12

<sup>164</sup> Submissions 266.169-170

367. Mr Raymond addressed this point in his planning evidence for HNZ. He noted that the Protected Objects Act 1975 governs taonga te tūturu, but that that term does not include koiwi. Accordingly, discovery of the latter is not covered by the Protected Objects Act.
368. Mr Raymond gave evidence that best practice is that iwi authorities be notified if there are any archaeological discoveries of Māori origin, including koiwi.
369. Responding in his rebuttal evidence, Mr McCutcheon accepted Mr Raymond's reasoning and, with one exception, recommended that Mr Raymond's wording be adopted.
370. We accept Mr McCutcheon's revised position in principle. We had one concern: how lay people would know that remains are of Māori origin. We recommend a minor amendment to address that issue. As a result, we recommend that the final sentence of Appendix 1 be amended to read:

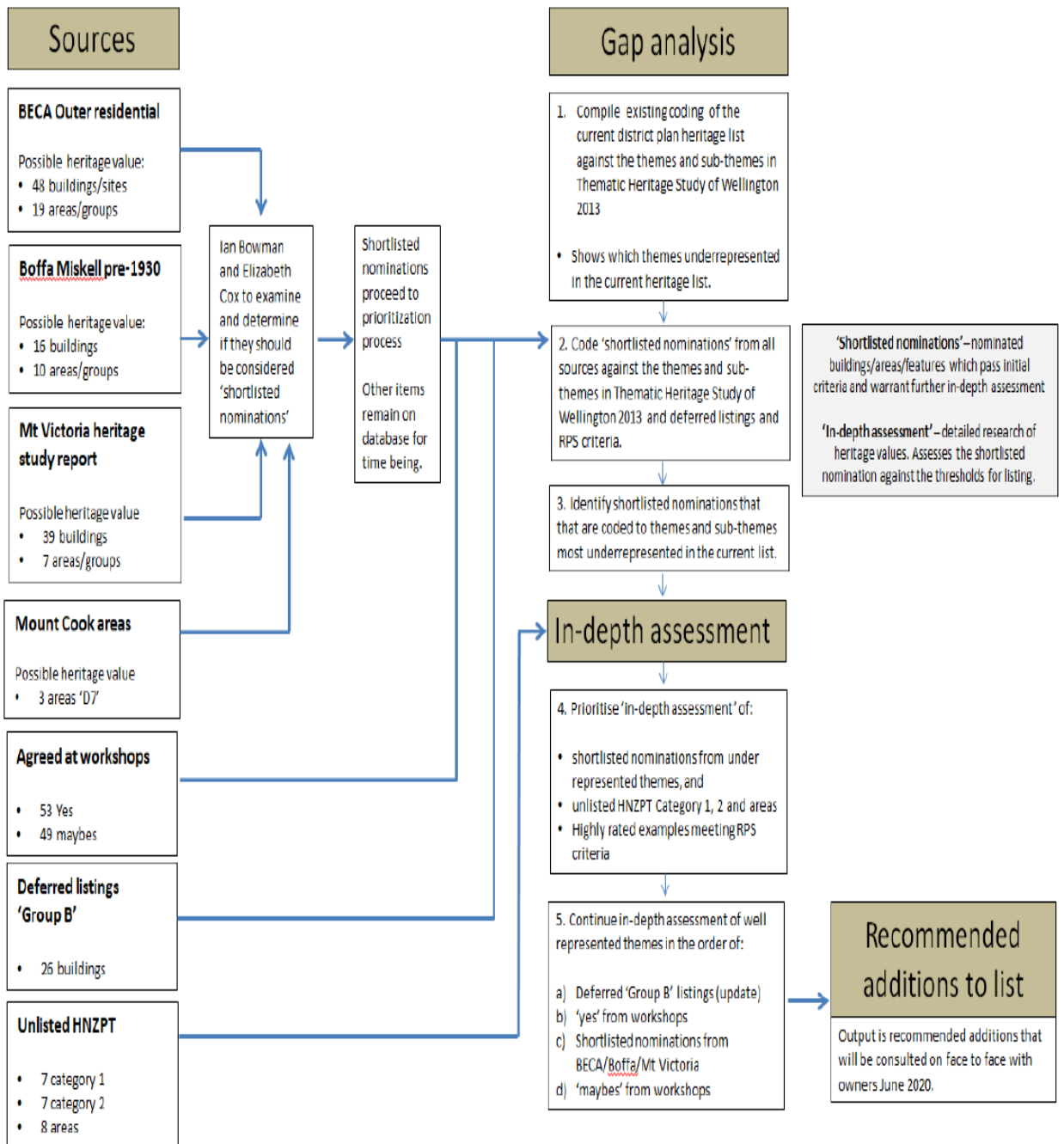
*"The Police will also need to be notified if any koiwi/human remains are revealed. Where the discovery is potentially of Māori origin the relevant iwi representatives will need to be notified."* ~~and if~~ *If any ~~artifacts~~/taonga te tūturu are found the Ministry for Culture and Heritage must be notified."*

371. Mr McCutcheon supported the amendments sought in the Council submissions. In his view they increase clarity around the ICOMOS Charter and the purpose of a conservation plan, which will in turn clarify the role of those documents for Plan users.
372. We accept Mr McCutcheon's reasoning and adopt his recommended amendments accordingly.

## **2.15 Introduction to Scheduling of Historic Heritage**

373. In his Section 42A Report, Mr McCutcheon provided us with background information on the methodology used to review and prioritise any new entries in the historic heritage chapter and schedule.
374. In general, he described the process as laid out in Ms Smith's evidence, and provided a 'Roadmap' that was used for the assessment as a guiding document. We include this Roadmap here since it is a helpful overview of the process followed.

# Shortlisting, gap analysis process and in-depth assessment process



375. In addition to various reports that were undertaken by consultants for the Council over the years, Council also maintains a 'Database' of properties, that has accumulated over the years, containing possible nominations for the heritage schedule.
376. In summary, a number of sources and previous reports contributed to the stock of properties that were then either shortlisted by Ms Smith and a consultant heritage expert, or were directly referred to the next step of gap analysis. Items that were on the HNZ list of heritage items proceeded directly to the pile for in-depth assessment. The shortlisted items were advanced to the gap analysis, while the ones that did not make the shortlist were put back into the Council's Database.
377. The gap list was then assessed according to the relevance of the properties to thematic categories, and the extent of already scheduled properties in this category, and other criteria. Typically, the properties that were associated with a category that had few properties in the schedule were prioritised over others of which an abundance of examples were already scheduled.
378. From there, a list of properties made it to the in-depth assessment pile. Ms Smith notes that in her view this process was a robust initial identification of properties. We agree with Ms Smith, and we have not identified any submissions that questioned the credibility of this first step. However, we record that in their submission, WHP thought that process was not taken far enough<sup>165</sup>.
379. What we also notice, is that the Database seems to have many hundred properties on it, and the PDP review would have been the right time to embrace as many of those properties if they had sufficient heritage value. We heard from Ms Smith, that the Database has been maintained for years, yet very little progress to work through it has been undertaken. This lack of continuous progress was caused through a limitation of resources and prioritisation of other tasks, we were told.
380. We asked Ms Smith what the average time is to undertake an assessment and she noted that an average timeframe is about 20 hours for writing an evaluation. There is some additional time needed for peer review. For a building or structure that has an existing report of some sort (e.g. council records or HNZ report) the timeframe is much less, around 8-12 hours. In our opinion, this is not an overly onerous time commitment. Ms Smith noted that about 60% of the proposed properties had an

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<sup>165</sup> Submission #412

existing report, many of them listings in the HNZ Heritage List, which council is required to have regard to, and which were prioritised.

381. In light of Ms Smith's and our recommendations in the following sections, to add further properties and areas to this Database to be assessed, we recommend to Council that it commit sufficient resources to this task to enable it to properly fulfil its statutory requirements under Section 6 of the RMA, and the RPS.
382. The next step in the process was the preparation of Historic Heritage Evaluations. This was undertaken primarily by a contractor based in Dunedin, who undertook desktop studies for a large number of the properties. This step, in our view, is a solid basis for ongoing research, and a good starting point for further assessment and investigation.
383. Around that time the Council also sent out letters to home owners to inform them of the Council's intent to schedule their building and provide for community engagement.
384. Ms Smith then based her recommendations in her evidence on the basis of these assessments. She reviewed the desktop studies provided and undertook visits to the streets where the properties are located.
385. Numerous submissions criticised the methodology used by Council<sup>166</sup>. We heard from many submitters that the assessments undertaken were flawed and inaccurate, overstated heritage values and did not reflect the lack of authenticity and integrity of buildings, were based on book contents and historic newspaper articles that are out of date, and do not reflect the values inherent in the buildings. They generally questioned the robustness of the evaluations and noted that no site visits were undertaken by Council's assessors to qualify their assessments.
386. Ms Smith countered that she did undertake site visits. However, they stopped short at the footpath. She did not enter any of the properties. We asked Ms Smith to respond in her Reply as to whether she considered that best conservation practice would include a site visit of the property to be able to assess its heritage values. She agreed that a site visit is good practice to assess the physical attributes. While this can be done by the author of the initial assessment or the peer reviewer, she considered, that a view from a public place is sufficient.

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<sup>166</sup> Submissions #3, #79, #161, #208, #412, #415,

387. We asked the same question of Kainga Ora's heritage expert, Ms Cassin, in the hearing, and she confirmed that a site visit to the property's interior and exterior is crucial for an assessment of a place as to its heritage values. We tend to agree with this view, noting that on our site visits, it was very obvious to us how much more one can appreciate when one visits the property. We also note that the level of assessment for a heritage scheduling is quite different from the inclusion of a building in a Character Precinct or Heritage Area for example where streetscape is a key factor.
388. In relation to the robustness of consultation with landowners, we heard from Dr Keir and Ms Cutten that the letters sent out by Council did not personally address an owner by name, but referred in general terms to the home owner. Dr Keir noted that such mail, in his view, could easily be classified as spam mail by recipients, and might be discarded. That is somewhat speculative, but Dr Keir may have a point. As far as we can see, this was the extent of community involvement, and some owners (possibly more than 'some') might therefore not have been fully aware of the processes undertaken by Council in respect of their properties. WHP and others<sup>167</sup> criticised the process and noted that there was not only a lack of involvement of property owners after the shortlisting of places, but the identification process itself lacked public consultation. WHP were of the view that the schedule does not necessarily reflect Wellington's important heritage.
389. We acknowledge this point, bearing in mind the many properties that submitters have proposed to be included in the heritage schedule and to Heritage Areas, based on their own, at times, extensive research. While our recommendations in the following sections accept that many of them might be good candidates to be included in the schedules, we were faced with an issue of natural justice, because owners will generally not have been aware of the potential for their properties to be added to a heritage register. In general, we have felt obliged to recommend these properties be entered on the Council's Database for further research and assessment where required, but for consultation with the owners in any case.
390. With respect to the submission questioning the assessments with regards to the property's authenticity, intactness, and condition, we asked Ms Smith to provide us with her view as to the impact the condition of a building or structure makes to its prospective scheduling and its evaluation regarding costs and benefits. In her Reply,

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<sup>167</sup> Submissions #226, #251, #393, #412, #458



she responded that condition is considered only as far as it affects the integrity of a place. She considered that a place can have significant integrity even if it is in poor condition. We agree. Very few would doubt the historic significance of the Acropolis or the Pantheon. However, in our view, these places are significant as ruins, not as heritage buildings. We note also that Ms Smith did not provide us with any insights in relation to the cost and benefit analysis required under the NPSUD and the statutory provisions directing its implementation.

391. Ms Smith compared public buildings, and the greater access and evaluation that can be achieved with these, and the evaluation of private properties, where her investigation stops at the street front. Reflecting on the submissions received from home owners, we believe that private homes need more rigour in their assessment, and justification for the regulation accompanying scheduling, considering the costs and benefits involved for the land owner for a place that can only be appreciated by the public from a public place. In contrast, a public building has a very different purpose to a private residence and provides much greater opportunity to be appreciated by said public.
392. In arriving at our recommendations, we have taken the condition of places into account in so far that we, for example, do not see value in the scheduling of a place that has a consent for demolition, or that is of such poor repair that the repairs required would take away a substantial part of a buildings' integrity and authenticity, and with that reduce its heritage values considerably.
393. With that introduction, we turn now to the submissions we received on specific heritage buildings, structures, areas, and sites, in that order.

## **2.16 Schedule 1 – Heritage Buildings**

394. A large number of submissions were received regarding the scheduling of individual heritage buildings. The submissions ranged from:
- Retain all scheduled buildings notified in Mount Victoria<sup>168</sup>;
  - General support for the schedule as notified<sup>169</sup>;
  - Retain specific individual properties<sup>170</sup>;

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<sup>168</sup> Submission #111

<sup>169</sup> Submissions # 155, #182, #233, #241, #251, #393, #412, #458

<sup>170</sup> Submissions #383, #425

- Include additional properties<sup>171</sup>;
- Remove properties from the schedule<sup>172</sup>
- Amend items in the schedule<sup>173</sup>.

395. The majority of submissions that supported the scheduling of historic heritage were also in support of each other. There was also a submission in opposition to additions to the schedule.

396. Dr Keir and Ms Cutten<sup>174</sup> opposed generic support for all new additions to the schedule. They stated that the original submitters did not undertake a detailed assessment of each proposed property, and therefore have no grounds for their requests.

397. We acknowledge the time and effort Dr Keir and Ms Cutten spent to present their submission to us. We also note that many submitters provided extensive research material on buildings that they requested to be included in the schedule. We consider, however, that general submissions of this ilk set the scene for a more detailed examination of each heritage listing proposed by Council, and by submitters.

398. We therefore accept Mr McCutcheon's recommendation not to amend Schedule 1 as notified in response to these general submissions.

### **2.16.1 General Support for Schedule as Notified for Specific Properties**

399. Argosy Property No.1<sup>175</sup> sought that three properties are retained as notified, namely 15 Stout Street, the Equitable Building and Investment Co. building and Stewart Dawson's Corner.

400. Fabric Property Ltd<sup>176</sup> sought that 22 The Terrace be retained in the schedule.

401. The reporting officer acknowledged these submissions and so do we. No changes are required with respect to the retention of those properties.

402. Rita Angus Cottage Trust<sup>177</sup> requested Cooper's Cottage (Item 470) be retained that the Historic Heritage Evaluation Report be amended, due to two errors. The report

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<sup>171</sup> Submissions #155, #182, #393, #412

<sup>172</sup> Submissions #, #106, #112, #144, #345, #428

<sup>173</sup> Submissions #70, #106, #266, #492, Further Submission #9, #91

<sup>174</sup> Further Submission #91

<sup>175</sup> Submission #383

<sup>176</sup> Submission #425

<sup>177</sup> Submission #494

stated that the cottage is listed with HNZ as a Category 1 place. However, it is a Category 2 place. In addition, the inventory of buildings and features table gives the building a status of 3. However, it should read Status 4. Mr McCutcheon acknowledged the errors in the report, but noted that this does not require any changes to the scheduling in the PDP. We disagree with his assessment in one respect. While we recommend that the Council records are corrected, we also recommend that Schedule 1 be corrected to reflect the its status as HNZ Category 2.

403. We turn now to discuss the merit of the submissions requesting the inclusion and removal of properties from Heritage Schedule 1 below.

### **2.16.2 Submissions seeking to Include New Items in Schedule 1**

404. Ms Smith noted in her evidence<sup>178</sup> that Council had received several nominations by owners of buildings in the submissions to the draft and PDP for items to be included in Schedule 1. Council undertook assessments where possible and identified three properties that reached the threshold for inclusion. The properties were not notified in the PDP, we assume for the lack of assessment at the time, but following assessment, Council suggested inclusion of 'Willow Grove' at 17 Parkvale Road in Karori<sup>179</sup>, and the 'Tea Rooms and Bakehouse' at 259 Mansfield Street in Newtown to Schedule 1.

405. The third property, the former 'Dobson House' at 61 Hankey Street in Mt Cook was submitted for inclusion by its owners Mr Hodgson and Mr Clarke<sup>180</sup>.

406. Ms Smith recommended that all three properties should be included based on their values. We note that Mr McCutcheon has not elaborated in his Section 42A Report on the matter. However, the Panel agrees with Ms Smith and recommends the inclusion of the three properties to Schedule 1.

407. Two Submissions from HPW and WCCT requested the inclusion of six additional buildings to Schedule 1, and Ms Ridley Smith supports these inclusions<sup>181</sup>. HPW provided extensive research with their submissions on the heritage values of the properties.

408. The properties included:

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<sup>178</sup> Statement of Evidence, Moira Smith on behalf of Wellington City Council, 5 April 2023, Section 7

<sup>179</sup> Submission #266.181

<sup>180</sup> Submission #86

<sup>181</sup> Submissions #182, #233, #390

- Wilkinson Holiday Flats, 5-7 and 9-11 Grass Street;
- Newman House, 15 and 17 Hawkestone Street;
- Samuel Brown House, 22 Hanson Street;
- Burns Upholsterer, 47-49 Martin Square; and
- Coffey House, 230 Oriental Parade.

409. Messrs Coffey and Young<sup>182</sup> considered the Salvation Army Citadel building on Jessie Street should also be included.

410. Ms Smith considered that the HPW research provides a solid basis for an HHE report to be undertaken by Council. She recommended that the Council undertake further research and assessment. We agree with Ms Smith's assessment and recommend the preparation of HHE Reports for those buildings to be included in the schedule through a later Plan Change if the HHE report supports listing.

411. As regards to the Salvation Army Citadel Building, we note that no assessment has been provided by the submitter to justify this inclusion. Ms Smith recommended further research and assessment by Council. We agree and recommend the inclusion in the Council's database for future prioritisation, and research and assessment if appropriate.

412. HNZ<sup>183</sup> has also nominated three properties which are already listed by HNZ inclusion in the Council's heritage schedule. We discuss these on a case-by-case basis.

#### Wellington Central Library

413. HNZ, and Wellington Civic Trust (**WCT**), supported by Willis Bond, HPW and WCCT<sup>184</sup>, sought that the Wellington Central Library be included in the heritage schedule, on the basis that the HNZ has listed the item as Category 1. Dr Keir and Ms Cutten<sup>185</sup> opposed its inclusion while the building is under construction for seismic upgrade.

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<sup>182</sup> Submission #347

<sup>183</sup> Submission #70

<sup>184</sup> Submissions #70, #388, #182, #233, Further Submission #12

<sup>185</sup> Further Submission #91

414. Ms Smith noted in her evidence that in her view, it is unclear whether the building will reach the threshold for inclusion as historic building after construction work is completed. She recommended the building not be included at this time, and encouraged Council to reassess its values after completion. We regard this as a sensible recommendation and concur with Ms Smith's view.

#### 1 Mersey Street, Hurston House

415. HNZ, supported by HPW and WCCT<sup>186</sup>, sought that Hurston House be included in the heritage schedule, on the basis that the HNZ has listed the item as Category 2.

416. This two storey timber villa was built in 1887, and while it has undergone alterations over time, it retains a high level of authenticity and integrity, according to Ms Smith. Ms Smith confirmed in her Reply that Council has sufficient information and assessment undertaken to schedule the building. However, Mr McCutcheon noted that while Council had been in contact with the occupants of the building, it had not been able to seek the owner's view. For that reason, he considered the building should not be included until a discussion with the owner has occurred.

417. We note that Mr Raymond for HNZ told us in the hearing, that according to the timetable provided by Mr McCutcheon in respect to consultation of owners of potential heritage buildings, they started that process in December 2020. The Draft District Plan was open for submissions from November 2021. HNZ submitted that Hurston House and McLean Flats should be included in Schedule 1. While Mr McCutcheon considered that there were tight time frames for consultation, Mr Raymond considered that Council had opportunity to consult based on their submission to the Draft District Plan, and there would have been time to consult with the owner, considering that the PDP was notified in July 2022.

418. That may well be correct, but it appears that that opportunity was not taken up, and Mr Raymond's evidence was that while HNZ had discussed the issue with the Sisters who occupy the house, they do not have authority to speak for the owner, and HNZ had not talked directly to the owner. In the circumstances, we agree with Mr McCutcheon that for reasons of natural justice, Hurston House should not be included

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<sup>186</sup> Submissions #182, #233

in the schedule. However, we recommend that the Council actively seek a discussion with the owner with a view to including it through a later Plan Change.

320A The Terrace, McLean Flats

419. HN<sup>187</sup>, sought that the McLean Flats be included in the heritage schedule, either in their own right, or as an extension of Item 299, Gordon Wilson Flats, on the basis that the HN has listed the two properties as a single Category 1 item in its list.
420. Ms Smith drew on the history of the two properties in relation to each other and noted that McLean Flats were most likely of sufficient heritage value for inclusion. However, she advised that the timing of events had prevented the property from being adequately assessed by Council and included in the PDP. As noted above, Mr Raymond for HN pointed out that HN had submitted to the Draft District Plan seeking to include this building, and Council could have taken the opportunity between November 2021 and July 2022 to assess the building in a timely manner for inclusion in the PDP.
421. Ms Smith recommended that the Council undertake an assessment as soon as practicable to confirm its value and to include the property through a further Plan Change. She expressed no preference whether it is included in its own right or as part of Item 299, Gordon Wilson Flats.
422. We asked during the hearing whether HN had undertaken sufficient research already to enable the Council to prepare an assessment of its own in due course. We found that even if the information researched by HN were sufficient for an immediate assessment by Council, we would be left without a Section 77J assessment, and would not be able to recommend inclusion in any case. Therefore, we agree with Ms Smith's recommendation that Council undertake the required work and recommend exclusion of the McLean Flats at this time.

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<sup>187</sup> Submissions #70

## Civic Centre Buildings

423. WCT<sup>188</sup> sought the inclusion of the Michael Fowler Centre (MFC), the Municipal Office Building (MOB), and the Civic Administration Building (CAB) to the heritage schedule. Willis Bond<sup>189</sup> opposed the inclusion of these properties.
424. The Civic Centre already includes two heritage buildings, the Wellington Town Hall, and the City Gallery Wellington (former Library).
425. The Civic Centre Heritage Area is proposed in the PDP to be replaced by the Te Ngākau Civic Square. To date the ODP has required additions and alterations to the non-heritage buildings in the Civic Centre to take the heritage values of the scheduled buildings into consideration. This consideration is not required to the same extent as the ODP, under the new Civic Square Precinct provisions. The focus now is on redevelopment. We discuss the Te Ngākau Civic Square separately in Report 4B.
426. Ms Smith provided summaries of the description of the three nominated buildings in her evidence, which we rely on. Suffice it to say that all three buildings are modernist buildings, in contrast to the Town Hall and City Gallery buildings. She noted that the MFC and MOB were identified as contributing buildings in the ODP. In Ms Smith's view, the CAB has not been in use long enough to warrant any form of protection, but the Te Ngākau Civic Square Precinct provisions and the heritage provisions HH-R3 (now HH-R7), HH-R4 (now HH-R8) and HH-R5 (now HH-R9) in the PDP will ensure that any changes to the CAB or a new building in its place will be appropriate.
427. While we concur that CCZ-PREC01-O2.1 may have some effect on development in the Te Ngākau Civic Square with regard to build form, it is unclear to us how this can be achieved through the heritage provisions. Firstly, former HH-R3 only relates to heritage buildings, and therefore is not applicable to the CAB. Former HH-R4 and R5 relate to new buildings, and additions and alterations to buildings that are on the site of a heritage building. We understand the CAB has its own site and is not located on the site of a heritage building, and with the changes to the Te Ngākau Civic Square Precinct, it is also not included in a Heritage Area. We consider that these rules have no effect as to the appropriateness of any changes with regards to the CAB.

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<sup>188</sup> Submission #388

<sup>189</sup> Further Submission #12

428. On the basis of her understanding though, Ms Smith recommended that only the MFC and MOB should be considered by Council for further research and assessment.
429. We note here that we have not received any evidence as to the heritage values of those nominated buildings, and in light of this, we agree with Ms Smith's recommendation for further work by Council.

### Mount Victoria

430. Submissions were received from Ms Newman, Mr Oliver and Ms Middleton, and the Mount Victoria Historical Society (**MVHS**)<sup>190</sup> seeking to include up to 15 new properties to the heritage schedule, which WCCT supported. They were:

- 13 Austin Street;
- 67 Austin Street,
- 17 Brougham Street
- 33 Brougham Street;
- 123-125 Brougham Street;
- 136/138 Brougham Street;
- 53 Ellice Street;
- 9 Hawker Street;
- 43 Hawker Street;
- 71 Hawker Street;
- 7 Paterson Street;
- 58 Pirie Street;
- 49 Porritt Avenue;

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<sup>190</sup> Submissions #85, #111, #214



- 23 Stafford Street; and
- 1 Tutchen Avenue.

431. We were told by Ms Smith that the properties at 53 Ellice Street and 67 Austin Street were part of the Mount Victoria Heritage Study and had already been assessed by Council. Ms Smith noted that the assessment resulted in identifying the two properties as not reaching the scheduling threshold.
432. We have received information to various degrees as to the heritage values of the remaining 13 properties. However, we agree with Ms Smith that the evidence base is not sufficient to include these properties in Schedule 1. However, we recommend that the buildings become part of the Council Database for future assessment and consideration. To that extent, we recommend these submissions be accepted in part.

### **2.16.3 Submissions seeking to Remove Items from Schedule 1**

#### Our Lady Star of the Sea Chapel and Stellamaris Retreat House (Item 120)

433. Wingnut PM Ltd<sup>191</sup> asked that Item 120 be removed from the schedule due to its lack of architectural merit, poor built quality, and repeated alterations. Five submissions opposed removal<sup>192</sup>.
434. Ms Smith assessed the historic buildings and structures on site as individually as well as collectively being of significance, and rejected the deletion. However, she conceded that buildings of later construction are also in the schedule that are of no heritage value. Mr McCutcheon agreed with her findings. Ms Smith's recommendation was to exclude those latter additions, such as the 1959 built convent, detached houses, and the swimming pool.
435. We did not hear from the submitter, but we consider that this might partially provide relief for the submitter, which seeks to futureproof the site for additional development. We agree with the Council officers that the historic buildings and structures on site should stay included in the schedule. We recommend therefore that the submission is accepted in part.

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<sup>191</sup> Submission #428

<sup>192</sup> Further Submission #9, #82, #111, #126, #128

### Gordon Wilson Flats (Item 299)

436. The modernist Gordon Wilson Flats are owned by Victoria University. The University's submission<sup>193</sup> requested the removal of the building from the heritage schedule. It reasoned that the Flats lack heritage value and are not usable in its current state, and that maintenance and repair would be very costly. Mr Sangster<sup>194</sup> also submitted that they should be removed. Neither submitter provided evidence to support their submission.
437. Two submissions opposed removal<sup>195</sup>, due to their listing as a Category 1 item on the HNZ Heritage List in 2021, and their unique attributes and history.
438. Ms Smith provided some background to the scheduling of the Flats in her evidence. We understand that the building was notified in PC81 (2016) for removal from the schedule. An Environment Court decision following that Plan Change found the building to have significant heritage values and ruled it should stay included.
439. Ms Smith more recently reviewed the Heritage Assessment for the building and concluded that the significant heritage values are still inherent in the building today. The Reporting Officer accepted Ms Smith's evaluation and advice to retain the building on the schedule.
440. Mr McCutcheon then pondered the question of what the best process would be to determine the future of the property, including its possible demolition if this became necessary, and found that a resource consent application is the most appropriate process.
441. We agree Mr McCutcheon's reasoning and recommend that the building remain on the schedule.

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<sup>193</sup> Submission #106

<sup>194</sup> Submission #112

<sup>195</sup> Further Submission #9, #82

### Johnsonville Masonic Hall (Item 366)

442. Ngatiawa Russell Masonic Lodge, The Coronation Lodge, Stephen Inzon, and Johnsonville Masonic Hall <sup>196</sup> requested the removal of the Johnsonville Masonic Hall from the schedule. JCA opposed removal<sup>197</sup>.
443. The reasons the submitters gave for removal were that the Hall was purpose built for the use of Freemasons, but is of no symbolic, cultural, or traditional value to the current local Masonic community. The Masons see the scheduling as reducing the development potential of the place and its commercial value.
444. In contrast, JCA believed that this is one of very few old protected buildings in Johnsonville, and that the spaces provided in the hall could potentially be of value to the wider community.
445. Ms Smith noted in her assessment that the Hall is one of the oldest surviving purpose-built masonic buildings in Wellington, is the only one that retained its use for over 110 years, and is the oldest surviving non-residential building in Johnsonville. Her recommendation was to retain the building on the basis of its unique values. Mr McCutcheon agreed, and so does the Panel.

### 20 Austin Street (Item 471)

446. Mr McCutcheon noted that Mr Cooke<sup>198</sup> would like to see this property only included in the schedule if the surrounding buildings become part of the Character Precinct. This is because, in his view, the building has been considerably altered and its contribution to the character of the area is reliant on its surrounding buildings. MVHS opposed his submission<sup>199</sup>.
447. Ms Smith provided a review of the assessment undertaken for the property and noted that the building cannot be seen from its front. Only the buildings rear can be seen from the street. She also conceded that the heritage assessment was undertaken on the basis of a 1980s building consent, and that the actual extent of the building's

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<sup>196</sup> Submissions #345, 149, #177, #236

<sup>197</sup> Further Submission #114

<sup>198</sup> Submission #465

<sup>199</sup> Further Submission #39

authenticity and integrity is unclear. However, she recommended the building be included in the schedule, albeit with an amendment that refers to issues with the roof.

448. In contrast, we have been provided with detailed information from Mr Cooke, who has been living in the house for 23 years. He advised that considerable alterations have been undertaken, and in addition, the design of the roof provides at times for a leaky home, which, as above, Ms Smith acknowledged.
449. Mr Cooke was not convinced that the heritage scheduling of the building is warranted in isolation, particularly not if the surrounding area has no protection. We understand the primary relief he sought was to include his building and its surrounds into the Character Precinct for a more general protection of the area.
450. Mr McCutcheon noted that the area including 20 Austin Street and its surrounds has been included in the Mt Victoria Character Precinct, based on the recommendation of Mr Lewandowski. We discuss the extent of Character Precincts in Section 2B. It suffices here to say that we agree with the inclusion of this area in the Character Precinct.
451. As regards its inclusion in Schedule 1 of the PDP, we are doubtful whether the assessment undertaken for and by Council has provided a realistic picture of the actual existing heritage values, working off antiquated building consents, rather than visiting the site and the building. In the Panel's view, there is insufficient evidence from Council to justify the inclusion of 20 Austin Street in the heritage schedule. We also find Ms Smith's suggestion of reference to architectural detailing matters (leaking roof) inappropriate in the heritage schedule.

Former Primitive Methodist Church, 24 Donald McLean Street (Item 490)

452. Submissions<sup>200</sup> have been received to remove the Former Primitive Methodist Church from the schedule. Claire Nolan et al<sup>201</sup> opposed the removal, based on their submission seeking to include the area where the church is located in the Newtown Character Precinct.
453. The submissions seeking removal based their request on the fact that the owners would like to redevelop the site long-term for the use of the community, and a

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<sup>200</sup> Submissions #136, #144, #145, #181, #272

<sup>201</sup> Further Submission #68

scheduling of the place would hinder this aspiration. In their view, cost effective housing is a greater need in Newtown than more old buildings.

454. In her review, Ms Smith found that the church meets the threshold for inclusion due to its significant historical and architectural values, and its representativeness. Mr McCutcheon agreed with her assessment, and we have no evidence before us on which to disagree with their recommendation to retain this listing.

#### Robert Stout Building (Item 497)

455. Victoria University<sup>202</sup> submitted that the Robert Stout Building has insufficient heritage values to warrant inclusion in the schedule.
456. Ms Smith replied that the Historic Heritage Evaluation Report undertaken by Council found that the property has significant historic, physical and social values and is representative. Mr McCutchen agreed with her review and disagreed with its removal from the schedule. The University did not appear to support its submission. On the basis of the evidence received, we agree with the officers' assessment.
457. Ms Smith noted that the University's submission refers to the large site on which the Hunter Building and the Robert Stout Building sit, and she recommended a curtilage be included for the Robert Stout Building to match that of the Hunter Building. We have not found any reference to this in the University's submission. We are unsure therefore as to the basis on which Ms Smith recommended a curtilage around the Robert Stout Building.
458. While we agree with the retention of the building in the schedule, we note that Ms Smith's discussion of curtilage around buildings<sup>203</sup> does not reference the Robert Stout Building as relevant in her list at paragraph 128. We therefore disagree with the implementation of a curtilage based on the lack of evidence and assessment provided in that respect, and do not recommend that outcome.

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<sup>202</sup> Submission #106

<sup>203</sup> Statement of Evidence, Moira Smith on behalf of Wellington City Council, 5 April 2023. Section 2.6

### Penthouse Cinema (Item 505)

459. The owners of Penthouse Cinema, Wellington Amusement Holdings<sup>204</sup>, sought that Item 505 be removed from the heritage schedule, noting that the scheduled façade of the Cinema does not have sufficient heritage values to retain this part, and that required earthquake strengthening of this element is hampering the development of the remainder of the site.
460. Ms Smith provided background to the scheduling of the facade and the agreement that was reached in mediation with the owners previously. Ms Smith therefore recommended the scheduling of this part of the building, with which Mr McCutcheon agrees. He noted that the scheduling would allow for a reasonable balance of development potential and heritage protection at the same time.
461. While the arguments of the Council offered initially made sense to us, listening to the presentation the McLeod Family presented to us, we doubted the validity of the remaining heritage values in comparison with the constraints a new development would suffer, and the overall balance of costs and benefits that would result.
462. Facadism, as we heard from a number of submitters, including WHP and HNZ, retains marginal heritage values at best. We disagree with Mr McCutcheon and Ms Smith that the retention of that very small portion of the building (which consists mainly of the foyer) could convey the heritage significance the Cinema had. In our view, retention of a larger portion, including at least parts of the actual cinema space, would have been required to retain the significance of the Cinema. However, changes have been undertaken already to accommodate modern cinematography technical requirements, as we have been told.
463. We therefore prefer the view of the submitter that the scheduling of the façade should be removed from the heritage schedule. We recommend acceptance of their submission.

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<sup>204</sup> Submission #22.1

274 Oriental Parade – Wharenui Apartments (Item 509)

464. Wharenui Apartment Ltd is a leasehold company that owns the property. It requested<sup>205</sup> that the apartments be removed from the heritage schedule. In its view, the scheduling increases the costs and restricts the maintenance of the place. The submitter considered that the architectural significance of the apartments is overstated and does not warrant scheduling. It also considered that the back of the property has no heritage value and should be available for development.
465. This 1958 modernist building was found in its Historic Heritage evaluation by Council to have significant historic and physical values, and to be rare and representative.
466. While Ms Smith believed the property to have significant physical values, she agreed with the submitter that its historic and archaeological values have not been established as significant in the assessment. However, she concluded that the apartments meet the threshold for inclusion and Mr McCutcheon accepted the merits of this recommendation. We have not heard any evidence that would dismiss the Council's opinion as flawed. By contrast, Mr Leary appeared with representatives of the owners and advised that they accepted the apartments had heritage values. His principal focus was on the provisions governing repair and maintenance, which we have addressed at Section 2.3 of our report above.
467. As regards the relief sought in relation to the back of the property, Ms Smith considered the introduction of a curtilage for the site. She conceded that the car-park is a non-contributory building within the scheduled site, and suggested a curtilage as mapped in her evidence, and agreed to by the Reporting Officer. We also concur with her recommendation that the heritage listing be amended to define the mapped curtilage, but otherwise be retained. We therefore recommend the submission be accepted in part.

280 Oriental Parade – Olympus Apartments (Item 510)

468. Olympus Apartments<sup>206</sup> requested removal of 280 Oriental Parade from the schedule. They considered that the additional costs to maintain and improve the building they

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<sup>205</sup> Submission #358.3, #358.4

<sup>206</sup> Submission #473

see resulting from scheduling as concerning for their mainly retired and fixed income owners, and that the assessment has not sufficiently demonstrated any specific values of the place. In addition, they are proud owners of this attractive Art Deco building, but believe that the inherent values of the place are sufficiently protected through the internal building cross-lessee rules.

469. The Historic Heritage Report assesses the place as having significant historic, physical, and social values, and being rare and representative.
470. Ms Smith responded to the specific matters raised regarding the values of the place as assessed by Council and provided an explanation for the assessment including the fact that the apartments are highly authentic. We can only assume this is because of the good care the owners are taking of the place, in recognition of its overall values. We are not comfortable relying on the provisions of the cross lease, which are private arrangements as between the owners that can be changed with their agreement. We also note the recommendations we have made to make the provisions governing repair and maintenance more enabling.
471. Ms Smith as well as Mr McCutcheon recommended to retain the building on the schedule, and we agree with their recommendation.

#### 139 Park Road -Gas Tank (Item 511)

472. Two submissions<sup>207</sup> sought removal of the Gas Tank from the schedule. Their reasoning was that the space is required to expand space for crew members and increased workspace, and the existing tanks are rusty steel structures. The submitters considered that the increase in employment, economic capacity in Miramar, and financial burden on the owners should be weighed against the protection of heritage.
473. The concerns of the owner that the building cannot be adaptively reused were refuted by Ms Smith, noting a range of examples where in situations like this, adaptive reuse has been successful, and that the building already has been used adaptively since the 1990s.

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<sup>207</sup> Submission #364, #467



474. In her and Mr McCutcheon's view the building meets the criteria for inclusion in the schedule and they recommend it be retained. We agree with their assessment and reasoning.
475. Ms Smith also suggested, on the basis of the evaluation, that the entry in the schedule should be renamed to 'Miramar Installation Bulk Storage Tank'. We have no evidence in front of us that opposes this change, which we regard as a minor correction, and therefore agree with her recommendation.

28 Robieson Street – Toomath House (Item 514)

476. We received a very substantial submission from Dr Keir and Ms Cutten<sup>208</sup>, the owners of 28 Robieson Street, seeking to remove their house from the schedule. Several other submitters<sup>209</sup> also made this same request, which were all supported by Dr Keir and Ms Cutten.
477. Mr McCutcheon provided us with an equally thorough summary of the submission, and a detailed assessment of the submission points made by Dr Keir and Ms Cutten.
478. In short, in the submitters' view, the Council's process for the assessment and scheduling was flawed for a number of reasons, including that the Historic Heritage Evaluation Report was inaccurate, the interpretations of Council officers did not align with requirements under the RMA, and the heritage values of private properties were overrated in comparison with the costs and effects on the owners of the place. This they saw particularly true for modern heritage buildings. Scheduling of their building, so they asserted, would have a large number of adverse effects including potential risks, cost and stress to the owners.
479. We note that the panel members for Hearing Stream 3 have read all the information provided in the submission and prior to the hearing, have listened to a very thorough presentation of Dr Keir and Ms Cutten during the hearing, and have read all of the further information that was provided by the them after the hearing. In addition, the Panel members were invited to a site visit, which we undertook shortly before the hearing concluded.

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<sup>208</sup> Submission #415

<sup>209</sup> Submissions #141, #255 Further Submissions #16, #76, #91

480. We will not repeat the submission points in detail here, but rely on Mr McCutcheon's summary which we adopt. We note that we have addressed Dr Keir and Ms Cutten's objection to their submission being considered under the ISPP in Report 1A.
481. While we accept much of Mr McCutcheon's reasoning, where we part company with him is in relation to the question of whether the heritage assessment provides a solid basis for scheduling the building.
482. We acknowledge that the extensive material provided by Dr Keir and Ms Cutten also included a solid and detailed cost-benefit analysis. Criticism of the valuation assessment Dr Keir and Ms Cutten provided, by Mr Whittington in his legal submissions for Council, carries little weight in our view, given that the Council did not provide site-specific expert evidence to contradict it.
483. Ms Smith noted in her review that this 1964 constructed house was built for a well-known Wellington architect, William Toomath, and was awarded the NZIA Enduring Architecture Award in 2007. The assessment undertaken identified the Toomath House as having significant historic, physical, and social values. In her view, the building should remain scheduled. Mr McCutcheon relied on Ms Smith's assessment with regards to the heritage values of the place, and also recommended it remain in the schedule. He also rebutted the criticism of the Council process and its alignment with the RMA.
484. Dr Keir, however, told us that the Council's heritage assessment is incorrect in several instances and therefore cannot be relied on. This notion was repeated in the submission of Foster+Melville Architects. Ms Smith replied that she had reviewed the assessment and considered it an accurate assessment of the house. Ms Smith also undertook a visit to the street, and observed it from the public footpath. At the same time, she noted that a number of entries are incorrect in the evaluation, including that the name should read 'Toomath House (former)', the building's condition is not accurately described (she accepted Dr Keir's evidence on that), and the removal of internal fittings and furniture have not been taken into account in the evaluation of its significance. She accepted that the majority of the physical assessment of the house was concerned with its interior, which is excluded from the schedule in any case. She also noted that the assessment Council relied on, was a desktop study, relying on books and other printed documentation. We discuss that approach taken in Council's methodology in Section 2.15 of this report. In Ms Smith's view, the approach Foster+Melville took, to actually visit the site and observe the state of the building internally and externally, was more insightful. We agree.

485. We admit we were surprised that given the concessions Ms Smith made as to the shortcomings of the assessment, she still described the assessment as accurate.
486. We observed on our site visit, where we looked at the building from the streets/ footpath, but also viewed the inside and surrounding garden of the house that it is not possible to appreciate the place when just standing at the footpath. Very little of it is actually visible from this viewpoint, either from above or below.
487. We were also able to see the condition of the house, which due to water ingress, requires very obvious and extensive repair and maintenance. As an example, part of the bottom of a wall has rotted away, being covered with a tarpaulin from the inside, and the external cladding seems to be of materials that are unsuitable in this position. The timber is not treated and has weathered and deteriorated in many areas over the years, which is visible even for a lay person (such as us). Passing the plaque that was laid at the front door commemorating the 2007 Architectural Endurance Award seemed rather ironic to us, in light of this experimental and ill-fitted use of materials. Ms Smith explained in her Reply that it was awarded for the 'endurance' of the building's design that has, over 25 years, stood the test of time. We would have thought that this might have included consideration of building layout as well as material detailing.
488. Ms Smith commented in her evidence that the condition of a building does not necessarily say anything about the significance of the place. We agree with this view (refer our discussion of the point in Section 2.15 above), but we note that the repairs and maintenance required here will undoubtedly have an effect on the authenticity and integrity of the building, since the entire exterior cladding needs to be replaced with more suitable materials. This, we have been told by Ms Smith, will have an effect on the significance of the place.
489. Based on the evidence we received, and confirmed by our site visit, we are of the view that the owners, as well as Foster+Melville Architects, have a point when they question the robustness of the heritage assessment. We agree that the assessment is not sufficiently completed to objectively and accurately assess all the heritage values of the place. In light of the lack of evidence in that respect, and our acceptance of the uncontradicted valuation evidence the submitters produced, we recommend 28 Robieson Street be removed from the schedule.

79a Todman Street - Sutch-Smith House (Item 519)

490. The Shirley Smith Family Trust submitted<sup>210</sup> that the Sutch-Smith House should be removed from the schedule, due to the listing having a detrimental effect on the property value. The Trustees did not disagree that the house has heritage values, but they suggested that the family and their Trust are in a better position to protect its values than the Council via a heritage scheduling.
491. Ms Smith noted that the Historic Heritage Evaluation Report prepared for Council identified the building as being of significant historic, physical and social values, and that it is rare and representative. The place is noted as one of the largest and most awarded example of Austrian architect Ernst Plischke's work. Ms Smith recommended the retention of the place on the schedule, and Mr McCutcheon agreed with her advice.
492. We heard from Mr Luke, who was the architect that designed the plans for changes undertaken in 2002, and is also a Trustee of the Trust, that the building underwent comprehensive work including maintenance and repair, as well as additions and alterations. He presented us with images and descriptions as to the extent of the changes, and assured us of their appropriateness in relation to the heritage values of the place. Mr Luke described the alterations undertaken as '*...saving the house from self-destruction*' and noted that at the time, there was no resource consent required for any alterations. We heard that the building leaked from the start, and Mr Luke suspected that Mr Plischke had misinterpreted the climate in Wellington, with this large property sitting on the ridge of the Brooklyn hill, overlooking the sea on both sides.
493. In Mr Luke's view, the 2200 sqm land area has a market value that may entice a future property owner to demolish the building despite a scheduling, and suffer the penalties, for the prestigious location of the land. In his view, this would make heritage protection through scheduling ineffective. He noted that scheduling would devalue the place.
494. To better understand the values of the place, we referred to the evaluation report that forms part of Ms Smith's evidence. We note that Ms Smith in her evidence described the values, including social values, as significant. The evaluation report has not assessed this aspect. There are a number of other criteria that are described as not

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<sup>210</sup> Submission #187

assessed in the evaluation. Considering Ms Smith's comments on authenticity and integrity, and their effect on heritage values with regards to the Toomath House, we were interested on how the extensive changes undertaken in 2002 (as Mr Luke noted, without resource consent) might have affected the authenticity and integrity of this place.

495. We were more than a little surprised that the evaluation report noted that extensive refurbishment had been undertaken, but neither described the changes made, nor provided a discussion on the effects of these changes to the heritage values. It merely stated that *"The Sutch-Smith house was significantly refurbished in 2002 but maintains a high level of integrity to the original design, and its relationship with the garden and wider landscape remains intact"*<sup>211</sup>. No reasons were provided or evaluations were discussed.
496. We agree to a point with the submitter that the scheduling of the place may not provide the protection it seeks to afford in practice. More substantively, we question whether the assessment provided by Council is robust enough to allow for the inclusion of the place in the heritage schedule, and the protection of any heritage values inherent in it. We observe that Ms Smith's opinion is based partially on heritage values that have not been assessed, in as far as several other assessment criteria were also not assessed, and the fact that no proper assessment has been undertaken by Council to identify the authenticity and integrity of the building. This is against the background of our being told by Ms Smith that these criteria that are of great importance. We are also intrigued by praise for the architectural design, as with the Toomath House, in light of the building being described as leaking from the start.
497. We therefore agree with the submitter, that the heritage values of the place will be better protected by the Family Trust that respects the place, than by a scheduling that is based on insufficient information and assessment. We recommend the Sutch-Smith House be removed from the schedule.
498. We note that if the council should prepare a more comprehensive assessment in the future that this matter can be revisited through a future Plan Change.

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<sup>211</sup> Historic Heritage Evaluation, Sutch-Smith House, 79a Todman Street , Brooklyn, August 2020, page 22

53 Trelissick Crescent - Kahn House (Item 520)

499. The submission received from Ms Kahn<sup>212</sup> sought the removal of the Kahn House from the heritage schedule. She reasoned that the building does not warrant inclusion, since it has been altered and needs modernisation that a scheduling would prevent. She also noted her view that private properties should not be scheduled without the owner's agreement, that scheduling will decrease the property value, and that there are better examples of architect Plischke's work already scheduled. In addition, she suggested that the Council should offer to purchase the properties they want to schedule if the owners do not agree.
500. Mr McCutcheon noted that there are two submissions<sup>213</sup> in support of Ms Kahn's request, as well as three submissions<sup>214</sup> that opposed the removal from the schedule. He also noted that the Kahn House is scheduled as a Category 1 Historic Place by HNZ which, in his view, was sufficient evidence to include it in the PDP schedule of heritage places.
501. Ms Smith advised that the Kahn House is the first house designed by architect Plischke in Wellington in 1941. She considered that the evaluation report is comprehensive and includes extensive research and documentation prepared between 2005 and 2020. We agree that the evidence base and assessment in this case is sufficient, particularly in light of the HNZ listing. Ms Kahn asserted that her parents had been misled by HNZ regarding this listing. While HNZ refuted that suggestion, we accept that the owners may not have appreciated the full implications of HNZ listing at the time. However, we consider the important point to take from it is that HNZ objectively assessed the house as being of considerable heritage significance.
502. The Panel was kindly invited by Ms Kahn to visit the property and experience her family home, an invitation the Panel was pleased to take up. While we could see that the place requires a certain level of maintenance and modernisation so that it better suits its now elderly owner, we also noticed its authenticity. We could see that while certain changes had been made throughout the years, particularly the replacement of

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<sup>212</sup> Submission #161

<sup>213</sup> Further Submissions #16, #91

<sup>214</sup> Further Submissions #9, #82, #111

feature windows, they still encapsulated the original design features the house is known for, and that the heritage evaluation report identified.

503. We agree with Ms Smith's replies to Ms Kahn's concerns regarding property values, and comparative analysis of other Plischke houses. Ms Smith's reasoning with regard to the number of Plischke designed houses in Wellington is particularly relevant, considering that we have recommended removal of the Sutch-Smith House from the schedule. We agree with Ms Smith that there is no excess of Plischke designed houses scheduled in the PDP.
504. Ms Kahn suggested that she and her family had been victimised by the heritage listing of their home. We saw no evidence of that being the case. The number of heritage listings and the systematic approach we have described above suggest to us that was not the case. However, we agree with the submissions of Mr Whittington that given Ms Kahn has lodged a formal complaint with the Human Rights Commission, it is best that we refrain from making any findings on that, and leave the matter to the appropriate authorities under the Human Rights Act.
505. As Ms Smith noted, the need for modernisation is not hampered by scheduling. The requirement is to undertake changes that are sympathetic with the heritage values of the place; an approach that we could see the Kahn family has undertaken over the years quite successfully, with the changes previously made to the place. We also point out that the interior of the building is not included in the schedule and therefore internal changes are possible to accommodate the owner's needs without a resource consent.
506. With that in mind, and on the basis of the evidence received, we agree with Ms Smith and Mr McCutcheon and recommend that the Kahn House be retained on the schedule.
507. Lastly, we note that Ms Kahn was particularly concerned about the personal details of her family contained in the Heritage Assessment. Schedule 1 contains only factual information about the house, and therefore no amendment is required to it in order to address that concern. We recommend however that the Council reviews its records and takes steps to delete any details that are personal to the Kahn family, and which might be considered to unnecessarily invade their privacy.

18 Vera St – Firth House (Item 521)

508. Firth House is also a modernist building, dating to 1941, when Cedric Firth, architect, builder and writer, designed and built his family home at 18 Vera Street in Karori.
509. Three submissions<sup>215</sup>, including Opoutere Trust as the owners, sought removal of the property from the heritage schedule. These were supported by two further submissions<sup>216</sup>. Mr Attwood presented at the hearing both on behalf of the owner and in his personal capacity as a submitter.
510. The evaluation report assessed the building as having significant historic and physical values, and as a representative building. Ms Smith reviewed the assessment and agreed with Mr Attwood's submission that the values relating to physical and social values have not been established in the report, and that the house is not particularly representative.
511. In her view, the key reasons for inclusion in the heritage schedule were based on her own opinion that the house has historic value related to its association with Cedric Firth, and her view that its architectural and integrity values are significant. That said, she also noted that the building had alterations undertaken in 1995 and 2005, in addition to some later changes, that in her view, did not detract from Firth's design approach.
512. Once again, the Panel is not convinced that a comprehensive and conclusive Heritage Evaluation Report has been provided by Council on which a decision could be made as to the heritage values of the place. We were unclear how relevant the historical connection with Firth is, given Mr Attwood's evidence that the house was never an example of the social housing for which he was known. We are also concerned that Ms Smith's own assessment has been undertaken without visiting the site and building. As noted earlier, a view from the street does not convey the full picture when assessing heritage values, particularly where changes have been undertaken.
513. We prefer the evidence of the owner as regards the changes made over time (he provided a number of helpful photographs) and the effects they have had on the originality and authenticity of the place. Given the lack of robust evidence provided

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<sup>215</sup> Submissions #3, #79, #208

<sup>216</sup> Further Submissions #76, #91



as to the heritage value of the place, we recommend the Firth House be removed from the schedule.

154 Victoria Street (Item 522)

514. Singvest Group Ltd<sup>217</sup> sought removal of the commercial building at 154 Victoria Street from the heritage schedule, which was supported by Dr Keir and Ms Cutten<sup>218</sup>.
515. Singvest's submission argued that the decision to include the building was not reached fairly, that the building is deemed earthquake prone with a notification date in March 2026, and that wrong conclusions were drawn from reports prepared by Mr Kernohan and Mr Leong.
516. Ms Smith considered the documentation and the submissions received and agreed with the submission, that the heritage values were overstated. She considered that the key values were related to the group values the building had before the corner building at 91 Dixon Street was demolished. In her view, that value has been diminished to a point where 154 Victoria Street does not meet the threshold any longer. Mr McCutcheon agrees with her assessment, and so do we.
517. We recommend 154 Victoria Street be removed from the heritage schedule.

134 Willis Street (Item 524)

518. The submission of Mark Levett<sup>219</sup> considered the building at 134 Willis Street to have little surviving original fabric and lacks heritage value. For this reason, he sought its removal from the heritage schedule. Their view is supported by Dr Keir and Ms Cutten<sup>220</sup>. The representatives of Mr Levett's Estate appeared at the hearing to support the relief sought in the submission.
519. HNZ, in contrast, have assessed the building as a Category 2 building, having significant heritage values, and opposed removal.

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<sup>217</sup> Submission #129

<sup>218</sup> Further Submission #91

<sup>219</sup> Submission #7

<sup>220</sup> Further Submission #91

520. Ms Smith advised that the building is a very early commercial building dating back to 1868, and is part of a group of four buildings dating back to that era. She agreed with the assessment and recommended its inclusion. Mr McCutcheon agreed with her view.
521. The heritage evaluation provided here is based on research and includes several assessments over time. This included an updated listing report from HNZ dating to 2017. The building is assessed as rare and of significant historic and physical values, mainly relating to its age, despite the fact that it is not in its original form.
522. We also received a detailed presentation and notes from the late Mr Levett's wife and son, who provided us with convincing explanations and images as to the authenticity of the place, or lack thereof. Their presentation also questioned whether the Council's photographic evidence could be relied on. They presented photographs which suggested that the assessment had relied on material related to a neighbouring building. While they agreed that the building is one of four old buildings of a similar age, they also noted that the other three buildings are all listed with HNZ as Category 1 buildings, suggesting it is of lesser significance.
523. They also advised that the owners had obtained a demolition consent for the building in 1999, but did not follow through with demolition.
524. Considering the evidence before us, we tend to agree with the submitter's representatives that the assessment undertaken by Council does not appropriately reflect the changes undertaken over time and the lack of authenticity the building now portrays. While this is partially reflected in the Council assessment, where the key physical heritage value is that of age, not of intactness, we believe the assessment has overstated its physical significance.
525. For these reasons we disagree with the Reporting Officer and recommend the building be removed from the heritage schedule.

#### 233 Willis Street (Item 525)

526. CAMJEC Commercial Ltd submitted<sup>221</sup> that the building at 233 Willis Street be omitted from the heritage schedule on the basis that it lacks heritage value. Mr Chan

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<sup>221</sup> Submission #268

presented the same view in his submission<sup>222</sup>. A submission by Ms Daysh<sup>223</sup> confirmed that resource consent has been granted by WCC to demolish the building.

527. Ms Smith was of the opinion that based on the 2021 heritage evaluation, this Anscombe designed building has significant historic and physical values and is a rare and representative building.
528. In contrast, the submissions seeking removal from the schedule describe the building as being considerably modified and as having lost the architectural features that it was famous for. Ms Smith agreed that the façade has lost integrity through the changes made, but considered that the building still retains its overall heritage values. While she acknowledged the granted demolition consent, she was of the view that the building should remain scheduled until it is demolished. Mr McCutcheon, on the other hand, had doubts that a building that has a demolition consent issued, and is very likely to be demolished in its entirety, should be part of the heritage schedule.
529. We see the logic in Mr McCutcheon's reasoning to recommend that the building be removed from the schedule, and agree with his recommendation.

#### 43 Ghuznee Street - Toomath Building (Item 128)

530. This property has not been part of any particular submission and was therefore not included in the Section 42A Report of Mr McCutcheon or the evidence of Ms Smith.
531. The reason for its discussion here is that the Panel became aware through the media that on 15 October 2023 the building was severely affected by a fire, and subsequently, that the owners had been directed by the Council to demolish it for safety reasons. This prompted the Panel to enquire whether its heritage listing should be retained. This question was posed through Minute 39 to any party involved in the PDP process.
532. We have received nine responses, including from the Reporting Officer<sup>224</sup>.
533. In summary, those responses variously:

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<sup>222</sup> Submission #335

<sup>223</sup> Submission #330

<sup>224</sup> Responses were received from: Mr McCutcheon for WCC, LIVE WELLington, Claire Nolan et al, HPW, MVHS, WHP, Mr Kelliher, Mr Murcott, and Dr Keir and Ms Cutten.

- Opposed the demolition of the Toomath Building;
  - Sought retention of the façade as a scheduled element; and
  - Sought retention of the property in the Cuba Street Heritage Area;
534. Dr Keir and Ms Cutten cautioned us that there should be no confusion between their building called Toomath House, located at 28 Robieson Street and the Toomath Building at 43 Ghuznee Street. They explained the differences, as their building was built for William Toomath, the architect, in 1964, whereas the Ghuznee Street Toomath Building was built for Edward Toomath in 1900.
535. Minute 39 asked two specific questions. One was whether the Toomath Building should remain on the heritage schedule, if Council confirmed its directions to the owner to demolish. The other was whether the Panel would have scope to remove the building from the schedule within the submissions received or not, should the Panel be inclined to recommend the building's removal.
536. In his response to our Minute 39, Mr McCutcheon confirmed that the Council's direction to the owner of the property was to totally demolish the building due to health and safety risks. He elaborated that the Council's decision to issue this direction was based on a Council officer's site visit, and two engineering reports Council had received that assessed that the building was of significant risk of collapse in the state it was in. The reports also noted there were no practically safe ways to undertake works that could lead to the retention of the facade. To our minds, this resolved the request of the majority of the responses we received, which sought that the façade be retained.
537. As regards the opposition of the demolition of the building, Mr McCutcheon noted that the District Plan provisions did not apply in this case, because the building was declared dangerous under the Building Act 2004, and the removal of the risk was a matter of urgency covered by Section 330 of the RMA.
538. Mr McCutcheon recommended the removal of the building from the heritage schedule. His reasoning was that the building will be removed in its entirety, therefore a scheduling is nonsensical. Put simply, we agree. While we sympathise with the view of the parties who suggested that the building owner would be rewarded for the dilapidated condition of the building, the reality is as we have observed from passing the site subsequently, there is now nothing left to schedule.

539. Turning to the matter of scope, Dr Keir and Ms Cutten stated that in their view the Panel had scope to remove the site on the basis of their submission point that suggested removal of properties if we ‘...are not satisfied that listing is the most appropriate way to give effect to the purposes of the RMA...’<sup>225</sup>.
540. In contrast, Mr McCutcheon stated that there were no submissions to remove the Toomath Building from the schedule initially, and therefore this would have to be an out-of-scope decision by the Panel, or alternatively, the Council could make an alteration to the Plan of minor effect.
541. We are dubious both that this would qualify as a minor change, or that such a generally expressed submission can be relied on for this purpose. For the avoidance of doubt, we recommend that the building be removed from the schedule as an out-of-scope change
542. That leaves the question whether the property should remain in the Cuba Street Heritage Area, which we discuss in Section 2.18.2 of this report.

#### **2.16.4 Submissions seeking to Amend Items in Schedule 1**

543. In its submission HNZ<sup>226</sup> requested that 10 items in the schedule be amended to state their correct address, legal descriptions and HNZ listing numbers. Victoria University have submitted seeking changes to one item. Ms Smith has reviewed the items and found all proposed changes are accurate. We agree with her, and recommend these changes be included in the schedule.
544. Council<sup>227</sup> sought to reorder the schedule alphabetically by street names. Mr McCutcheon agreed with this.
545. Mr Palmer<sup>228</sup> sought as an alternative that the schedule should be reordered according to the areas the items are located in, to make it easier for a neighbourhood to identify scheduled places in their area. Mr McCutcheon noted that this information is readily available through the ePlan and reordering in areas is not necessary. We agree with that view, and that the Council’s suggested mode of reordering is preferable.

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<sup>225</sup> Dr Keir, Ms Cutten, Response to Minute 39, Commissioners scope to make recommendations, para 8

<sup>226</sup> Submission #70

<sup>227</sup> Submission #266

<sup>228</sup> Submission #492

1 Ranfurly Terrace - Emeny House (Item 415)

546. Mr de Lorenzo submitted<sup>229</sup> that the listing for his property is unclear, too restrictive, and costly, and if the PDP is adopted will have the result that only wealthy people can afford to own historic properties. He sought to remove the house from the schedule, or at least amend the schedule. Dr Keir and Ms Cutten<sup>230</sup> supported his submission.
547. We note here that Emeny House is the only private house that has its interior scheduled, and that the schedule listing also includes exterior gardens.
548. We heard from Mr de Lorenzo about his experience with Council when he applied for resource consent to undertake interior changes to his house, and how difficult he found dealing with this. He accepted that the building has historic value. However, the onus that Council puts on him with regards to specific requirements when making changes to his interior or his garden seemed unjustified to him.
549. Ms Smith advised that the house was built in 1898 and the Emeny family lived there for 109 years. Mr Emeny was a plasterer and decorated the interior and elements of the hard landscaping, which provided for an intriguing design. She provided the history of the place in her evidence as well as a timeline for the development of the property in her Reply.
550. In Mr McCutcheon's Section 42A Report, he agreed with the recommendations of Ms Smith, that the building should remain on the schedule. However, he recommended that some relief could be granted by reducing the extent of scheduling. Ms Smith suggested a simplified schedule for the notified PDP that reads:

*"Building (Emeny House) including the interior of the house and grounds: All of the exterior of the house including the facades, roofs, chimneys and chimney pots.*

*All of the front garden including- masonry front fence, piers, and metal gates; front garden formal layout including edging around planter beds, tiled path; tiled steps to entrance, rendered plinths, and tiled porch floor.*

*Specific items in the rear garden- three sections of masonry fence with plinth, bottle balusters, and top rail."*

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<sup>229</sup> Submission #9

<sup>230</sup> Further Submission #91

551. In Mr de Lorenzo's view, the wording 'All of the front garden' made it unclear whether planting was part of the schedule, so Mr de Lorenzo in turn suggested alternative wording to the scheduling from the notified version, as follows:

*"Exterior – facades, roofline, chimneys, and chimney pots.*

*Front garden - masonry front fence, piers, and metal gates; front garden formal layout including edging around planter beds, tiled path; tiled steps to entrance, rendered plinths, and tiled porch floor.*

*Rear garden- three sections of masonry fence with plinth, bottle balusters, and top rail."*

552. In his Section 42A Report, Mr McCutcheon accepted the suggestion of Mr Lorenzo in part, and suggested the following wording:

*"Entire External envelope; Front garden - masonry front fence, piers, and metal gates; front garden formal layout including edging around planter beds, tiled path; tiled steps to entrance, rendered plinths, and tiled porch floor."*

553. Mr de Lorenzo presented his submission to us during the hearing and kindly invited the Panel for a site visit, which we took up.
554. Mr de Lorenzo's essential case is that the restriction listing puts on the reasonable use of their home by he and his wife is too great. He also noted that the use of the rear garden is constrained due to the location of the three sections of masonry fence. He would like to be able to remove them or at least move them within the back yard to a more convenient location.
555. The panel asked Council to include in their Reply their view of whether the controls in the PDP over this property would deprive the owners of reasonable use in terms of Section 85 of the RMA. Mr McCutcheon replied that in his view this is not the case. It is fair to say, we had our doubts on that score. However, we do not base our recommendation on that concern.
556. We agree that the building should remain on the schedule with Mr McCutcheon's wording for the external envelope and front garden, as above. However, while we appreciate the impressive plastering skills displayed on the interior, which we viewed during our site visit, we agree with the submitter that the interior should be excluded from the schedule. Many older private homes display rather sophisticated designs and craft skills. However, we do not find it justified to include this one only, because, as Ms Smith confirmed to us in the hearing, the Council had knowledge that it was there.

557. We find this an unsatisfactory basis for a heritage listing of the interior of a private home, over the owner's objection, given the imposition that imposes on those owners.
558. We also disagree with the Council Officers that the rear garden should be included in the schedule. It is, in contrast with the elaborate front garden, not visible unless one stands in the back lounge or in the back yard itself. We agree with Mr de Lorenzo that the placement of the masonry fence sections is at odds with the efficient use of the garden.

#### 143 Lambton Quay, State Insurance Building (former) (Item 181)

559. Argosy Property No.1Ltd<sup>231</sup> submitted that the 1998 addition to the building should be identified as a non-heritage item in Schedule 1. They reason that the addition does not have any heritage value. HN<sup>232</sup> opposes this submission, as the building needs to be read as a whole.
560. The building is listed in its entirety by HN and Ms Smith pointed out that the District Plan is required to have regard to HN's listings. She noted that works that may alter the addition should be assessed against the heritage provisions in the PDP, to ensure the heritage values are retained and changes will not detract from these values.
561. Argosy did not address this submission when it appeared.
562. Mr McCutcheon agreed with Ms Smith reasoning, and so do we. We recommend the building be retained in its entirety in Schedule 1. This leaves the question whether the addition should remain as part of a heritage building in the Heritage Area. We deal with this matter in Section 2.18.2 of this report.

#### **2.16.5 Ranking of Items**

563. Some authorities, including HN rank the historic places in their schedules. Foster+Melville Architects<sup>233</sup> submitted that the schedule in this PDP should also recognise that some places are more significant than others, and introduce a ranking system.
564. Mr McCutcheon disagreed with the need for a ranking system. He notes that each place requires a detailed assessment to identify the heritage values inherent in the

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<sup>231</sup> Submission #383

<sup>232</sup> Further Submission #9

<sup>233</sup> Submission #141



place. This assessment provides information on the level of significance of the place. In his view, a ranking is only required if the policies and objectives are different for each category. The PDP does not account for this, and Mr McCutcheon noted that stricter rule frameworks would make it more difficult to modify scheduled places of higher significance where necessary. He noted also that while HNZ provides guidance on ranking and categorisation of heritage places, there was no submission from HNZ to that effect. He considered that under the requirements of the RMA for heritage, there is also no obligation for ranking.

565. We understand the reasoning of Foster+Melville Architects that a ranking system can afford a more nuanced protection of heritage according to its significance, and provide for a tighter framework and greater certainty. With that in place, the resource consent process could potentially be more streamlined and simplified, in contrast to a process where assessment of a consent requires a case-by-case assessment of heritage values against the objectives and policies, that may be interpreted differently by different council officers.
566. However, we agree with Mr McCutcheon, that it is not merely a matter of ranking the items in the schedule, but also requires the objectives and policies to account for the differences in significance.
567. On the basis of the evidence received, which has not provided for alternative objectives and policies, we have no foundation to compare the outcomes of having a ranking system in contrast to Mr McCutcheon's views. For this reason, we adopt the Reporting Officer's recommendation not to introduce a ranking system.

## **2.17 Schedule 2 – Heritage Structures**

### **2.17.1 General Support**

568. Schedule 2 is generally supported by a number of submitters<sup>234</sup>. However, some were concerned that there was a lack of public engagement<sup>235</sup>. Others have nominated further structures for inclusion<sup>236</sup>, and have sought clarifications as to the heritage status of the Bucket Fountain<sup>237</sup>.

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<sup>234</sup> Submissions #115, #182, #233

<sup>235</sup> Submission #412

<sup>236</sup> Submission #388

<sup>237</sup> Submission #415, Further Submission 76

### Cuba Street - Bucket Fountain

569. Dr Keir and Ms Cutten queried the heritage status of the Bucket Fountain at Cuba Street. Ms Smith noted that the Fountain, built in 1969, was designed as a piece of art for the first pedestrian mall in New Zealand along Cuba Street. The Cuba Street area is a scheduled Heritage Area and the Bucket Fountain is subject to the heritage area provisions in the PDP.
570. We are satisfied that the Fountain is afforded the protection it requires.

### **2.17.2 Heritage Structures new nominations**

#### Tyers Stream Dam

571. The Tyers Stream Group and Council submitted that the Tyers Stream Dam should be included in Schedule 2. This was supported by HPW<sup>238</sup>.
572. The Dam and concrete reservoir were constructed in 1907 for industrial use, as noted by Ms Smith. It is an early example of a concrete arch dam, that is now located in a recreational reserve, and is ecologically and historically significant.
573. The Council has assessed the Dam and found it reaching the threshold for inclusion. Ms Smith agreed with the assessment and recommended the Dam be included in Schedule 2. We agree with this inclusion, and note that there was no opposition to it.

#### Glenside Milk Stand

574. Council and Ms Bibby nominated the Milk Stand for inclusion in Schedule 2, and HPW<sup>239</sup> supported this nomination.
575. The Milk Stand is located on road reserve and was used as a milk collection point in the past. The Council assessment identified it has significant historic, physical and social values, and is a rare and representative example. Due to its small size, Ms Smith recommended a curtilage of 1m to its surrounds.

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<sup>238</sup> Submissions #221, #266, Further Submission #111

<sup>239</sup> Submissions #266, #329, Further Submission #111

576. Ms Smith recommends its inclusion and so do we, as we note there are very few of those structures left, and again no opposition to its inclusion.

#### Jervois Quay, Tram Pole

577. Council, supported by HPW, suggested the inclusion of the Tram Pole on Jervois Quay in Schedule 2.

578. This steel pole was erected in the mid-1920s to supply electricity to a new tram route. It is an authentic and nicely decorated pole, one of three that remain in situ, that is located on road reserve.

579. Council has undertaken an assessment and found it to have significant historic, physical and social values, and is rare and representative.

580. Ms Smith recommended its inclusion, as do we, and again we note there was no opposition to that scheduling.

#### Mount Victoria Tunnel

581. A number of submissions<sup>240</sup> have been received nominating the Mount Victoria Tunnel as a scheduled heritage structure. Dr Keir and Ms Cutten<sup>241</sup> opposed the scheduling.

582. In her evidence Ms Smith explained that there are four tunnels already scheduled as heritage structures in Wellington, as well as listed by HNZ. All four are not part of the State Highway network, whereas the Mount Victoria Tunnel is. The submitters did not provide sufficient research and assessment to support the inclusion, as Ms Smith observed, but she recommended that Council undertake further research and assessment for this structure.

583. We agree with her reasoning and her recommendation.

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<sup>240</sup> Submission #75, #80, #111, #155, #182, #214

<sup>241</sup> Further Submission #91

### City to Sea Bridge

584. WCT, supported by HPW<sup>242</sup>, requested the inclusion of the City to Sea Bridge, including all features that are associated with the original design of the Sea Bridge, such as decking, steps, water features, paving, and sculptures into Schedule 2. This was opposed by Willis Bond<sup>243</sup>, which was of the opinion that the provisions of the Te Ngākau Civic Square Precinct, within which the City to Sea Bridge lies, sufficiently addresses heritage matters.
585. Ms Smith described the development of the area from a planning perspective, including the provisions as they are in the ODP, and how the changes proposed in the PDP affect it. We rely on Ms Smith's description. In a nutshell, the ODP had a Heritage Area overlay, whereas the proposed PDP has the overlay removed.
586. We note, as did Ms Smith, that no assessment has been undertaken by the submitters or the Council that could enlighten us as to the heritage values of the City to Sea Bridge and its features. Both she and Mr McCutcheon recommended the structure not be included on the basis of the lack of assessment. However, Ms Smith considered that Council should undertake further research and assessment for inclusion in a future Plan Change, if appropriate. We adopt their recommendations.

### Tawa Tunnel – Survey Peg

587. Ms Bibby<sup>244</sup> requested that the survey peg used to survey the Tawa Tunnel be included in Schedule 2. In addition, she sought the inclusion of a viewshaft.
588. We note here that the matter of the viewshaft has been discussed in Report 3B in Section 7.9.
589. Ms Bibby, as well as her expert, Mr O'Donnell, described the history of the survey peg and the heritage significance they assessed it to have. We heard during the hearing that the survey peg is located on private land in a paddock up the hill. Access to the survey peg is not possible from public land, and while Mr O'Donnell

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<sup>242</sup> Submission #388, Further Submission #111

<sup>243</sup> Further Submission #12

<sup>244</sup> Submission #329

could not see a reason why the marker should not be there any more (it is farm land and not in the way of farming, we heard), he could not confirm that it is.

590. We agree with Ms Smith's view that there is insufficient information available to schedule the Survey Peg, but that it could be added to the Council Database for future research and assessment. That said, we question the practicability of accessing the site, and the value for the community while it is located on private land and cannot be appreciated.

## **2.18 Schedule 3 – Heritage Areas**

591. Submissions received covered a range of outcomes as follows:

- General support as notified;
- Retain Schedule 3 with amendments;
- Retain specific heritage areas;
- Retain specific buildings within heritage areas;
- Assess character areas for inclusion in heritage areas;
- Add new heritage areas; and
- Remove specific areas from the schedule.

### **2.18.1 General Support**

592. We acknowledge the number of submitters<sup>245</sup> that supported the retention of the Heritage Area- Schedule 3 in general as notified.

593. The submission from Mr and Ms Smith<sup>246</sup> requested clarification as regards the extent of the Wellington Botanic Gardens (Item 5) in relation to the Cable Car Route (Item 8) which Ms Smith provided in her evidence. We do not consider the Schedule needs to be amended as a result.

### **2.18.2 Retain Schedule 3 with amendments**

594. Several submitters sought that Schedule 3 be retained, but with various amendments.

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<sup>245</sup> Submissions #115, #182, #233, #454

<sup>246</sup> Submission #230

595. Ms Morrell<sup>247</sup> sought that the PDP include the recommendations of HNZ and HPW. Ms Smith reviewed the list of 11 amendments that HNZ put forward in its submission<sup>248</sup> and agreed with the changes sought, as did Mr McCutcheon. We see no reason to disagree with the Council Officers' recommendations, which we adopt.

#### Aro Valley Cottages (Item 1)

596. Ms Brien and Mr Bollinger<sup>249</sup> sought an extension of the Aro Valley Cottages Heritage Area to include the following nine properties:

- 39, 41, 43, and 45 Palmer Street;
- 22, 24a and 24b Aro Street; and
- 43 and 45 Abel Smith Street.

597. Ms Smith provided the historic background to these areas in her evidence and also noted that she believes that the submission has an error with regards to 43 and 45 Abel Smith Street. She found no buildings on these sites and believed that it should have read 143 and 154 Abel Smith Street. These two sites do contain heritage buildings. In that respect, however, Ms Smith recommended no change to the PDP, which we agree with.

598. For the other seven properties that the submissions sought to be included, it was Ms Smith's view that they are good contenders to be further investigated and assessed, and she recommended that Council do so. Mr McCutchen noted that he has natural justice concerns should the properties be included without consulting the owners.

599. We agree both with Ms Smith's recommendation and Mr McCutcheon's concerns. In our view, the Council will have opportunity to consult with the owners during the assessment period, and the inclusion, if appropriate, will have to be undertaken through a separate Plan Change in any case.

600. We also note that the four properties at Palmer Street have been included into the Character Precinct through an extension that Mr Lewandowski recommended to the notified Character Precinct. In addition, our recommended extension of the Character

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<sup>247</sup> Submission #155

<sup>248</sup> Submission #70

<sup>249</sup> Submission #365

Precincts to provide more logical boundaries includes the three properties in Aro Street

#### Bolton Street Cemetery (Item 2)

601. Friends of the Bolton Street Cemetery Inc<sup>250</sup> sought Item 2 (Bolton Street Cemetery) be retained as notified. In addition, they requested to be involved should any changes be made to the listing, and that research should be carried out by qualified persons. The Reporting Officer acknowledged their request and confirmed that any changes would require a publicly notified process, to which the Society would have the opportunity to present. No amendment to the plan is required to respond to this submission.

#### Kaiwharawhara Bridle Track (Item 7)

602. Council<sup>251</sup> sought a minor change to the Kaiwharawhara Bridle Track (Item 7) route to only include the current and known route of the track. Ms Smith noted that this stems from an error in the maps, in her view. She elaborated on the history of the track and the planning processes over time, and concluded that the extent of the southern end of the walkway should be amended in accordance with figure 15 in her evidence.
603. We agree with Ms Smith that this amendment provides for a more logical boundary and does not affect the heritage values of the Kaiwharawhara Bridle Track. We adopt her recommendation.

#### Stout Street Heritage Area (Item 28)

604. Argosy Properties No.1 Ltd sought that the 1998 addition to the former State Insurance Building should be identified in Schedule 3 as a non-heritage item.
605. We have dealt with this building in relation to Schedule 1 considerations in Section 2.16.4 of this report as State Insurance Building (former) (Item 181).

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<sup>250</sup> Submission #250

<sup>251</sup> Submission #266

606. Ms Smith and Mr McCutcheon recommended the building be included in its entirety in Schedule 3, and we concur. To us, the reasoning is similar to that in Section 2.16.4, namely that the building needs to be read as a whole, as well as a contributing building to the Heritage Area.
607. We also note here that Argosy did not provide detailed expert evidence as to the heritage values or lack thereof of the addition in relation to the original building that would give us cause to disagree with Mr McCutcheon's and Ms Smith's recommendations.

#### Newtown Shopping Centre (Item33)

608. Ms Kemble Welch sought in her submission<sup>252</sup> that buildings be removed from the Newtown Shopping Centre Heritage Area that are of lesser heritage significance, so that demolition is enabled. This would in her view allow for development behind the contributing buildings at a greater height, and at the same time retain what is valuable. HPW<sup>253</sup> opposed this submission.
609. We note here that we discuss the matter of increased height in this area in Section 3.4 of Report 4C.
610. Ms Smith described the area as relatively cohesive, including 40 contributing buildings with eight non-heritage buildings. In our view, compared to other heritage areas, this is not an atypical ratio. The area is assessed as of historic, physical, and social significance and to be rare and representative.
611. Ms Smith discussed the effects that the scenario of removal of some buildings would have on the identified values and noted that this may lead to facadism, which is not a desired outcome, and that it would negatively affect the integrity of the streetscape. She concluded that there is no reason to treat this heritage area differently to others, and she recommended no changes are made to the schedule.
612. Mr McCutcheon explained that the intent of the provisions for the heritage area is to control additions and alterations in the heritage areas to avoid adverse effects on the

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<sup>252</sup> Submission #434

<sup>253</sup> Further Submission #111



heritage values of the area. To exclude certain buildings would be in contrast of that intent.

613. We concur with Mr McCutcheon and Ms Smith, and recommend rejection of these submission points.

Mestanes Bay Baches (Item 38) and Red Rocks Baches (Item 39)

614. Mr Insull<sup>254</sup> sought that the names of Items 38 and 39 be amended to reflect current leaseholders. Ms Smith considered that the names in the schedule for these two items are correct, and refuted Mr Insull's submission.
615. We agree with Ms Smith that the names are appropriate, and should not reflect the leaseholders, which could change at any time. We do not recommend any amendment.

Albion Gold Mining Company Battery and Mine Remains (Item 40)

616. Te Kamaru Station Ltd<sup>255</sup> submitted that Albion Gold Mining Company Battery and Mine Remains (Item 40) are located entirely on Terawhiti Station, and therefore the reference to Te Kamaru Station in the legal description should be removed. Terawhiti Farming Ltd (Terawhiti Station)<sup>256</sup> considered the curtilage of the remains is too broad and sought to amend the boundary accordingly.
617. We did not hear further from either submitter, but Ms Smith investigated these submission points and found that errors had occurred in the legal description as well as the map. She therefore recommended the entry to be corrected, and we agree.

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<sup>254</sup> Submission #32

<sup>255</sup> Submission #362

<sup>256</sup> Submission #411

#### Doctor's Common Heritage Area (Item42)

618. Mr Tyler<sup>257</sup>, opposed by MVHS258, sought to remove 34 Hawker Street from the Mount Victoria Heritage Area, on the basis that he bought the property without it being included in the Heritage Area, and in his view the scheduling will economically devalue the property and restrict its use.
619. Ms Smith referred us to the Heritage Evaluation Report that assessed the building as contributing to the Heritage Area. Mr McCutcheon believed that for that reason, it is correctly included in the Heritage Area and noted that discussions with owners of buildings that were proposed to be included in the schedule, which included this property, were undertaken from December 2020 onwards.
620. Mr Tyler did not appear before us and did not provide us with evidence that would confirm his claims. We therefore agree with the Officers' recommendations that 34 Hawker Street remain in the Heritage Area.

#### Elizabeth Street Heritage Area (Item 43)

621. Council<sup>259</sup> sought that 50, 52, 61, and 63 Elizabeth Street be removed from the Heritage Area. While the Council did not provide a reason for this request, Ms Smith reviewed the properties and found that they include sites that have either no buildings on them, or the buildings do not contribute to the Heritage Area. Only 61 Elizabeth Street has a 1920s substation that forms part of the history of the street.
622. The Officers' recommendation was to remove these properties from the Heritage Area. While we agree with the removal of sites that do not contribute, we note that 61 Elizabeth Street could theoretically stay included if that were the criterion. However, for the provision of a clearer boundary, and because 61 Elizabeth Street is included in the Character Precinct, we recommend its removal from the Heritage Area, along with the other identified properties.

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<sup>257</sup> Submission #357

<sup>258</sup> Further Submission #39

<sup>259</sup> Submission #266

Moir Street Heritage Area (Item 44)

623. Two submissions<sup>260</sup> sought to remove 134 Brougham Street from the Moir Street Heritage Area. Council<sup>261</sup> considered the property should be retained, but the entry should be amended to identify the back of the property as non-heritage. While MVHS<sup>262</sup> agreed with the submission, it requested clarification as to the extent of the non-heritage part.
624. Ms Smith explained that the Mount Victoria Heritage Study identified Moir Street as a Heritage Area. It also noted the numerous changes that 134 Brougham Street underwent and deemed it not reaching the threshold for 'listing'. Ms Smith took this as meaning it should not be part of Schedule 1. In Ms Smith's assessment, the building however contributes to the heritage values of the collection of workmen's cottages in Moir Street, due to its association with the Rev. Moir and his family.
625. In contrast, Mr Kebbell, for Turi Park, provided evidence that the building at 134 Brougham Street is of very different style and appearance than the Moir Street workmen's cottages, and is of no significance to the church and to Rev. Moir as a cleric, but is at best associated with the Moir family as minor property developers.
626. We found Mr Kebbell's evidence convincing. We observed on our site visit that 134 Brougham Street is of a very different architectural style to the balance of the Moir Street Heritage area and (as Mr Kebbell also observed) faces away from it. The fact that the building has been modified repeatedly, and the Council sought to exclude parts of it anyway, indicates to us, that the Moir Street Heritage Area will have a more defensible boundary and convey a much clearer significance if it is limited to the workmen's cottages. We note also that the building is part of the Mount Victoria Character Precinct, and is afforded some form of protection through this.
627. We recommend 134 Brougham Street be removed from the Moir Street Heritage Area.

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<sup>260</sup> Submissions #72, #73

<sup>261</sup> Submission #266

<sup>262</sup> Further Submission #39

Porritt Avenue Heritage Area (Item 45)

628. There are two separate submissions that sought amendments to the Porritt Avenue Heritage Area. One was concerned with 115 Brougham Street, the other one with Tutchen Avenue. We discuss both in turn.
629. Quayside Property Trust,<sup>263</sup> considered that 115 Brougham Street should be removed from the schedule. The Trust's view was that the site is not accessible or visible from Porritt Avenue, and does not contribute to the values of this Heritage Area.
630. Ms Smith conceded that the building is not very visible and cannot be accessed from Porritt Avenue, but believed that it is thematically linked to two other properties in this Heritage Area. She also noted that while the building can be seen from Armour Street (which has its own Heritage Area), it does not have a direct link with the thematic of Armour Street.
631. We had expert evidence from Mr Bowman, for Quayside Property, and we find his evidence compelling. He noted that the building has little remaining evidence of any particular architectural style, and therefore lacks authenticity. In his opinion the building does not have any relationship with the Porritt Avenue Heritage Area and does not qualify for inclusion.
632. We note that we have considered 115 Brougham Street in Report 2B in relation to its inclusion into the Mount Victoria Character Precinct. For the reasons described by Mr Lewandowski, we have recommended its inclusion in the Character Precinct. However, we find that its inclusion in the Porritt Avenue or Armour Street Heritage Area is not warranted, based on the evidence available to us. It does not compellingly contribute to either of the nearby Heritage Areas, in addition to its lack of authenticity. We considered whether the site should remain within the Porritt Avenue Heritage Area as a non-contributory building. We have concluded that its peripheral location in relation to both that and the Armour Street Heritage Area means that it should be excluded entirely from both Heritage Areas.
633. A range of submitters<sup>264</sup> requested the inclusion of Tutchen Avenue in the Porritt Avenue Heritage Area. Some submitters identified specific properties, while others sought inclusion in its entirety.

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<sup>263</sup> Submission #104

<sup>264</sup> Submissions #214, #75, #85, #80, #111, #155, #489, Further Submissions #82, #98

634. According to Ms Smith, Tutchen Avenue and Porritt Avenue share the same history, and in her view, Tutchen Avenue could be included after further research and assessment. She recommended that Council undertake his work and include Tutchen Avenue in a future Plan Change.
635. We agree with Ms Smith's reasoning and her recommendation. We consider that Tutchen Avenue appears a logical candidate to include, subject to assessment and owner consultation.

#### Ascot Street Heritage Area (Item 46)

636. Several submissions have been received regarding the Ascot Street Heritage Area. We discuss each of them individually, as follows.
637. Ms Hefferman<sup>265</sup> submitted that Item 46 and Item 35 are in such close proximity that they should be combined and renamed. Ms Smith pointed out that both areas have a very different background, one residential, the other commercial, and in her view, need to stay separate for the distinct heritage values they portray.
638. Regarding the name change proposed, Ms Hefferman submitted that the Thorndon Shopping Centre Heritage Area (Item 35) should be called Tinakori Road Village Heritage Area, following the example of Item 25, Island Bay Village Heritage Area. Ms Smith described the general convention for the names of heritage areas, and noted that while the proposed name would be appropriate also, there is no particular reason to change the existing name.
639. We agree with Ms Smith's reasoning and recommend that Items 35 and 46 are not combined and retain the names as notified in the PDP.
640. E W Limited sought that 241 Tinakori Street is excluded from the Heritage Area, or that it is at least reclassified from a Status 3 building to a Status 1 or 2, because it has been markedly rebuilt in the 1920s.
641. We learned that a Status 3 classification suggests a building may, with further research, be included in Schedule 1. In Ms Smith's assessment, she doubted that the building has sufficient heritage value to reach that threshold, and recommended the entry be amended to Status 2. She reasoned that similar properties in the area,

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<sup>265</sup> Submission #491

such as the neighbouring building at 121 Hill Street, were also assessed as Status 2 in the Historic Heritage Area Evaluation Report.

642. Ms Isaacs appeared at the hearing for EW Limited, the owner of 241 Tinakori Street, and was accompanied by her neighbour, Mr Symmes, the owner of 121 Hill Street. Mr Symmes had not submitted on the matter in his own right. However, he agreed with Ms Isaacs that both of their properties should be excluded.
643. Ms Isaacs explained that the Historic Heritage Evaluation of Ascot Street includes errors in the assessment of their property. She noted that it is not, as stated, an 1870s building, and produced photos and plans that clearly show the extent of the changes. She compared the buildings at 241 Tinakori Street and 121 Hill Street with the Statement of Significance for Ascot Street, and noted that the two buildings are not part of the “*enclave of early workers dwellings*” that is described there.
644. Ms Smith recommended that both buildings should be retained in the Heritage Area, and Mr McCutcheon agreed. He noted that both buildings are located in a Character Precinct also, and resource consent would be required for any changes regardless. In addition, he pointed out that if the Panel were to make a recommendation for 121 Hill Street, this would be an out-of-scope recommendation.
645. In our view, Ms Isaacs makes a valid point. The building appears to have been assessed on the basis of erroneous assumptions. We agree with her submission, that the two buildings are not contributing to the significance of the Ascot Street Heritage Area. This is clear to us when comparing the original buildings on these sites in the historic context. As Mr McCutcheon noted, they remain in a Character Precinct.
646. As a result, we recommend both buildings be excluded from the Heritage Area. As for 115 Brougham Street, they sit on the periphery of the Heritage Area, and do not merit inclusion as non-contributory buildings. We note that the exclusion of 121 Hill Street is a consequential but out-of-scope recommendation.
647. For 6, 8, and 11 Glenbervie Terrace, Council identified errors and omissions in the schedule. 6 and 8 Glenbervie Terrace are listed as exclusions, although they were assessed as Status 2, contributing buildings. While 11 Glenbervie Terrace is a contributing building, it was omitted from the legal description.
648. Ms Smith and Mr McCutcheon consider these errors should be corrected, and we agree.

649. Council<sup>266</sup> sought amendments to 12a and 16 Parliament Street, and 21 Glenbervie Terrace, to change their status from contributing buildings to non-heritage buildings. For 23 Glenbervie Terrace, it sought that the schedule note that this property consists of 6 flats/townhouses. Mr King<sup>267</sup> submitted seeking to remove 12a Parliament Street from the schedule.
650. For 12a Parliament Street, the Council believed that the heritage values were uncertain. Although the property is not included in the HHA Report, and therefore has had no assessment done. Ms Smith found that the preliminary research provides sufficient information for her to recommend the inclusion as a contributing building.
651. We note that this outcome has not been sought in those submissions, and that Ms Smith noted that further research should be undertaken to complete the assessment. We do not agree with Ms Smith that the property should be retained as notified, due to the lack of a formal assessment. We are also unsure of the validity of her comparison of the building with others in other Heritage Areas, since we are aware that the heritage significance of each area is distinct. We tend to agree with Mr King, in so far that the assessment is incomplete, and recommend that Council to formally complete the assessment and include the building as a contributory building through a future Plan Change, if appropriate. In the interim, given its location in relation to the balance of the Heritage Area, we recommend it remain within the Heritage Area as a non-contributory building.
652. With regards to 21 and 23 Glenbervie Terrace and 16 Parliament Street, we agree with Ms Smith's reasoning and recommendation.
653. Numerous submissions<sup>268</sup> sought that the schedule should be amended to include more properties in the Ascot Street Heritage Area.
654. HPW proposed to extend the boundaries to the extent of the Thorndon Character Area in the ODP. The Thorndon Society Inc requested the inclusion of Upton Terrace and Mary Street.
655. Ms Smith's review of this area retraced the steps of the previous scheduling and found that some of the areas proposed warrant further research, because they may well be of sufficient value to be included.

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<sup>266</sup> Submission #266

<sup>267</sup> Submission #263

<sup>268</sup> Submissions #182, #382, #390, #487

656. We also believe that the majority of the submissions make valid points. In light of natural justice issues, we adopt Ms Smith recommendation for Council to undertake further assessment on the proposed areas with a view to amending the area through a future Plan Change if appropriate.

43 Ghuznee Street Toomath Building (Item 128)

657. We pick up here from our earlier discussion with regards to our Minute 39, and the fate of the Toomath Building after its fire damage. We have dealt with the building and its status on Schedule 1 above in Section 2.16.4. We turn here to its retention in Schedule 3.

658. Mr McCutcheon has made a valid point in response to Minute 39, that if the property stays within the Heritage Area, any new development will have to have regard to the provisions governing this heritage area, which includes provision not to detract from its heritage values (renumbered Policy HH-P15).

659. We concur with his reasoning, and accept that the site is highly visible, with the road boundary aligning with 141 Cuba Street, another heritage building. This contrasts with the buildings further down Ghuznee Street that are set back from the road frontage to avoid dominance.

660. In addition, we are aware of the concerns many of the parties who replied to our Minute had that removal of heritage status might set a precedent for the treatment of heritage buildings within Heritage Areas that are in poor condition. In our view, this site is not any different than a site in the centre of a heritage area. The site has been included and assessed having regard to the bigger picture of the Heritage Area, not just because it was an individually scheduled heritage building.

661. We compare this to the issues we have dealt with in Report 2B where the difference between Character Precincts and scheduled heritage buildings was discussed. The focus of the Heritage Area is on the combination of spatial effects and heritage values.

662. We would also like to make clear that the concerns expressed by some parties that an owner would be 'rewarded' with the removal of their site from any obligations regarding heritage values are incorrect. We acknowledge the real loss of valuable heritage in cases like this. However, we also note that this will not allow new



development to be undertaken without adhering to the heritage provisions that are applicable to that site.

663. We note however, that the site should be added to the Exclusions in Schedule 3 as non-heritage site due to the demolition of the heritage building.

664. In summary, we do not make an out-of-scope recommendation that 43 Ghuznee Street be removed from the Cuba Street Heritage Area, but we do recommend it be identified as non-contributory. We regard this as a minor correction in the circumstances.

### **2.18.3 Retain Specific Heritage Areas**

665. HPW and Evard Aspell<sup>269</sup> sought that the heritage areas in Mount Victoria be retained. Mr Aspell also sought the retention of the areas in Mount Cook, Thorndon, Aro Valley, Newtown and Berhampore on the basis that intensification should not be exercised at the expense of heritage and character. In his view, these suburbs contain enough brownfield sites for intensification, and are not reliant on sites that have heritage values.

666. Mr McCutcheon responded, noting that there are several new heritage areas included in the PDP that are located near the inner city, and the extent of the heritage areas has been based on assessment work undertaken in 2017. He recommended no changes to the extent of the heritage areas. We agree in principle with Mr McCutcheon's recommendation, but we will come back to the extent of Mount Victoria when discussing individual properties that are sought to be included.

667. We also note a number of submissions seeking retention of specific Heritage Areas.

- Mr Insull<sup>270</sup> sought that Item 39 (Red Rocks Baches) be retained as notified.
- Ms Harper and Mr Pemberton<sup>271</sup> sought that Item 42(Doctor's Common Heritage Area) be retained as notified.
- Mr Lee, supported by WCCT<sup>272</sup>, sought that Item 43 (Elizabeth Street Heritage Area) be retained as notified.

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<sup>269</sup> Submissions #182, #270

<sup>270</sup> Submission #32

<sup>271</sup> Submission #401

<sup>272</sup> Submission #454, Further Submission #82

- Mr Forrester<sup>273</sup> sought Item 44 (Moir Street Heritage Area) be retained as notified.
- Ms Morgan<sup>274</sup> sought Item 45 (Porritt Avenue) be retained as notified.

668. We acknowledge these submissions, and note that the areas are discussed on an individual basis in this report.

#### **2.18.4 Retain Specific Buildings within Heritage Areas**

669. Argosy Property No.1 Ltd sought that Item 30 (BNZ / Head Offices) be retained. We accept this submission, noting that no submission has sought its exclusion

#### **2.18.5 Assess Character Areas for Inclusion as Heritage Areas**

670. WHP requested that Character Precincts be assessed as Heritage Areas on the basis that they contain predominantly heritage buildings.

671. Ms Smith recommended these areas are included in the Council Database and be researched and assessed in the future. We agree that there may be Character Precincts that could potentially be identified as Heritage Areas, but also see the need for a separate assessment under the specific criteria for Heritage Areas. Recognition of heritage values, if appropriate, would require a future Plan Change. Prioritisation is a matter for Council, but we observe that there may be investigations we have noted deserving greater priority than this one

#### **2.18.6 Add New Heritage Areas**

##### Te Ngākau Civic Square Historic Area

672. HPW and WCCT<sup>275</sup> considered that a heritage area should be included for the Te Ngākau Civic Square.

673. The Te Ngākau Civic Square evolved from the Civic Centre Heritage Area in the ODP. Ms Smith pointed out that the Heritage Area included a number of modern, non-scheduled buildings that were identified as non-heritage. The buildings include:

- Wellington Town Hall and City Gallery (both heritage buildings in Schedule 1);

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<sup>273</sup> Submission #210

<sup>274</sup> Submission #5

<sup>275</sup> Submissions #182, #233

- Municipal Office Building and Michael Fowler Centre (both identified as contributing buildings);
- Civic Administration Building, Wellington Central Library, City to Sea Bridge, and Capital 'E' (defined as non-heritage buildings); and
- Ilott Green and Michael Fowler Carpark (identified as development sites in the PDP).

674. We discussed the matter of the inclusion of buildings currently not in Schedule 1, and located on the Square, in Section 2.16.2 of this report. Ms Smith noted that the values of the non-heritage buildings have not been assessed sufficiently to include them as heritage buildings.

675. The Council Officers highlighted that the specific provisions that are included in the PDP for the Te Ngākau Civic Square Precinct seek to protect the heritage values that are inherent in the Square. In comparison with the previous Heritage Area, however, the Precinct provisions will only apply to buildings that have been identified as heritage, whereas the provisions for the Heritage Area applied to all buildings within the former Civic Centre Heritage Area.

676. This links back to our recommendations for Schedule 1 above. As Ms Smith recommends, and we agree, the Council should undertake the research and assessments required to identify additional buildings and structures that are of heritage value, so they can be protected under the provisions of the Precinct.

677. On this basis, we recommend for the Te Ngākau Civic Precinct not be included in Schedule 3.

#### Truby King Heritage Area

678. HNZ supported by WCCT<sup>276</sup> considered that the Truby King Historic Area (HNZ#7040) should be included as a new Heritage Area in the PDP.

679. The Historic Area and Gardens include several hectares of land located in Melrose. They include Truby King House, Mausoleum, the former Karitane Products Society Factory, the site of the former Karitane Maternity Hospital, Cobham House/ Former

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<sup>276</sup> Submission #70, Further Submission #82

Nurses' Home, garden walls, gates and paths, entrance arches, glasshouses and various original vegetation.

680. In Ms Smith view, the Historic Area is of significance as a whole, based on the assessments already undertaken by Council. She recommended the entire area be included as a Heritage Area which would result in two additional buildings being protected, which are the Maternity Hospital and the Nurses' Home.
681. Mr McCutcheon accepted Ms Smith's recommendation, but noted that the properties in question are privately owned. While Council has not undertaken any consultation for these properties, HNZ must have done so, for their listing. The owners had the opportunity through the PDP process to oppose the submission from HNZ to include these properties and align the PDP with the HNZ listing. However, they did not submit.
682. While we have generally excluded new heritage listings where we have no clear evidence of consultation having occurred, we regard this as something of an exception. Ms Smith told us that three of the buildings within the proposed Heritage Area are already listed in Schedule 1, and that a large proportion of the site is held as an historic reserve open to the public.
683. Dr Jacobs (for HNZ) recommended that the site of the former hospital and nurses' home be deleted from the proposed Heritage Area. Ms Smith considered that issue in her supplementary evidence. While she accepted Dr Jacobs' view in principle, she recommended provision of a 20m buffer to the east of the driveway. The end result is a reduction in the size of the heritage area as shown in Figure 3 of Ms Smith's supplementary evidence. Mr McCutcheon agreed with that suggested change, as do we.
684. We therefore agree with Ms Smith's revised recommendation and recommend HNZs submission point be accepted to that extent.

### Tawa Cemetery Heritage Area

685. Mr Herbert<sup>277</sup> noted that Tawa Cemetery is considered in the Council's Cemetery Management Plan to be a Heritage Area and sought to include the Tawa Cemetery in Schedule 3 of the PDP.
686. Ms Smith agreed that the council has a long-term goal to include the Tawa Cemetery as a Heritage Area, and to prepare a Conservation Plan to guide its management. Consistent with this position, she recommended that Council undertake further research and assessment with the goal of including Tawa Cemetery through a future Plan Change.
687. We agree with Ms Smith's reasoning and recommendation.

### Hay Street Heritage Area

688. WCCT<sup>278</sup> provided detailed research and assessment for the area of Hay Street, and submits that this area should be included in the schedule as a Heritage Area.
689. The area proposed includes Hay Street, Telford Terrace, Baring Street, Bay View Terrace, and Oriental Parade, consisting of 83 dwellings ranging in age from 1866 to the early 20th century. In Ms Smith's view, the area should be slightly reduced to omit more modern buildings. She recommended that Council undertake further research and analysis to include significant properties into a Heritage Area.
690. Mr Kelly, who undertook the assessment WCCT tabled, agreed both that there were sub-areas without heritage value, and that the Council needed to go through the process Ms Smith identified before the area is listed.
691. While we generally agree with Ms Smith's recommendation, we note that in our view the research and assessment should be undertaken for all of the submission proposed areas, and reductions should be made, where necessary and appropriate, after the assessment.

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<sup>277</sup> Submission #360

<sup>278</sup> Submission #233

692. In summary though, we recommend that WCCT's submission be accepted in part in this regard.

#### Claremont Grove Heritage Area

693. Several submissions<sup>279</sup> sought that Claremont Grove be included as a Heritage Area. Alan Oliver and Julia Middleton, as well as MVHS provided extensive information with their submissions.

694. In Ms Smith's view, based on the Mount Victoria Heritage Study, there is merit in those submissions, and she recommended that Council undertake further research and assessment. We agree with Ms Smith that Council should undertake this work and include the area through a future Plan Change if appropriate. We note here again that generally inclusion of new areas that have not been assessed by Council have inherent natural justice issues, since the owners of the buildings in question have not been consulted and therefore had no practical opportunity to respond.

#### Ellice Street Heritage Area

695. The submission by Mr Oliver and Ms Middleton<sup>280</sup> requested that Ellice Street be Included as a Heritage Area. This was supported by WCCT and Ms Morrell.

696. As with Claremont Grove, the Mount Victoria Heritage Study recommended a Heritage Area, here from 21 to 41 Ellice Street. This area is immediately adjacent to the Moir Street Heritage Area.

697. Ms Smith noted that there is very little research required to complete an assessment and she recommended that Council undertake this work and include the area through a future Plan Change. While we agree that the area cannot be included at this time, again for natural justice reasons, based on Ms Smith's evidence, we recommend that Council to prioritise this work, including the required consultation, so it can be added to the schedule in due course if appropriate.

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<sup>279</sup> Submissions #75, #111, #155, #214, Further Submission #82

<sup>280</sup> Submission #111

### Newtown

698. Several submissions<sup>281</sup>, supported by others, sought additional Heritage Areas be included in Newtown, in particular Emmett Street, Green Street, Donald McLean Street, and Normanby Street.
699. We have discussed the merits of these streets in detail in Report 2B in the context of Character Precincts, which resulted our recommendation for the partial inclusion of Donald McLean St and Normanby Street in the Character Precinct. Due to the location of Emmett and Green Streets in relation to existing Character Precincts, we rejected their inclusion. However, we noted that the buildings in those streets appear of historic heritage and are well suited for further research and assessment as a Heritage Area, a view that Ms Smith and Mr McCutcheon shared.
700. We therefore recommend that Council undertake this work and include these areas as Heritage Areas through a future Plan Change if appropriate.

### Hobson Street Heritage Area

701. Marilyn Powell<sup>282</sup>, supported by Thorndon Residents Association<sup>283</sup>, sought the inclusion of Hobson Street as a Heritage Area.
702. As with Newtown, we have discussed the merits of Hobson Street in Report 2B.
703. We concur with Ms Smith in her recommendation that Council consider carrying out community consultation and a heritage study of Thorndon.

### Epuni Street Heritage Area

704. Ms Nickson, Mr Garrick, and Mr Sakey<sup>284</sup> considered that although Aro Valley has some identified heritage buildings and areas, Epuni Street has not been included. They sought that error of omission be corrected.

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<sup>281</sup> Submissions #216, #275, #310, #33, Further Submissions #68, #82

<sup>282</sup> Submission #281

<sup>283</sup> Further Submission #69

<sup>284</sup> Submission #313

705. As another one of the early historic Wellington suburbs, Ms Smith saw value in further research and assessment of this area. She recommended that Council undertake this work and extend the area through a future Plan Change.

706. Again, we concur with Ms Smith in her recommendations.

### **2.18.7 Remove Areas from Schedule 3**

707. Ms Telfar Barnard<sup>285</sup> considered that Items 41, 42, 43, 44, and 45 are of no different heritage value than a lot of other non-scheduled areas in Wellington, and therefore should be removed from the schedule. In her view, the scheduling amounts to privileging a small number of wealthy people over the housing needs of the wider community.

708. Ms Smith undertook a review of these areas and confirmed that all of them reach the threshold for inclusion in the schedule and recommended that they remain, which Mr McCutcheon agreed with.

709. We note that Ms Telfar Barnard's submission is in stark contrast to the submission of HPW and Evert Aspel, discussed above, who sought that all Mount Victoria Heritage Areas remain in the schedule as notified. We agree with Ms Smith and Mr McCutcheon that inclusion of the areas in question in the schedule is justified and recommend that Ms Telfar Barnard's submission point be rejected.

#### Salisbury Garden Court (Item 24)

710. Mr Knight and Mr Wendt<sup>286</sup> sought to limit the heritage controls for this area considerably, or if that was not possible, to remove the area from the schedule. They noted that the scheduling was initially instigated by the owners and occupants of the 16 properties that form Salisbury Garden Court. However, their intention was to protect the communal layout and setting of the area, not the individual buildings.

711. Ms Smith relied on and agreed with the heritage area evaluation that assessed that the area has significant historic, physical, and social values and is representative.

712. Mr Knight provided us with a presentation that shows that several buildings have undergone additions and alterations, and derelict auxiliary buildings that were

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<sup>285</sup> Submission #72

<sup>286</sup> Submission #265



deemed to be contributing buildings have been demolished. Based on the material Mr Knight provided to us, we struggle with the statement in Ms Smith's evidence that the remaining buildings were largely authentic. That did not appear to be correct. We also heard from that their significance includes the values derived from the townscape and streetscape, However, Mr Knight advised that the buildings cannot be seen from public land since they are surrounded by vegetation and set against the Town Belt.

713. On the basis of the evidence we received, we disagree with Ms Smith that the Salisbury Garden Court retains the values that it was assessed for through a desktop analysis. We recommend the Salisbury Garden Court be removed from the schedule.

#### **2.19 Schedule 4 – Archaeological Sites**

714. We note here that we have not received evidence from a professional archaeologist, but Ms Smith has provided general heritage advice on the relevant submissions.
715. HPW and WCCT<sup>287</sup> generally supported the inclusion of archaeological sites in the PDP.
716. WHP<sup>288</sup> likewise supported inclusion. However, they considered more sites should be added, including Māori and non- Māori archaeological sites. In their view, Māori archaeological sites should also be assessed for inclusion in the SASMs.
717. Ms Smith acknowledged these submissions and recommended Council undertake a heritage study to identify further archaeological sites, with which we concur. To that extent, we recommend WHP's submission be accepted in part.
718. Two specific sites were nominated to be included in Schedule 4.

#### Reedy Block, 28 Westchester Drive

719. Ms Bibby<sup>289</sup> considered this c.1841 burial site should be included in the schedule as a means for identification, protection from accidental damage and insurance and

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<sup>287</sup> Submissions #182, #233

<sup>288</sup> Submission #412

<sup>289</sup> Submission #329

sought that an archaeological investigation is undertaken in case the site is developed.

720. Ms Smith noted that the site is subject to two previous archaeological authorities. However, the exact location of the burial is not known. She also observed that a plaque and memorial seating recognizes the burial, and that the site is managed under the HNZPT Act and she considered that no further action was required in terms of changes to the PDP. We agree with her view.

### Tawa Valley Railway Line

721. Tawa Historical Society<sup>290</sup> submitted that the Tawa Valley Railway Line should be included as an archaeological site.
722. While it is known where historically the railway line was located, there is no current information available whether there are any remains of the railway line present. For this reason, Ms Smith concluded that Council should consider community consultation and further research and assessment, to establish the existence of any remains. The Panel adopts her recommendation.
723. As a result, the only recommended changes to Schedule 4 are minor corrections suggested by the Reporting Officer.

## **3. SITES AND AREAS OF SIGNIFICANCE TO MĀORI**

### **3.1 Introduction**

724. Mr McCutcheon addressed Sites and Areas of Significance to Māori (“**SASM**”) in a separate section of his Stream 3, Section 42A Report. We were assisted in our consideration of these issues by the expert evidence of Mr Morrie Love, who provided background on many of the sites and areas identified.
725. There were many submissions supporting this section of the Plan in whole or in part. We focus below on those submissions seeking to make material changes to it. We note that although there were a number of changes sought in submissions, there was very little evidence put to us by submitters.

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<sup>290</sup> Submission #386

### 3.2 General Submissions

726. In Section 5.11 of his Section 42A Report, Mr McCutcheon summarised a number of submissions seeking:

- Clarification of the Infrastructure/Other Overlays rules related to SASM, to explain the role of awa (streams) and ara (pathways)<sup>291</sup>;
- Clarification as to whether the mapping of Korokoro-Takapū ara affects the whole site<sup>292</sup>;
- Amendment to the mapped track of Tiakiwai Stream and amending the chapter to reflect seismic or other vulnerabilities relating to building on stream beds<sup>293</sup>;
- Exempt properties adjacent to SASM from MDRS<sup>294</sup>;
- Recognise Taranaki Whānui having ahi kā and the role of primary mana whenua within Wellington<sup>295</sup>;
- Amend the objectives, policies, rules and standards to ensure mana whenua can exercise tino rangatiratanga over Te Motu Kairangi and provide for papakāinga on SASM as a permitted activity<sup>296</sup>;
- Note that Moa Point is located within a core operational area of the Airport, that the infrastructure provisions do not apply within the Airport Zone, and that there is no clear consenting pathway within the SASM Chapter for regionally significant infrastructure, and amend the Chapter to accommodate activities within the Airport Zone<sup>297</sup>;
- Delete Maupuia Pā and Moa Point as a SASM in the Airport Zone<sup>298</sup>;
- Amend the Introduction as regards the reference to the archaeological provisions of the HNZPT Act 2014<sup>299</sup>.

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<sup>291</sup> Telcos [#99.64]; Kimberley Vermaey [#348.9]; Southern Cross Healthcare Limited [#380.39-40]

<sup>292</sup> Investore Property Limited [#401.144-145]

<sup>293</sup> Richard Murcott [#322.15-16]

<sup>294</sup> GWRC [#351.142-143]; TRoTR [#488.44]

<sup>295</sup> Taranaki Whānui [#389.67-68]

<sup>296</sup> Taranaki Whānui [#389.69-72]

<sup>297</sup> WIAL [#406.217-218]

<sup>298</sup> WIAL [#406.220-221]

<sup>299</sup> WHP [#412.56]

727. Addressing the group of submissions related to management of awa and ara, Mr McCutcheon noted that the existing information had been provided by mana whenua in different forms, but that the intent of the provisions was to provide opportunities for the values of SASM, and the relationships between them and with Māori to be recognised. In particular, they were only intended to apply within the mapped extent of a SASM. As regards infrastructure however, the rules of the 'Infrastructure – Other Overlays' Chapter would apply instead of the SASM Chapter. He noted that that relationship is specified in the 'Infrastructure – Other Overlays' Chapter.
728. As regards submitters' queries about the fact that both awa and ara are represented by lines on a map, Mr McCutcheon suggested that if the Panel considered there was scope for such a change, there would be merit in applying a nominal 5 metre width to both, on the basis that that might be more representative than the notified proposal and would genuinely enable mana whenua to exercise kaitiakitanga. He identified that some 181 additional properties would be affected by this change.
729. Having reflected upon it, however, Mr McCutcheon advised in his written reply that there was no submission seeking this relief, and since it was a First Schedule matter, no ability for the Panel to make an out-of-scope change.
730. We accept that advice, but we note Mr McCutcheon's review of the merits and we recommend that Council reflect upon that, in consultation with mana whenua, and if appropriate, promulgate a Plan Change to address the matter.
731. Mr McCutcheon suggested a general amendment to respond to submissions by inserting the words "*within the mapped extent*" of a SASM in the Chapter Rules and Policies, and thereby provide greater clarity as to when and where the provisions of the chapter applied. We agree with that suggested change also.
732. As regards Mr Murcott's submission on the Tiakiwai Stream, Mr McCutcheon noted that the location of all SASM had been determined with the guidance and direction of mana whenua, and that we might therefore seek guidance as to the views of mana whenua. His own view was that Mr Murcott's submission appeared to have merit but, again, a decision needed to factor in the views of mana whenua.
733. We heard from Mr Murcott on this point and it appeared to us that the historical data which he had assembled was quite convincing that the currently identified stream route, where it crosses Queen Margaret College's grounds and Hobson Street is offset from the true route. It is necessary to rely on such historical data as the stream

is now piped. Mr Puketapu-Dentice did not address this particular issue on behalf of Taranaki Whānui, but Dr Okem-Lewis, speaking for TRoTR, opposed any change. Her view was that this was an issue for kaumātua and that while the iwi was happy to korero on the subject, that was a process that needed to take its course.

734. We appreciate that there are protocols involved in identifying SASM, and that the involvement of mana whenua is critical. While physically at least, the change sought by Mr Murcott appears relatively minor, we are not comfortable directing that it be made against the clear opposition of TRoTR. We recommend to Council, however, that it consult with mana whenua on this issue and, if appropriate, amend the relevant map as a future minor change to the Plan.
735. As regards the potential to modify MDRS adjacent to SASM, Mr McCutcheon considered that there was merit in the proposal but that neither submitter had provided wording which would need to apply, or a supporting Section 32AA evaluation. We agree with Mr McCutcheon's reasoning. We note that we have suggested an amendment to the policy regime governing developments in residential areas next to SASM where consent is required (refer Report 2A at Section 4.5). However, we agree that a modification to the MDRS needs significant justification and evaluation in terms of Section 77J of the Act, and we do not have that information before us.
736. Accordingly, we recommend that those submissions be accepted in part (to recognise the effect of the recommended policy change as above).
737. Mr McCutcheon did not agree with the Taranaki Whānui relief seeking recognition of their status as having ahi kā and primary mana whenua status in the Wellington rohe, largely for the reasons he set out in his Stream 1 Section 42A Report. We note that Mr Puketapu-Dentice; addressed this point as part of his presentation to us for Taranaki Whānui. He emphasised that he was not saying that TRoTR do not have a standing within the rohe. Nor in his view was he asking for anything 'off the wall' or breaking new ground. He did want, however, an understanding of the nuances involved.
738. We have addressed this submission point at a higher level in Section 6.3 of Report 1B, recommending that it be declined, largely because of the complexity of what Taranaki Whānui are asking for, and the need for a much greater level of definition as to what it means.

739. While Mr Puketapu-Dentice gave us a greater level of understanding of Taranaki Whānui's position, we were not in a materially better position to know, if the Plan should be amended, how it should be amended.
740. It follows that while we agree with Mr Puketapu-Dentice that greater nuance may well be required, we do not have the material before us to know with any surety where that lands in terms of Plan provisions.
741. We therefore recommend that the submission be declined at this time, although again, this is a matter where we recommend ongoing consultation between the Council and mana whenua with a view to better capturing the complex relationships at play.
742. As regards the exercise of tino rangatiratanga over Te Motu Kairangi, Mr McCutcheon noted that no alternative drafting had been provided by Taranaki Whānui, and therefore it was difficult to establish what changes they considered were required to the framework of the chapter.
743. Mr Puketapu-Dentice addressed this point also in his presentation, expressing a desire to explore the potential for Plan amendments and noting that if there was an opportunity to provide input in Hearing Stream 8 on consideration for rezoning of the site, Taranaki Whānui would wish to take that up. Mr Puketapu-Dentice also recorded some frustration at the Council's position in relation to the request of Taranaki Whānui for permitted activity status for papakāinga, namely that it needed to be explored further in consultation with mana whenua. From his perspective, this had been on the table for some time. He indicated a desire to progress it as soon as possible. We did not read Mr Puketapu-Dentice's response as contradicting the essence of Mr McCutcheon's reasoning, but rather emphasising the need for the Council to take prompt and effective steps to address the matter in future. We recommend that the submissions be declined but emphasise that point to Council. Namely, that there is a need for urgent action to address provision for papakāinga in the Plan.
744. As regards WIAL's submissions, Mr McCutcheon considered that the Maupuia Pā and Moa Point site should not be removed, based on Mr Love's input. He also considered that the statement in the Infrastructure – Other Overlays Chapter that the provisions of that chapter apply rather than the SASM Chapter might go some way to elevating the submitter's concerns.

745. This was addressed in some detail by Mr Kyle in his planning evidence for WIAL, who explained that there was a technical glitch with the way in which the inter-relationship between the SASM Chapter, the Infrastructure Chapter and the Airport Zone Chapter operated. In his supplementary evidence, Mr McCutcheon accepted both that he had misunderstood the position, and that there was a problem that needed to be addressed. However, he recommended that the place to address it was in Stream 9. We accept that view and defer consideration of this particular submission point to Stream 9.
746. When the representatives of WIAL appeared, they resiled from the Airport's submission seeking that the Maupuia Pā and Moa Point sites be deleted. It appeared that this was something of a technical fallback position to protect their position. What they were really seeking was clarification of how the rules related to those sites applied. Mr McCutcheon addressed that point in his supplementary evidence noting that in situations such as that of Maupuia Pā and Moa Point, where there were no integral features identified in Schedule 7, SASM-R3 did not apply. We discussed that point with him at the hearing, suggesting that if that was indeed the correct interpretation of the rule then perhaps the chapter needed to state that rather more clearly than it currently does.
747. Mr McCutcheon returned to the issue in Reply suggesting both an amendment to the title of SASM-R3 and to the introductory text of the chapter. We are satisfied that the suggested amendments do clarify the issue.
748. We also discussed the issue with Mr Kyle and invited him to provide us with further input as to how this drafting issue might be addressed. Mr Kyle expressed concern that more work was needed on Schedule 7 to ensure that the schedule appropriately captured all relevant integral features. Obviously, this work needed to be undertaken in close consultation with mana whenua. His suggested solution was to collapse SASM-R3 and SASM-R4 together so that all works within identified sites require a consent in the interim.
749. We are unsure as to the extent to which there are features within the SASM that might potentially be disturbed by activities other than construction of buildings and structures, and that do not affect currently identified integral features. Accepting that there may well be some, we have two concerns with Mr Kyle's suggestion. The first is that WIAL did not seek that relief in its submission, and we are not aware of any submission that did seek that relief. That is not necessarily fatal because this was an IPI matter and therefore we might consider an out-of-scope amendment. More

fundamentally, this is a change that would affect all SASM and potentially impose consenting costs on landowners that they would not bear under the notified Plan. That has obvious natural justice issues. There is also the related problem that while endeavouring to assist us, Mr Kyle has not undertaken a Section 32AA analysis of his suggested alternative relief.

750. Against that background, we accept Mr McCutcheon's suggested clarification of the chapter provisions, which we would categorise as accepting WIAL's submissions in part.
751. Lastly, Mr McCutcheon recommended accepting WHP's submission point regarding the desirability of referencing the HNZPT Act. We accept that recommendation also.

### **3.3 SASM – New Provisions**

752. Under this heading, Mr McCutcheon noted a TRoTR submission seeking a new policy acknowledging the importance of accidental discovery protocols. Mr McCutcheon noted that he had already recommended insertion of a paragraph in the SASM Introduction noting the role of HNZ in relation to archaeological authorities. In his view, this was a more effective and efficient method given that the action required is not addressed by the District Plan, but rather through requirements under the HNZPT Act. We agree with Mr McCutcheon's reasoning and recommend that the submission be categorised as accepted in part, by reason of the suggested amendment to the SASM Introduction (which we agreed with in Section 3.2 above).

### **3.4 SASM Objectives and Policies**

753. In relation to SASM-01 and SASM-02, the only submissions Mr McCutcheon noted seeking material change were from WIAL that he noted had opposed the objectives in part, relying on the relief requested elsewhere in its submission<sup>300</sup>.
754. Mr McCutcheon regarded the issues WIAL was raising as having already been addressed. We concur and note that WIAL's representatives did not raise this issue when it appeared.
755. WIAL lodged submissions on SASM-O3<sup>301</sup> seeking that Maupuia Pā and Moa Point are excluded in the objective, or the objective is clarified to understand how it would be applied.

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<sup>300</sup> Submissions #406.222-223

<sup>301</sup> Submissions #406.224-225



756. Mr McCutcheon suggested that the objective might be clarified by an explanation as to how kaitiakitanga might be exercised.
757. Given our understanding that WIAL had resiled from its request to delete these two sites, we agree that the suggested amendment is helpful and adopt Mr McCutcheon's reasoning.
758. Turning to policies, Mr McCutcheon noted another group of WIAL submissions<sup>302</sup> seeking similar relief as for SASM-03, but in relation to SASM-P1 and P2. He did not consider that any change was necessary for the reasons that he had already set out. We agree with that view.
759. In relation to SASM-P2 which provides direction on maintenance and repair activities on SASM, Mr McCutcheon noted TRoTR submissions<sup>303</sup> seeking amendment to include protection of environmental values that mana whenua have attributed to sites. Mr McCutcheon's view was that while TRoTR had not provided any drafting, he agreed that it was appropriate to include reference to environmental values. He also considered that given the policy does not confer a right of access to mana whenua to maintain or repair sites of significance on private property, the broadening of this qualification was not material, but that the intention that it apply only to iwi and Council owned land should be made clear. He suggested an additional amendment accordingly.
760. We agree with his reasoning on that point also.
761. In relation to SASM-P4, WIAL<sup>304</sup> again sought clarification as to how this policy would apply. Mr McCutcheon set out his understanding of how it was intended to apply. He did not think that any additional clarification was required and Mr Kyle did not address this further in his evidence. We agree with Mr McCutcheon and recommend the policy remain as notified in this regard.
762. Mr McCutcheon had a similar response to the WIAL submissions<sup>305</sup>. Again, he set out his understanding of the intent of the policy and recommended that it be retained as notified. We agree with that recommendation and with his similar recommendation to a similar set of WIAL submissions<sup>306</sup> on the following policy, SASM-P6.

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<sup>302</sup> Submissions #406.226-228

<sup>303</sup> Submissions #488.46-47

<sup>304</sup> Submissions #406.230-232

<sup>305</sup> Submissions #406.233-236

<sup>306</sup> Submissions #406.237-238

### 3.5 SASM Rules

763. Mr McCutcheon noted that the only submissions on SASM-R1 sought that it be retained as notified. However, consequential on his recommendation in relation to SASM-O3 discussed above, he recommended that it be made clear that his rule applies only to iwi or Council land.
764. We agree with that recommendation for the reasons set out above.
765. In relation to SASM-R2, which relates to undertaking of cultural rituals, practices and tikanga Māori in SASM, Mr McCutcheon had a similar response to WIAL's submissions seeking clarification of the rule<sup>307</sup> to those above. He also recommended an amendment to the rule to clarify that it solely applies to iwi and Council owned land. On this occasion, we disagree. As Mr McCutcheon has already acknowledged, the rules of this chapter do not provide any rights of access to privately owned land. It seems to us that if a private landowner should invite mana whenua onto their land in order to undertake cultural rituals, practices and/or tikanga Māori, on a SASM, that should be permitted.
766. Accordingly, we do not agree with Mr McCutcheon's recommendation on this occasion and recommend that the rule remain without change.
767. We have already discussed Mr McCutcheon's recommendation that SASM-R3 be amended to clarify its operation. That addresses WIAL's submissions<sup>308</sup>. We need therefore say no more about that rule. In relation to SASM-R4, which relates to new buildings and structures within a SASM, Mr McCutcheon noted submissions from Southern Cross Healthcare Limited<sup>309</sup> and Investore Property Limited<sup>310</sup> seeking clarification as to whether the rule applies to identified areas or the entire site on which they are located, and from WIAL<sup>311</sup> seeking like clarification to that discussed above.
768. As regards the latter, Mr McCutcheon had the same response as previously, which we agree with.

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<sup>307</sup> Submissions #406.239-240

<sup>308</sup> Submissions #406.241-243

<sup>309</sup> Submission #380.41

<sup>310</sup> Submissions #405.37-38

<sup>311</sup> Submissions #406.244-246

769. As regards the former, Mr McCutcheon considered that his general amendment, to insert reference to the extent of a SASM provided the clarification sought. We agree and do not consider any further analysis is required.
770. The only submissions on SASM-R5 are consequential in nature, referencing other submissions. Mr McCutcheon considered that he had already addressed the substance of the submission. We concur and we do not recommend any amendments to this rule other than the general amendment noted above (to insert reference to the extent of a SASM).
771. Lastly, in relation to SASM-R6, which relates to destruction or demolition of a SASM, Mr McCutcheon noted WIAL's submissions<sup>312</sup> along similar lines to those noted above. Mr McCutcheon recorded that the concept of destruction of a SASM where the site is heavily modified is somewhat difficult to grasp, and may vary depending on the values of the site for iwi. He recorded that he had looked at options to provide greater clarification as to what might constitute destruction, but concluded that there was no simple and satisfactory resolution. Rather, that the best solution was early engagement with iwi where work is proposed to occur near a SASM, and potentially preparation of a cultural impact assessment. He did not recommend any amendment to SASM-R6 and again, we note that Mr Kyle did not suggest any amendment when giving his planning evidence for WIAL. We agree with Mr McCutcheon's recommendation.

### **3.6 SASM – Schedule 7**

772. Under this heading, Mr McCutcheon noted submissions in support, from among other parties, WHP<sup>313</sup>. We note, as discussed separately above, WHP also sought listing of more scheduled Māori archaeological sites<sup>314</sup>. We were left unclear about the overlap between these submissions.
773. We also note that when Ms Cadenhead presented at the hearing for the Tyers Stream Group, she suggested that the main stream flowing off Mount Kaukau be identified as a SASM. The Group did not, as far as we can tell, seek that relief in a submission (the relief it sought in relation to SASM was to retain the SASM chapter as notified<sup>315</sup>) and Mr McCutcheon was not comfortable endorsing that suggestion

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<sup>312</sup> Submissions #406.250-251

<sup>313</sup> Submissions #412.112-113

<sup>314</sup> Submission #412.111

<sup>315</sup> Submission #221.30

without input from TRoTR when he addressed it in his written reply at our request. We do not consider we have a clear basis to take the matter further.

774. Turning to submissions clearly seeking amendment to Schedule 7. Mr McCutcheon noted submissions from Tapu-te-Ranga Trust<sup>316</sup> seeking to identify the whole of the Trust's existing site in Schedule 7. While the representatives of the Trust discussed their desire to expand the listing to provide for extension of an urupā, they did not provide details as to why the balance of the site should be listed. Nor did they identify exactly where the urupā was that they wished to include. Mr McCutcheon for his part had no objections in principle with expanding the identified site, but was concerned that it should not proceed without feedback from Taranaki Whānui, who had identified the site.
775. We had no feedback from Taranaki Whānui on this issue, and in the circumstances, we consider that the appropriate course is to recommend to Council that it consults with Taranaki Whānui, and with Tapu-te-Ranga Trust regarding the extent of the SASM identified in the Plan and, assuming consensus can be arrived at, pursues an amendment to it by way of Plan Change.
776. Mr McCutcheon noted three other submissions on the Schedule. The first, from Barry Insull<sup>317</sup> sought that Item 157 (Pariwhero) be renamed to include the name given in its historic reserve designation. Mr McCutcheon noted that mana whenua had requested the use of te reo Māori in this Chapter for place names, for SASM. The Council had considered that was appropriate since the te reo names are part of the narrative associated with the site.
777. He observed that in this case, 'Red Rocks Scientific Reserve' is noted as an alternative name. He regarded that as a sufficient acknowledgement of the historic reserve designation. We agree and note that Mr Insull did not appear to provide further information to support his submission.
778. HNZ<sup>318</sup> sought amendment to include HNZPT list numbers and/or NZAA site record numbers within the Schedule. Mr McCutcheon recorded that that submission was supported by TRoTR<sup>319</sup> and he also agreed, noting that he would need to seek the

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<sup>316</sup> Submission #297.42-43

<sup>317</sup> Submission #32.8

<sup>318</sup> Submissions #70.75-77

<sup>319</sup> Further Submission #138.13

assistance of HNZ to provide correct references. We also agree that this would be a helpful addition if the information is readily available.

779. Lastly, Mr McCutcheon noted a submission from Southern Cross Healthcare Limited<sup>320</sup> seeking a correction of the Schedule to match the description of Item 145 (Waitangi Awa) with the ePlan maps. Mr McCutcheon noted that the Schedule was an error and needed to be corrected, as the submitter sought. We agree with Mr McCutcheon's recommendation.
780. Under the heading of Minor and Inconsequential Amendments, Mr McCutcheon noted the need to amend the mapped extent of the Kaiwharawhara Bridle Track (Item 7) where it incorrectly extends over residential land at Marsh Way and misnumbering of several sites. We agree with his recommendation that these should be corrected as errors in the Schedule pursuant to Clause 16(2).

#### **4. NOTABLE TREES**

##### **4.1 Introduction**

781. Mr McCutcheon addressed the Notable Trees provisions in Section 5 of his Stream 3, Section 42A Report. We were also assisted in our consideration of these issues by the expert evidence of Mr William Melville, who provided a technical perspective on the provisions as a professional arborist that Mr McCutcheon relied on. Both Council officers provided supplementary evidence on particular matters arising during the course of the hearing and Mr McCutcheon also responded to a series of queries from the Panel in his written reply.

782. There were several submissions supporting this section of the Plan in whole or in part. Whilst we acknowledge those submissions, we focus below on those submissions seeking to make material changes to this section of the Plan. Key technical evidence from submitters was provided by Messrs David Spencer and Jeremy Partridge on behalf of Argosy<sup>321</sup> and himself<sup>322</sup>, respectively.

##### **4.2 Definitions**

783. In Section 5.2 of his Section 42A Report, Mr McCutcheon addressed a number of submissions on definitions of terms employed in this section of the Plan. Most submissions were supportive of the definitions as notified and sought their retention.

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<sup>320</sup> Submission #380.72

<sup>321</sup> Submissions #383.5 and 383.6

<sup>322</sup> Submission #102.1

However, amendments were sought by Mr Partridge and Argosy with respect to the definition for 'root protection area', and Argosy with respect to the definition for 'technician arborist'.

784. Specifically, the submitters had sought an amendment to the former term to adopt a methodology recommended by the NZ Arboricultural Association and more commonly used by arborists in New Zealand for delineating the 'root protection area' and therefore the application of the relevant rules. This is known as the '12 times stem diameter' method. We understand from Messrs Partridge and Spencer that that method is adapted from an Australian standard; whereas the method employed in the Plan as notified, which is based on the dripline of trees with spreading canopies and the 'half height' of columnar trees, derives from a withdrawn British standard that is not a strong predictor of tree root architecture.
785. Mr Partridge based his position partly on the outcomes of a national study and analysis of root protection methods used in district plans that he has undertaken. He described the notified 'dripline / half height' approach as a "*rule of thumb' method with 'major flaws'*" that provides an insufficient guarantee of protection where the root network required to maintain a tree's health, functions and physiology is concerned.
786. Mr Spencer noted that Standard TREE-S4 requires that "*[w]orks must not disturb more than 10 per cent of the root protection area'*"; a metric based on the Australian standard, rather than the method as notified, and that applying such a standard to what he considered was an incorrect means of measuring the root protection area could lead to a damaging volume of roots being removed.
787. Mr Spencer also pointed to what he considered to be some practical issues with the definition as notified. To determine the (half) height of a columnar tree required either climbing it and using a very long tape measure, or a device such as a laser range finder, neither of which is a particularly practical option for landowners without the assistance of an arborist. In his view, it would be much simpler to wrap a tape measure around the tree trunk and measure its diameter as per the '12 times stem diameter' method. Mr Spencer provided an alternative wording for the definition based on the adoption of this method.
788. On behalf of the Council, Mr Melville indicated his support for Messrs Partridge and Spencer's submissions on this matter. He indicated that the '12 times stem diameter' method informs tree protection conditions of resource consent granted by the Council. In Mr Melville's view:

*“The use of a measurement that is obtainable at ground level leads to a better understanding of the root protection area in comparison to estimating half of tree height or assessing the dripline which can be affected by mechanical or environmental influences such as pruning or shading of adjoining trees effecting canopy shape. The 12x stem diameter calculation mitigates other influences to give a better understanding of where roots may be encountered.”<sup>323</sup>*

789. Mr McCutcheon recommended no changes to these terms in his Section 42A Report. With respect to the definition for ‘root protection area’, while he acknowledged that best practice methods should generally be adopted and that the request was indeed supported by Mr Melville, he was concerned that:

- the measurement underpinning the requested approach would require access to neighbouring properties where stems (or trunks) are located; and
- the methodology as notified was more prevalent in district plans, including those in the Wellington Region.

790. In his supplementary evidence, Mr McCutcheon maintained his view, notwithstanding Mr Melville’s evidence in support of Mr Partridge’s position, that the ‘dripline’ method for trees with spreading canopies was easier to understand and visualise for non-experts. He did however suggest that the ‘12 times stem diameter’ method could be useful in informing the non-statutory ‘indicative root protection area’ layer used in the ePlan to alert users to the localised application of the relevant rules.

791. During the course of the hearing, we asked Council officers to indicate whether the Council had data as to the girth (and therefore diameter) or all notable trees and, if so, what they thought of Mr Partridge’s suggestion that the indicative root protection areas shown on the ePlan be based on the ‘12 times stem diameter’ method.

792. In response, Mr McCutcheon confirmed that this data was available except for a handful of trees, and that the non-statutory alert layer could be manually revised on that basis. He therefore indicated his support for Mr Partridge’s suggestion in that regard. While we appreciate Mr McCutcheon’s accommodation of the suggestion where it relates to a non-statutory mapping layer, it raises for us a more fundamental issue as to why the method should not be adopted for the purposes of tree-by-tree measurement.

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<sup>323</sup> Statement of evidence of William Melville on behalf of Wellington City Council (Arboriculture), 6 April 2023, para 13

793. We acknowledge Mr McCutcheon's point regarding the challenges that *some* landowners may face in obtaining a measurement for a tree located on a neighbouring property. In our observation, notable trees in Wellington may be located in reasonably densely developed urban environments and across property boundaries. This might favour the adoption of a practical means of measurement that lay people can undertake without the assumption that necessary access will be provided by neighbours. This is notwithstanding Mr Spencer's observation that as a consulting arborist, he has never been refused access where needed. Unfortunately, not all neighbours maintain a similar level of equanimity, especially when they perceive that their generosity might operate to their disadvantage, facilitating additional restrictions on their freedom of action. However, we consider that the issue will only arise in a limited number of situations, should not be overstated, and should not drive the selection of a potentially inappropriate method on that basis.
794. With respect, Mr McCutcheon's position that the method as notified is more prevalent in district plans in the Wellington Region is not a solid basis for continuing with it, in a situation where it is technically flawed. In this, we favour the position of Mr Spencer, that:

*"Noting that the PDP definition of RPA [root protection area] is commonly applied by other district plans is useful, but I am aware that our profession has been trying to change this approach for years. These Councils are all doing it incorrectly to the detriment of our most significant trees in many cases.*

*I recommend that the Council get the correct and most up to date definition of an RPA into the District Plan rules. Wellington (the Capital City) should lead the way in moving away from this 32-year-old method."*<sup>324</sup>

795. We consider that there is considerable merit to the points made in submitter evidence and legal submissions<sup>325</sup> on this matter. Overall, we favour the incorporation of the '12 times stem diameter' method into the definition for 'root protection area', as recommended by the expert arborists, as being the most effective and efficient option in Section 32AA terms. In our view, it represents an up-to-date, standard-based and industry-adopted approach to identifying areas around trees that require protection. Further, it is one that, in all but a handful of circumstances, can be undertaken by landowners without the need for professional intervention. We recommend that the

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<sup>324</sup> Statement of arboricultural evidence of David Spencer on behalf of Argosy Property No 1 Ltd (submitter 383), 14 April 2023, paragraphs 23 and 25

<sup>325</sup> From Bianca Tree, counsel for Argosy



definition be reworded utilising the wording quoted by Mr Spencer from the New Zealand Arboricultural Association website.

796. We further agree with Messrs Partridge and McCutcheon that there is value in adopting the '12 times stem diameter' method for the purposes of remapping the non-statutory alert layer, and we would encourage the Council to do so. We note that the function of the layer is to alert landowners to the potential application of the notable tree provisions. Trees gain and lose mass over time (albeit slowly), and the application of the method as set out in the definition still needs to be undertaken on a tree-by-tree basis to determine whether the provisions actually apply at the margins of the mapped area. For this reason, we would additionally note that it will be important for that mapping to be caveated by a statement making it clear that the precise defining of a 'root protection area' is to be done in accordance with the methodology outlined in the definition for the term, and that the alert layer cannot be relied upon for this purpose at the margins of the mapped area.
797. Argosy had also sought to amend the definition for 'technician arborist' to allow people with the necessary experience to be classed as such without the specified qualification.
798. In response, Mr McCutcheon was concerned that accounting for arboricultural experience was too subjective a consideration, and could result in unqualified people recommending work adversely affecting tree health. It was his view, reiterated in his supplementary evidence, that the definition provided sufficient flexibility as to the relevant qualification.
799. We agree, finding that defining the depth and breadth of necessary experience is problematic; prone to subjectivity, and open to interpretation as it would be. In our view, it would not be appropriate, as Mr Spencer suggested, to include reference in the definition to a list of approved Council arborists, as this list would naturally alter over time and need to be notified alongside the Plan as an externally referenced document, which it has not.
800. We acknowledge that no definition is perfect; there is no guarantee for instance that someone with a recognised qualification will necessarily act in a professional manner. However, as a defined term, 'technician arborist' does need to be based around an objective, certifiable measure, and a list of appropriate qualifications best fits that requirement.

### 4.3 New Provisions

801. Mr McCutcheon addressed two requests to introduce new notable tree provisions in Section 5.3 of his Section 42A Report. He agreed with DoC's request<sup>326</sup> to address the management of kauri dieback, particularly around earthworks and measures to prevent spread of the disease, and recommended amendments to Rule TREE-R2 and Standard TREE-S4, accordingly. We adopt these recommendations for the reasons outlined in his Report.
802. With respect to Waka Kotahi's request that a new rule to added to enable the relocation, removal or destruction of notable trees for maintenance and development of infrastructure<sup>327</sup>, Mr McCutcheon indicated that it would be addressed in Hearing Stream 9. The structure of the Plan is that Overlay chapters (such as this one) do not apply to infrastructure. The Infrastructure chapter sets out how the values those chapters seek to protect are managed when infrastructure is informed. Inserting a rule in the Notable Trees chapter, as sought by Waka Kotahi, would be inconsistent with the balance of the Plan. Accordingly, we agree with Mr McCutcheon that the issue Waka Kotahi has raised needs to be considered in Stream 9. We do not recommend the amendment it seeks to the Notable Trees rules.

### 4.4 Objectives and Policies

803. Mr McCutcheon addressed submissions relating to relevant objectives and policies in Sections 5.4 and 5.5 of his Section 42A Report, respectively. In the majority of cases, he noted that submitters were supportive of the provisions as notified, and sought that they be retained. There were only a few exceptions to this:
- the Royal Forest and Bird Protection Society sought that Objective TREE-O1 be amended to ensure notable trees do not include pest species that are registered weed species as per the pest definition in the PDP<sup>328</sup>;
  - the Society further sought that Policy TREE-P1 be amended to add 'age, height and irreplaceability' to the list of matters to have regard to in identifying notable trees and that policy direction be provided to enable additional surveys and the inclusion of additional trees in SCHED6 over the life of the Plan<sup>329</sup>;

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<sup>326</sup> Submission #385.34

<sup>327</sup> Submission #301.176

<sup>328</sup> Submission #345.152

<sup>329</sup> Submission #345.155

- Waka Kotahi sought amendments to Policy TREE-P7 to enable destruction of notable trees where necessary for the purposes of maintaining or developing infrastructure<sup>330</sup>; and
- Argosy sought amendments to the title for Policy TREE-P7 to refer to 'removal' in addition to 'destruction'<sup>331</sup>.

804. Mr McCutcheon relied on Mr Melville's advice to conclude that no amendments should be made to Objective TREE-O1 to exclude pest species as their registration as pest species did not necessitate removal and that risks they posed in terms of seedling spread were negligible. In the absence of any technical evidence countering the position of Council officers we accept their view that no amendments are warranted.
805. We note that Mr Melville was supportive of the Society's requests to augment the selection criteria set out in Policy TREE-P1 and provide a stronger policy impetus for future additions to SCHED6. However, Mr McCutcheon was of the view that the requested criteria were already sufficiently covered, and that the Council should not be fettered in terms of policy and operational priorities. We acknowledge that the Council must be able to respond to changing circumstances and legislative obligations. We further accept Mr McCutcheon's position that the provisions as notified go as far as they should in providing direction and an appropriate methodology in the event that it elects to undertake further notable tree surveys.
806. With respect to Waka Kotahi's request, we once again acknowledge Mr McCutcheon's indication that it would be addressed in Hearing Stream 9. As above, amending to TREE-P7 to provide for infrastructure would be inconsistent with the structure of the Plan and we do not recommend that.
807. Finally, Mr McCutcheon agreed with the request of Argosy that Policy TREE-P7 should be amended to reference 'removal' as this would address the part of the policy regarding repositioning and relocation. He identified, and we accept, the need to amend not just the policy title but also the body of the policy to accommodate this.
808. This was not the end of our consideration of potential amendments to Policy TREE-P7, however. The policy, together with Rule TREE-R3 and Standard TREE-S3, countenances situations where destruction (or removal) may be appropriate where it

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<sup>330</sup> Submissions #370.179 and 370.180

<sup>331</sup> Submission #383.63

can be demonstrated that a tree is in a 'state of terminal decline'. As the references in policy, rule and standard are linked, we deal with them collectively at this point.

809. Mr Partridge indicated he was opposed to such provisions as, in his view, even trees that may technically be in such a state can be made safe and retained for long periods of time<sup>332</sup>.
810. Mr McCutcheon was initially of the view that the provisions were pragmatic and warranted no change as they avoided retrospective resource consents having to be obtained to remove trees that were clearly dying.
811. As a basis for exploring the matter further, we asked Council officers for any suggestions as to how the provisions might provide criteria to assist in identifying trees in terminal decline. As reported by Mr McCutcheon, Mr Melville indicated this was not feasible given the species-specific nature of decline, and he and Mr McCutcheon agreed with Mr Partridge's observation that the provisions already provided for trees to be removed where they posed an immediate health and safety risk. On that basis, Mr McCutcheon recommended the removal of the references to terminal decline from the relevant policy, rule and standard. We accept this recommendation for the reasons outlined in Mr McCutcheon's written reply.

#### **4.5 Rules**

812. Mr McCutcheon addressed submissions to the tree rules in Section 5.6 of his Section 42A Report. He agreed with Argosy<sup>333</sup> that amendments were warranted to Rules TREE-R1 and TREE-R2 to improve the readability of the former and reference 'footpaths' with respect to the latter<sup>334</sup>. However, he was not of the view that further amendments should be made to Rule TREE-R1 in response to that submitter's concern that the rule should accommodate trimming and pruning to maintain or improve tree health; accepting as he did, Mr Melville's advice that trees do not typically require works for the purpose of maintaining health beyond that already set out in the rule.
813. Mr McCutcheon also advised against amendments requested by another submitter<sup>335</sup> to TREE-R2 to restrict permitted activities, and we accept the reasons he gave for this in his Report.

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<sup>332</sup> Submission #102.2

<sup>333</sup> Submissions #383.64 and 383.65

<sup>334</sup> We note that Mr McCutcheon's agreement on the latter point was superseded by his recommendation to delete all reference to infrastructure discussed below.

<sup>335</sup> Submission #397

814. Mr McCutcheon then identified an issue with references to works in the root protection area that it is intended are managed through the Plan's Infrastructure chapter. He recommended changes to Rule TREE-R2 and Standard TREE-S4 that we accept the need for and recommend the adoption of, together with a consequential need to make a similar amendment to Rule TREE-R1 that he identified in his supplementary evidence.
815. We took the opportunity during the hearing to ask Mr McCutcheon whether an expansion to the note in Rule TREE-R2 was warranted, advising readers that infrastructure activities within the root protection area are controlled under the Infrastructure chapter. He agreed, and we therefore recommend the adoption of a change to that note that the Council officer recommended.
816. We note that we have already recommended the adoption of a change to Rule TREE-R3 to remove the reference to 'terminal decline' (refer Section 4.4 above).
817. Our final recommendation with respect to the tree rules relates to an administrative issue we have identified with respect to Rule TREE-R4. While not raised in submissions, we consider this to be worthy of consideration and resolution.
818. Rule TREE-R4 is a 'default' rule applying to all activities not covered under other tree rules and makes these discretionary activities. All those other rules specify what the activities are to (e.g. *TREE-R1: trimming and pruning of notable trees*) or the area to which they relate (e.g. *TREE R2: Activity and development within the root protection area of notable trees*).
819. Rule TREE-R4 on the other hand is not moored to a subject (notable tree) or area (protected root zone). Its title is simply *All other land use activities*. Is it intended to catch the placement of a tree house, for instance? It might be considered reasonable that it did. On the other hand, is it intended to capture the placement of a rope swing or bird nesting box, or the damage domestic cats and dogs might do to a tree, scratching or biting it? That might not be considered reasonable, but in any case, it is not clear from a reading of the rule what activities it was intended to capture or exclude.
820. As a Panel, in the absence of a suitable submission, we do not have the scope to recommend a suitable change to resolve this uncertainty. Because the issue was not discussed at the hearing, we were not confident that we could draft an amendment that would be helpful, and that we could be satisfied would be of minor effect, so as to

come within Clause 16 of the First Schedule. However, we invite Council officers to consider the matter further.

#### **4.6 Standards**

821. Mr McCutcheon addressed submissions to the tree standards in Section 5.7 of his Section 42A Report. He recommended no amendments to Standard TREE-S2 in response to a submission from Argosy<sup>336</sup>, or to Standard TREE-S4 from Telcos<sup>337</sup> seeking its relocation to the Infrastructure chapter for the reasons outlined in his Section 42A Report. On the other hand, he did recommend changes TREE-S4 in response to requests from those submitters and also Mr Partridge<sup>338</sup> to remove references to trademarks, reflect practice and the techniques used to work around trees, while retaining the surface area limit.
822. In response to Mr Spencer’s evidence, both Mr Melville and Mr McCutcheon subsequently agreed that the amended reference to “*directional drilling*” should be further altered to “*trenchless methods*” as a means of broadening permitted works, and we recommend the adoption of that additional change accordingly.
823. We asked Mr McCutcheon whether it might be desirable to state in Standard TREE-S4 that hydro excavation is a fallback method if others are not available and/or appropriate. This was on the basis of Mr Melville’s evidence that hydro excavation is not the preferred method of soil removal given the damage it can cause to tree roots. Having conferred with Mr Melville, Mr McCutcheon agreed, and we therefore recommend the addition of a note to that effect in the standard.
824. We note that we have already recommended the adoption of a change to Standard TREE-S3 to remove the reference to ‘terminal decline’ (refer Section 4.4 above).

#### **4.7 SCHED6 – Notable Trees**

825. Schedule 6 (SCHED6) to the Proposed Plan comprises a list of notable trees to which the tree provisions apply, grouped by area of the City. As summarised in Mr McCutcheon’s Section 42A Report at Section 5.8, SCHED6 attracted a number of submissions seeking as relief:

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<sup>336</sup> Submission #383.68

<sup>337</sup> Submission #99.62

<sup>338</sup> Submissions #383.69, 99.63 and 102.3, respectively

- applying STEM criteria for evaluating notable trees as a means of adding indigenous species to SCHED6<sup>339</sup>;
- rearranging the list alphabetically by street address or other rationale<sup>340</sup>;
- removing specific trees from the Schedule, including those identified as pest species<sup>341</sup>; and
- adding specific trees to the Schedule<sup>342</sup>.

826. In response, Mr McCutcheon:

- carefully considered the STEM threshold applying to indigenous species and, based on the advice of Mr Melville, concluded that it was calibrated in an appropriate manner;
- agreed that an alphabetical listing would assist in Plan navigation;
- referencing Mr Melville's advice, recommended that one radiata pine should be removed from SCHED6 but that other trees that met the required threshold should not and neither should identified pest species, based on the low risk of spread<sup>343</sup>; and
- again, referencing Mr Melville's advice, did not recommend the addition of any further trees to SCHED6 due to their not meeting the required threshold and/or the owners of trees concerned not having an opportunity to make primary submissions on the matter.

827. These matters were not contested at the hearing. We agree with Mr McCutcheon's conclusions in the above respects and recommend the acceptance or rejection of the relevant submissions to SCHED6 on that basis.

## 5. CONCLUSIONS

828. We have sought to address all material issues of the parties who have appeared before us put in contention in relation to the topics discussed in this report.

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<sup>339</sup> Submission #397.1

<sup>340</sup> Submissions #266.202 and 492.51, respectively

<sup>341</sup> Submissions #125.1, 125.2, 345.410, 351.342 - .344, 383.132

<sup>342</sup> Submissions #360.11, 397.2, 481.40

<sup>343</sup> Refer also Section 4.4 in this Report

829. To the extent that we have not discussed submissions on this topic, we agree with and adopt the reasoning of the Section 42A Reports prepared by Mr McCutcheon, as amended in his written Reply.
830. Appendix 1 sets out the amendments we consider should be made to the PDP as a result of our recommendations. We note that the attached schedules do not reflect the reordering into alphabetical order that we have recommended at this point, to avoid cross referencing confusion that might otherwise result. The relevant schedules will be reordered at the point the changes approved by Council are 'accepted' and the ePlan version is uploaded.
831. To the extent that the Section 42A Reporting Officer has recommended amendments to the Plan requiring evaluation in terms of Section 32AA that we agree with, we adopt his evaluation for this purpose.
832. Where we have discussed amendments, in particular where we have identified that further amendments should be made, our reasons in terms of Section 32AA of the Act are set out in the body of our Report.
833. Appendix 2 sets out in tabular form our recommendations on the submissions allocated to Hearing Stream 2 topics considered in this report (including those transferred from the Wrap-up/Integration hearing).
834. We note the out-of-scope recommendations we have made:
- To amend the definition of 'repair and maintenance' in ways not sought in submissions (refer Section 2.3 above);
  - To amend the reference in HH-P7 and renumbered HH-P14 to seeking advice from Heritage New Zealand Pouhere Taonga (refer Section 2.9 above);
  - To amend renumbered HH-P14(1)(a) to be consistent with the equivalent provision in renumbered HH-P5 (refer Section 2.9 above)
  - To insert an Advice Note referencing information regarding seismic analyses (refer Section 2.11 above);
  - Delete the Toomath Building (Item 128) from Schedule 1;
  - Delete 121 Hill Street from the Ascot Street Heritage Area, in Schedule 3 (refer Section 2.18.2).



835. We also draw Council's attention to our recommendations:

- To amend the Evaluation Report relating to Cooper's Cottage (Item 470 in Schedule 1) to correct errors in it (refer Section 2.16.1 above);
- To review the Evaluation Report for 53 Trelissick Crescent to determine if there are unnecessary personal details in it regarding the Kahn Family that should be deleted (refer Section 2.16.3 above);
- To consider whether a replacement Heritage Design Guide should be inserted back in the Plan (refer Section 2.13 above);
- To commit to a review of the database held of potential heritage sites and areas (refer Section 2.15 above);
- To consult with mana whenua in relation to:
  - The Potential for better representation of awa and ara than lines on a map (refer Section 3.2 above);
  - The correct route of Tiakiwai Stream through Thorndon (refer Section 3.2 above);
  - The potential for a more nuanced description of mana whenua (refer Section 3.2 above);
  - Provision for papakāinga (refer Section 3.2 above);

- Enlargement of the scheduled Tapu-Te-Ranga site (refer Section 3.6 above).

For the Hearing Panel:

A handwritten signature in blue ink, consisting of a large, stylized 'T' shape with a horizontal line extending to the right and a vertical line extending downwards.

**Trevor Robinson**  
Chair  
Wellington City Proposed District Plan Hearings Panel

**Dated: 5 February 2024**