

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of Proposed Plan Change 9 to the Operative Hamilton
City District Plan

**LEGAL SUBMISSIONS OF COUNSEL FOR SUBMITTERS (#162, #204, #309,
#343, #364, #413, #472, #414)
31 October 2023**

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MAY IT PLEASE THE PANEL

Introduction

- 1 Plan Change 9 has sought to update the District Planning Maps with Built Heritage. Built Heritage itself is in its 16th month of being operative and affecting properties in Hamilton.

- 2 Submitters for these submissions include:
 - (a) Walter and Patricia Meister (Submission #162) - 170 Pembroke Street,
 - (b) Anne and Mark Lovegrove (Submission #204) - 47 Norton Road, Frankton,
 - (c) Jane Sherrard (Submission #309) - 131 Albert Street,
 - (d) Darryl and Jo Ward (Submission #343) - 233 and 237 River Road,
 - (e) Mactan Property Trust – Nancy Caiger (Submission #364) - 913 River Road,
 - (f) Gaye Bainbridge and Graham Watson (Submission #413) - 1335 Victoria Street,
 - (g) Dion Merson and Kirstyn Beuzeval (Submission #472) - 13 Cardrona Road,
 - (h) Julie Nelson and Jacqui Bennion (Submission #414) - 36 Anglesea Street,

(together “**Submitters**”)

- 3 The Submitters have had their properties on ‘hold’ while Hamilton City Council (“**HCC**”) progressed its plan change on little initial evidence to schedule these properties.¹ The Submitters have experienced cancelled sale and purchase agreements, delays to repairs of essential building

¹ Photos were often taken from the road with fences in the way and there was little information provided from historical records to give a basis for scheduling.

elements, and have spent personal time with HCC staff and councillors in attempting to understand what heritage means for their property.

- 4 Submitters were told that resource consenting would be in the costing range of \$2,000 in order to seek resource consent for modification and that it is a simple process to be able to access the heritage funding HCC has that was reduced from \$100,000 to \$80,000. This has caused stress, sleepless nights and a lack of trust in the planning process.
- 5 We have been asked to articulate that collective experience to the Panel and to note this experience is not likely to be unique to the submitters that we represent.

Outcome

- 6 These legal submissions support the conclusion in Ms Caddigan's evidence that the Submitters' properties should be removed from the District Plan heritage listing due to the extent of modification or inaccurate, overstated and/or unsubstantiated heritage qualities.² Ms Caddigan has visited the Submitters' properties and viewed the properties for accuracy.³
- 7 The Submitters have included in their earlier submissions and correspondence with HCC, the expert opinion from Dr Ann McEwan⁴ regarding their properties. In each case that opinion supports removing the property from the heritage listing.

Section 42A report

- 8 The section 42A report titled "Planning Report and Recommendations", dated 27 October 2023, recommends that the Submitters' properties be

² Evidence of Elise Caddigan, dated 24 August 2023, paragraphs 40-43.

³ It is not clear if the properties were physically visited, beyond the front gate, when the properties were listed as heritage in Plan Change 9.

⁴ Xanthe Johnson provided an expert opinion for Jane Sherrard.

removed from Appendix 8, Schedule 8A: Built Heritage.⁵ These recommended changes are supported by the Submitters.

Conclusion

- 9 This process has been lengthy, expensive and time consuming for the Submitters. We submit that the conclusions related to the Submitters properties' reached in both Ms Caddigan's evidence and the s42A report should be adopted by the Panel.

Dated 31 October 2023



C F Muggeridge
Counsel for the Submitters

⁵ Planning Report and Recommendations, authored by Andrew McFarlane and Neda Bolouri, dated 27 October 2023, pages 32-33 and 63-64.