

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

**MEMORANDUM OF COUNSEL ON BEHALF OF SUBMITTERS IN
RESPONSE TO MEMORANDUM OF COUNSEL FOR HAMILTON CITY
COUNCIL DATED 1 AUGUST 2023
8 August 2023**

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MAY IT PLEASE THE HEARING PANEL

Introduction

- 1 This memorandum is filed on behalf of submitters,¹ in response to Hamilton City Council's (**HCC**) memorandum dated 1 August 2023.
- 2 In HCC's memorandum, Counsel for HCC outlines that there is a procedural issue for Built Heritage and directions are sought on the best way forward.
- 3 It is agreed that each individual item will require evaluation by the Panel.
- 4 We see merit in deciding on the methodology first for Built Heritage and then proceeding to hearings on individual items against an agreed methodology.²

Procedure

- 5 While the majority of the procedure proposed by HCC is accepted, Counsel for the submitters has the following suggestions:
 - (a) That an indication on what items HCC has agreed to withdraw from Built Heritage is made available as soon as possible, and before any evidence is due by submitters and any set expert conferencing on HHAs and Built Heritage takes place (we suggest all conferencing should be completed together (point 6 below)). This will indicate which submitters will be required to participate and engage an expert for the methodology hearing.
 - (b) Confirmation that the interim decision will not only address the assessment methodology, but also formally withdraw the Built Heritage mapping (heard at the first hearing) from the properties that are identified for withdrawal so that the rules no longer apply to these properties. The Built Heritage section of PC9 has been

¹ Walter and Patricia Meister (Submission #162), Anne and Mark Lovegrove (Submission #204), University of Waikato (Submission #206), Jane Sherrard (Submission #309), Darryl and Jo Ward (Submission #343), Mactan Property Trust – Nancy Caiger (Submission #364), Gaye Bainbridge and Graham Watson (Submission #413), Dion Merson and Kirstyn Beuzeval (Submission #472).

² The second hearing should set as soon as possible, given that Built Heritage is currently operative and submitters have waited 16 months for the first hearing to take place.

operative and has burdened affected properties for over a year because of its status under section 6 of the Resource Management Act 1991.

- (c) Paragraph 13 of HCC's memorandum proposes that following the issue of an interim decision, it will be up to each party to review their Built Heritage item or their opposition to an item and present their revised position to the Panel. It would be helpful at this stage in the process for HCC to provide its position on each item to the new methodology before submitters, so submitters can understand if HCC is still seeking the item to be scheduled (or not) using the new methodology. This would assist submitters in understanding if an expert will need to be engaged for the further exchange of evidence as suggested at paragraph 14 of HCC's memorandum.
- (d) It is presumed that the standard evidence exchange process (including rebuttal) will also apply to the second hearing.

HHAs

- 6 Counsel raised in January that HHAs and Built Heritage should be heard together as there is an overlap in submitters (and experts). Counsel seeks that the expert conferencing is heard together on both topics.

Dated: 8 August 2023



C F Mugeridge

Counsel for the Submitters