

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

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

STATEMENT OF REBUTTAL EVIDENCE OF ELISE NATALIE CADDIGAN

(HISTORIC HERITAGE – BUILT HERITAGE)

Dated 6 October 2023

LACHLAN MULDOWNY

BARRISTER

P +64 7 834 4336 **M** +64 21 471 490

Office Panama Square, 14 Garden Place, Hamilton

Postal PO Box 9169, Waikato Mail Centre, Hamilton 3240

www.lachlanmuldowney.co.nz

INTRODUCTION

1. My full name is Elise Natalie Caddigan.
2. My qualifications and experience are as set out in paragraphs 1 and 2 of my primary statement of evidence dated 24 August 2023 (**primary evidence**).
3. I reconfirm that I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and I agree to comply with it.

PURPOSE AND SCOPE OF EVIDENCE

4. The purpose of this rebuttal statement of evidence, which is provided on behalf of Hamilton City Council (**HCC**) as Plan Change 9 (**PC9**) proponent, is to respond to matters raised in heritage expert evidence in relation to the PC9 Built Heritage topic.

RESPONSE TO SUBMITTER EVIDENCE

Veronica Cassin on behalf of Five Thirty; 530 Victoria Street, Hamilton Central

5. Site Specific:
 - a) In response to paragraph 3.4 of Ms Cassin's evidence I disagree that this property is eligible for removal via this hearing as per section 7 (b)(iii) of Direction #15. The reasons are set out below.
 - b) In paragraph 4.3 (a) Ms Cassin identifies a historic lease agreement that has not been considered in her reassessment of the place.

- c) This document is available as a public record, and I have viewed its content regarding the site. The lease demonstrates the relationship between the building and the Alfa-Laval company.
- d) I also refer to paragraph 5.3.4 of Archifact's built heritage assessment of the place¹ and note:

Archifact's professional and independent opinion is that it would be appropriate for heritage recognition to be limited to the frontage above canopy level, and the canopy itself.²

- e) I contend that the comparison of the place against the known repertoire of Edgecumbe and White should be tested beyond the two places utilised in paragraph 4.8 of Ms Cassin's evidence and paragraph 5.3.3 of Archifact's memorandum; noting that the 2012 HCC assessment lists approximately ten known buildings or monuments.
- f) I also note that there appears to be unconsented work undertaken to the ground floor joinery.
- g) The Archifact memorandum reassesses the heritage values of the place using the Operative District Plan (**ODP**) methodology. At paragraph 7.2 (starting "requiring only [...]")³ I note that Ms Cassin considers a more appropriate approach would be to confirm heritage significance by aggregating several heritage value criteria. When considered across the evidence submitted by Ms Cassin and Mr Wild I suggest that for consistency reassessment should wait until the panel has issued a decision on methodology.
- h) Based on the above, I am not prepared to remove this place based on submitter evidence and consider that further assessment and

¹ "memorandum built heritage, final: 530 Victoria Street, Hamilton", Archifact Limited, 24 August 2023.

² "memorandum", Archifact, pg. 24.

³ Note that Section 7 of Ms Cassin's evidence has three paragraph "7.2"s.

evaluation against a new / updated methodology is required to make an informed recommendation on this place.

6. Methodology:

- a) In response to paragraph 6.2 (starting “I have reviewed [...]”⁴), for the avoidance of doubt I clarify that I have not re-evaluated the full list of built heritage places as proposed by WSP. I refer to paragraphs 22 and 40 of my primary evidence.
- b) In response to paragraphs 7.1 (starting “Ms Caddigan’s evidence includes [...]”⁵) and 8.3 I refer to paragraphs 47 and 68 of my primary evidence that I understand the term “moderate” to convey significant heritage value locally or beyond. This is relevant in the context of the 2012 built heritage assessments as I disagree that my proposed thresholds should be applied to both the earlier assessment of an existing built heritage place and Ms Cassin’s recent assessment which uses these thresholds.
- c) In response to paragraph 8.3 I refer to paragraphs 63 and 64 of my primary evidence and confirm that I am proposing to amend the threshold relating to the terminology used to determine heritage value for a clearer relationship to the A and B rankings. I maintain that the minimum threshold for inclusion in the plan as a built heritage place remains at the test of “significant heritage value locally”.⁶

John Brown on behalf of Kāinga Ora Homes and Communities’ (Kāinga Ora)

7. Site Specific:

⁴ Note that Section 6 of Ms Cassin’s evidence has two paragraph “6.2”s.

⁵ Note that Section 7 of Ms Cassin’s evidence has four paragraph “7.1”s.

⁶ “Rankings of Significance: Plan Ranking B” Hamilton City Operative District Plan, Volume 2, Appendix 8 Heritage, 8-1.1 Assessment of Historic Buildings and Structures.

- a) Mr Brown addresses “Individual Site Assessments” at section 7 of his evidence. I understand that Kāinga Ora does not identify specific sites for privacy reasons⁷; resultantly I cannot make any site specific recommendations for places that may meet the refined scope of this hearing, nor respond to the list of reasons to justify their removal as per paragraph 7.3.

8. Methodology:

- a) I understand from paragraphs 1.3 (e) and (g), and 8.11 that Mr Brown supports my proposed changes to the assessment methodology.
- b) Mr Brown also opines that this would require a review and update of evaluations for proposed built heritage places. The extent of revision in relation to Kāinga Ora sites is those places proposed based on “moderate local” value⁸, whilst paragraphs 7.4 and 8.12 appear to propose a review of all places.
- c) I agree that a change in methodology would necessitate a review of some proposed built heritage places.
- d) In response to paragraph 3.2 (d) I refer to paragraphs 46 and 65 of my primary evidence. I propose that both A and B ranked places can be attributed value at a local, regional, or national level.
- e) I agree with Mr Brown at paragraph 8.10 that a comparative analysis exercise contributes to greater robustness and consistency for assessment.

⁷ “Submission on Proposed Plan Change 9 (Historic Heritage And Natural Environments) to the Hamilton City Operative District Plan” by Kāinga Ora Homes And Communities, pg. 6, footnote 6.

⁸ “Statement of Primary Evidence of John Edward Brown on behalf of Kāinga Ora Homes and Communities”, Session 2 Built Heritage, 22 September 2023, pg. 3, paragraph 1.3 (f) (ii).

Veronica Cassin on behalf of Lovell Family Trust; 243 Ulster Street, Whitiara

9. Site Specific:

- a) In response to paragraph 3.4 I disagree that this property is eligible for removal via this hearing as per section 7 (b)(iii) of Direction #15. The reasons are set out below.
- b) This place is identified in the Waikato Heritage Group's submission to PC9. The submission identifies aspects of the place's history that are not considered in the expert report.
- c) As per paragraph 10 (a) below, I understand Ms Cassin has applied another version of utilising the sub-criteria for assessment. I refer to paragraphs 10 (b) and (c) below and for consistency consider reassessment should wait until the panel has issued a decision on methodology.
- d) Based on the above, I am not prepared to remove this place based on submitter evidence and consider that further assessment and evaluation against a new / updated methodology is required to make an informed recommendation on this place.

10. Methodology:

- a) In paragraph 7.4 Ms Cassin proposes that aggregation of several heritage value criteria achieving above a moderate level is an appropriate approach. I understand from paragraph 4.6 that Ms Cassin has taken this approach in her assessment of 243 Ulster Street, Hamilton. I refer to paragraphs 59, 71 and 72 of my primary evidence which also addresses the difficulty in applying the sub-criteria.
- b) I refer to paragraph 7.10 and Figure 2: Archifact, Sub-criteria Aggregation Tool and would like to better understand how to apply

this suggested approach. I note that sub-criteria range in number from one through four which may disadvantage the application of some heritage qualities.

- c) I consider the assessment of built heritage values to be a largely qualitative exercise, and at this time I am reluctant to apply what appears to be a quantitative approach.
- d) Paragraphs 7.7, 7.8 and 7.11 reference my proposed thresholds to conclude that the subject site would not meet the minimum requirements for scheduling. I refer to paragraphs 6 (b) and (c) above in terms of my substantive response.

John Brown on behalf of National Storage; 115 Kent Street, Frankton

11. Site Specific:

- a) I understand that a site specific evaluation of this property will not occur as part of this hearing as per section 7 (b) of Direction #15 and will be the subject of a separate hearing once the assessment methodology has been resolved.

12. Methodology:

- a) National Storage's built heritage expert, Mr Brown, makes substantive commentary regarding methodology in his submission on behalf of Kāinga Ora. I respond to these points in paragraph 8 above. For completeness I note that these points are generally reiterated in section 5 of the National Storage evidence.

Adam Wild and Veronica Cassin on behalf of New Zealand Police / Tainui Group Holdings; 12 Anzac Parade, Hamilton Central

13. Site Specific:

- a) In response to paragraph 6.4 I disagree that this property is eligible for removal via this hearing as per section 7 (b)(iii) of Direction #15, and specifically that it falls into my third group of removals. The reasons are set out below.
- b) In paragraph 7.31 and section 8 Mr Wild states that their assessment of 12 Anzac Parade is a more rigorous application of the ODP methodology, contending that further testing and refinement of the ODP methodology would support their conclusion. I agree that further refinement / amendment / change of the methodology is necessary.
- c) However, as per paragraph 14 (a) below, I understand Mr Wild has applied another proposed version of utilising the sub-criteria for assessment. I refer to paragraphs 10 (b) and (c) above and for consistency consider any reassessment should wait until the panel has issued a decision on methodology.
- d) My reading of Appendix 1 finds that a lack of guidance and definitions impacts the ability to accurately apply the ODP methodology. I also note comments across Appendix 1 which reference the need for further research⁹ and comparative analysis¹⁰. I contend that there is enough suggestion of additional work required to better assess the place that it should be excluded from this hearing.

⁹ "Statement of Evidence of Adam Wild and Veronica Cassin on Behalf Of New Zealand Police Nga Pirihi Mana O Aotearoa", Appendix 1, pg. 3.

¹⁰ Appendix 1, pgs. 6, 9, 10. Note that a comparative analysis is not explicitly suggested in appendix 1, I have inferred this from the primary evidence and general comments within the submission documents.

- e) Based on the above, I am not prepared to remove this place based on submitter evidence and consider that further assessment and evaluation against a new / updated methodology is required to make an informed recommendation on this place.

14. Methodology:

- a) I understand paragraphs 5.14 and part of 7.22 to suggest an exercise similar to a comparative analysis. As per my response to Mr Brown in paragraph 8 (e) above, I generally agree with these statements.
- b) In response to paragraph 5.16 I note for transparency that Auckland Council's (**AC**) Category A* is an interim category which is under regular, comprehensive review.¹¹ The majority of reassessed places are Category B. For example, AC's Plan Change 82 has reassessed 80 A* places, concluding: "21 (26%) are proposed to be Category A and 59 (74%) are to be Category B."¹² Table 1 below demonstrates the percentage of each AC category. It is also important to note that AC's schedule includes both built heritage and archaeological sites. In my opinion the data presented in paragraph 5.16 is somewhat skewed based on these observations.

Table 1: Auckland Council Historic Heritage by Category

Category	Number	Percentage
A	198	8.70
A*	187	8.22
B	1890	83.08

¹¹ "Chapter D17: Historic Heritage", Auckland Unitary Plan Operative in Part, pg. 1.

¹² Auckland Council Section 32 Evaluation Report, "Proposed Plan Change 82: Amendments to Schedule 14 Historic Heritage Schedule, Statements and Maps to the Auckland Unitary Plan (Operative in part)", 5 August 2022, pg. 29.

- c) Notwithstanding this, I agree that Category A places are underrepresented in PC9, and conversely to AC, HCC's Schedule 8A currently identifies 41% Category A and 59% Category B places.
- d) In response to paragraph 6.1 I refer to paragraph 6 (a) of this rebuttal document for clarity on the extent of my review.
- e) In response to paragraphs 7.16 - 7.18 I agree that a thematic history of a city is a useful tool and that the draft Thematic Review (November 2021) identifies many themes important to the establishment of Hamilton and its history. The purpose of the document states that it will form the basis for a review and future update of the built heritage schedule.¹³ I understand that the review informed the beginning of the PC9 process in that each chapter identifies both current district plan and possible new listings. My reading of the report is that it is a final draft, with minimal work required to finalise.
- f) Specifically in response to paragraph 7.18, I propose that "local" or "locality" could be attributed (and defined) to being within HCC's territorial boundary and "regional" could be attributed (and defined) to being within Waikato Regional Council's regional boundary.
- g) I would like to better understand the opinion stated in paragraph 7.25. Changing the term which signifies heritage value at a local level (and is the minimum threshold test for Category B), eg. from "moderate" to "high" / "significant" / "considerable", would not in my view necessitate changing the test of "one or more of the heritage criteria"¹⁴ for meeting the threshold. Whilst I agree that it is less common, a single criterion for meeting the threshold is the test

¹³ "A Thematic Review of the History of Hamilton [draft]", Lyn Williams, November 2021, pg.10.

¹⁴ "Rankings of Significance: Plan Ranking B" Hamilton City Operative District Plan, Volume 2, Appendix 8 Heritage, 8-1.1 Assessment of Historic Buildings and Structures.

for both Heritage New Zealand Pouhere Taonga (**HNZPT**) and AC and accords with the definition of 'Historic Heritage' in the RMA.

- h) In response to paragraph 7.27 I refer to paragraphs 70 – 72 of my primary evidence to clarify that I support the assessment of the sub-criteria and for this to be recorded. I propose condensing and/or combining the sub-criteria to facilitate a clear statement of value for each heritage quality without the need for aggregation. I note that both AC¹⁵ and HNZPT¹⁶ have a single criteria statement against which to assess.
- i) Paragraphs 7.28 and 7.29 include an example table for aggregation of the sub-criteria and a 'super' criteria, the details of which are also present in Ms Cassin's evidence for 243 Ulster Street, Whitiara. I refer to paragraphs 10 (b) and (c) of this rebuttal document for my response.
- j) I would like to better understand the approach outlined in paragraphs 7.33 and 7.34, as it appears to retain the ODP's three thresholds for significance into two ranking categories. As per paragraph 63 of my primary evidence, I consider three thresholds into two ranks an inherent issue. I note that a place assessed as exhibiting moderate value at a local level would not meet the threshold of Category B, which could be interpreted as contradictory to the commentary in paragraph 7.25.

Laura Kellaway on behalf of the Waikato Heritage Group

15. Site Specific:

¹⁵ Auckland Unitary Plan (Operative in Part), B5 Ngā rawa tuku iho me te āhua - Historic heritage and special character, B5.2.2(1)(a-h).

¹⁶ "Significance Assessment Guidelines", Heritage New Zealand Pouhere Taonga, March 2019, pg.5.

- a) I understand that the sites proposed for scheduling by this submitter are not eligible for consideration at this hearing as per section 7 (b) of Direction #15. However, they will be the subject of a later hearing.

16. Methodology:

- a) I would like to better understand Ms Kellaway's commentary regarding the moderate threshold. In response to paragraph 44 I note that Dunedin City Council's (DCC) district plan does not categorise or rank their built heritage places¹⁷ and the threshold is outlined in policy 2.4.2.1 as "buildings and structures that have significant heritage values [...] based on the following criteria"¹⁸. Neither is a threshold noted at the Regional Policy Statement level. I have confirmed with DCC's heritage advisor that meeting one of the four criteria, based on a comparison to existing scheduled items, with no thresholds, is DCC's approach to scheduling built heritage.¹⁹ AC set a threshold of "considerable" for historic heritage.²⁰
- b) I clarify in response to paragraph 46 that my primary evidence does not address a definition for contributing and non-contributing (noting that it is included in Attachment 3); however, I agree that this could be considered in further discussions around establishing definitions for the ODP.

CONCLUSION

- 17. I do not agree that the existing or proposed built heritage places at: 530 Victoria Street, Hamilton, 243 Ulster Street, Whitiara and 12 Anzac Parade, Hamilton can be removed via the refined scope of Session 2 Hearing 1 as

¹⁷ As per Dunedin City Council, Second Generation District Plan: Appeals Version, Appendix A1.1 Schedule of Protected Heritage Items and Sites.

¹⁸ DCC, SGDP, Objective 2.4.2 Heritage, Policy 2.4.2.1.

¹⁹ Personal communication with Mark Mawdsley, 2-3 October 2023.

²⁰ AUP(OIP), B5.2.2(3)(a).

per Direction #15. These sites will be fully evaluated in a later hearing once methodology is resolved.

18. Similarly, I understand 115 Kent Street, Frankton and all places proposed by the Waikato Heritage Group sit outside of the scope of consideration for this hearing.
19. There is general agreement from all heritage experts that the ODP methodology would benefit from revision.
20. There is also general agreement from Mr Brown, Mr Wild and Ms Cassin for a stand-alone guidance document, disaggregation of value and geographical components, introduction of definitions, clarity for the application and/or use of sub-criteria and a shift away from the term “moderate” to ascribe significance.
21. Mr Brown agrees with my proposed amendments to the ODP methodology, and I understand Mr Wild and Ms Cassin to agree in part. Mr Wild and Ms Cassin propose alternative, tabular methods for aggregating sub-criteria and a matrix for establishing overall heritage significance utilising the existing ODP terminology and thresholds.
22. Subject to further explanation I am happy to consider these alternatives, nothing that I generally prefer a qualitative approach to assessing built heritage significance.

Elise Natalie Caddigan

6 October 2023