

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 LAURA JANE GALT

(PLANNING – BUILT HERITAGE)

Dated 6 October 2023

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INTRODUCTION

1. My full name is Laura Jane Galt.
2. My qualifications and experience are as set out in paragraphs 3 to 4 of my primary statement of evidence dated 1 September 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 planning expert evidence in relation to the PC9 Built Heritage topic.

RESPONSE TO SUBMITTER EVIDENCE

Carolyn McAlley on behalf of Heritage New Zealand Pouhere Taonga (HNZPT)

Explanation Objectives and Policies 19.2.1

5. In paragraphs 11 and 12 of her evidence, Ms Carolyn McAlley still seeks the inclusion of the word 'social' in the explanation of Objectives and Policies 19.2.1.
6. I maintain the view that deletion of 'social' is appropriate, as the list of significance relates to each of the six qualities listed in the Waikato

Regional Policy Statement (**WRPS**), Appendix 7¹. It does not take words from the subsequent descriptors under each quality. Therefore, I consider it unnecessary to do so just for one.

Policy 19.2.3b

7. In paragraphs 14 and 15 of her evidence, Ms McAlley addresses Policy 19.2.3b. I agree with Ms McAlley's reasoning and suggested amendment to the introductory paragraph set out in paragraph 15.

Policy 19.2.3c

8. In paragraphs 16 and 17 of her evidence, Ms McAlley addresses Policy 19.2.3c with the only outstanding matter being the retention of the words 'and enhance' in the policy.
9. In my primary evidence,² I consider the changes sought by various submitters to the policy (including HNZPT) and recommend that the word 'enhance' is retained but the preceding 'and' is replaced with 'or' to clarify that enhancement is not required/nor possible in every instance.
10. I disagree with Ms McAlley that my example of enhancement would be covered under the wording of 'retain and protect' and I maintain the view that the word 'enhance' should be retained in the policy.
11. However, on review of the policy, I consider that the inclusion of "or" as I proposed in my primary evidence, may be interpreted as only one of "retain, protect, enhance" is required to be achieved in every case, which is not the intention. Accordingly, I consider the amendment proposed by Kāinga Ora³ of inserting 'where practicable' before the word 'enhance' better achieves the outcome sought.

¹ WRPS - Archaeological, Architectural, Cultural, Historic, Scientific, Technological.

² Primary Evidence - paragraph 45.

³ Submission point 428.45.

Policy 19.2.3j

12. In paragraphs 22 to 24 of her evidence, Ms McAlley addresses Policy 19.2.3j
ii. I agree with her conclusion that ‘wherever possible’ in this context can result in unintended consequences and should be removed.
13. Furthermore, I agree that ‘restores’ is a better term when considered with the ICOMOS definition of ‘restoration’⁴, however the Operative District Plan (**ODP**) definition⁵ differs and does not address the removal of elements that detract from the heritage value. Given there is an ODP definition, then further consideration of the ICOMOS definition would not be sought.
14. Therefore, a gap still exists. While it could be interpreted that unsympathetic alterations and additions could be removed, it is not clear given the ODP definition of ‘restoration’.
15. If it is agreed that a consequential amendment could be made to the definition of ‘restoration’, then I agree with the suggested amendment by Ms McAlley:

Restoration: Means returning the existing physical material of heritage resources to a known earlier state, which may include the removal of features that detract from the heritage values.

16. If it cannot, then the policy should be amended as follows:

Conserves ~~and~~, maintains and ~~or~~ where practicable enhances, the authenticity and integrity of the building or structure.

⁴ **Restoration** means to return a **place** to a known earlier form, by **reassembly** and **reinstatement**, and/or by removal of elements that detract from its **cultural heritage value**. (Words in bold are also defined in ICOMOS charter).

⁵ **Restoration:** Means returning the existing physical material of heritage resources to a known earlier state.

Policy 19.2.3k

17. In paragraph 25 and 26 of her evidence, Ms McAlley suggests alternative wording to Policy 19.2.3k. I disagree with the inclusion of the word ‘appropriate’ at the start of the policy as it adds an element of subjectivity. I do agree with amending the word ‘and’ to ‘while’ as it assists with the interpretation of the policy.
18. However, it is noted that I recommend an amendment to the policy to address the inclusion of protected interiors⁶ but this was not included in Ms McAlley’s suggested amendment. I maintain my recommendation that the policy be amended to address protected interiors. However, on review, I propose the following, which is clearer and assists the plan user:

Modification of the interior of buildings or structures in Schedule 8A, where the interior is ~~also~~ not listed as protected, is enabled as a means of encouraging use, re-use or adaptive reuse ~~and~~ while facilitating the retention and protection of the exterior.

John Brown on behalf of Kāinga Ora

19. It is noted that Kāinga Ora did not lodge any expert planning evidence. The following relates to Mr John Brown’s expert heritage evidence where he addresses built heritage provisions.
20. In Section 6 of his evidence, specifically paragraphs 6.1 to 6.3, Mr Brown addresses the submission points that relate to the Objectives and Policies in Chapter 19. Mr Brown still seeks the wording proposed in the Kāinga Ora submission, however there is no reference to the recommendations of my primary evidence in respect of Kāinga Ora ’s submission points 37⁷, 38⁸,

⁶ Primary evidence - Appendix A.

⁷ Policy 19.2.3b – Primary Evidence paragraphs 41 to 43.

⁸ Policy 19.2.3c – Primary Evidence paragraphs 44 to 49.

39⁹ and 40,¹⁰ where I discuss either accepting the amendments in part or in full and have ultimately adopted Kāinga Ora's suggested amendments.

21. In paragraphs 6.5 to 6.7 of his evidence, Mr Brown addresses the definitions of 'setting' and 'surroundings'. In paragraphs 82 – 90 of my primary evidence, I agree that an extent of place is more appropriate in respect of 'setting', however until all items have been subject to review, the definition of 'setting' provides a useful interpretation in the District Plan. It is also noted that, as proposed in the PC9 definitions, the 'surrounds' relate to the wider area, whereas the 'setting' is encompassed within the surrounds.
22. Furthermore, while Mr Brown provides some examples of other definitions for 'setting', he does not provide any amendments to the PC9 notified definition. I maintain the view that the definition of 'setting' as set out in Appendix A of my primary evidence is appropriate.
23. I disagree with the amendments proposed by Mr Brown regarding the definition of 'surrounding' and maintain the view that the amended definition set out in Appendix A of my primary evidence is appropriate.

New Zealand Police

24. Mr Grant Eccles provides planning evidence on behalf of the New Zealand Police. Substantial parts of the evidence relate specifically to the 12 Anzac Parade site for the Hamilton Central Police Station¹¹. The site-specific matters will be addressed in the later hearing for specific items.
25. The only matter in Mr Eccles' evidence that relates to planning provisions is addressed in paragraph 7.4. I disagree with Mr Eccles' position that avoidance of demolition should only be applied to A ranked buildings. The

⁹ Policy 19.2.3e – Primary Evidence paragraph 50.

¹⁰ Policy 19.2.3j v. – Primary Evidence paragraph 66.

¹¹ Added to Schedule 8A through PC9 as a B ranked building.

intent of PC9 was to provide a stronger direction in relation to demolition, irrespective of the ranking of a built heritage item.

26. In her rebuttal evidence, Ms Elise Caddigan has responded to Mr Adam Wild and Ms Veronica Cassin's expert heritage evidence in relation to methodology. However, I wish to clarify one matter not specifically addressed in my primary evidence.
27. In paragraph 4.2¹² Mr Wild and Ms Cassin have referenced the HCC PC9 website text to support their understanding of what PC9 included in relation to Built Heritage.
28. I consider that the Section 32 Report¹³ is clear that PC9 did not reassess any of the existing ODP Built Heritage items. Further PC9 did not alter the rankings of any of the built heritage scheduled items which were subject to the 2012 ODP review process, and the only amendments to the existing Schedule 8A was to remove items that have been physically removed or demolished under approved resource consents.

Laura Kellaway on behalf of Waikato Heritage Group

29. In paragraphs 20 and 33 to 38 of her evidence, Ms Laura Kellaway disagrees with my recommendation that, unless owner support is present, interiors of items are not included in the Schedule. She notes that Council-owned items could be included as they are publicly owned.
30. I agree with the scheduling of the interior of 129 Cambridge Road as it has been specifically requested by the owners. Beyond that example, I consider it challenging to introduce protection for interiors without landowner approval and input. If interiors are to be pursued, it should be

¹² Note same arguments are raised in Ms Cassin's evidence for 530 Victoria Street - paragraphs 3.2, 3.5 and 3.6.

¹³ Section 32 – Executive Summary – page 3, 2nd paragraph.

via a separate plan change which transparently addresses the issue and enables full public participation.

31. A positive outcome of introducing the one interior for protection in the District Plan rule framework is that other interiors could be added through future plan changes.

Laura Kellaway on behalf of P and S Hart

32. In paragraph 21 of her evidence, Ms Kellaway proposes that the definition of 'Historic Heritage' be amended to include interiors or that a separate definition be included for clarity. I disagree that either an amended or new definition specifically for interiors is warranted.
33. In paragraph 32 of her evidence, Ms Kellaway refers to paragraph 21 of my primary evidence. I consider that she meant to refer to paragraph 22 where I have set out the notified version of Policy 19.2.3c. Ms Kellaway has misunderstood this to be my recommended wording. In paragraphs 44 to 49 of my primary evidence, I have addressed the submission points of multiple submitters in relation to Policy 19.2.3c. I maintain that the amendments to Policy 19.2.3c that I recommend achieves the intent of PC9 without the subclauses as notified. I do not consider Ms Kellaway's proposed amendment is necessary.

Laura Jane Galt

6 October 2023