

**BEFORE THE INDEPENDENT HEARINGS PANEL**

**UNDER THE**

Resource Management Act 1991

**IN THE MATTER OF**

Plan Change 9 (Historic Heritage and Natural Environment) to the Hamilton City Operative District Plan – Built Heritage, Stage 1

**IN THE MATTER OF**

Submission 341 of the New Zealand Police Nga Pirihimana o Aotearoa

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**SUPPLEMENTARY STATEMENT OF EVIDENCE OF GRANT ECCLES  
ON BEHALF OF NEW ZEALAND POLICE NGA PIRIHIMANA O  
AOTEAROA**

Planning

24 July 2024

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**GREENWOOD ROCHE**  
LAWYERS  
AUCKLAND  
Solicitor: F M Lupis  
francelle@greenwoodroche.com

Hayman Kronfeld Building  
6/15 Galway Street  
Auckland 1010  
PO Box 106006  
Auckland 1143

## **1 INTRODUCTION**

- 1.1 My full name is Grant Robert Eccles.
- 1.2 I am a Technical Director - Planning for Tonkin and Taylor Limited, based in Hamilton.
- 1.3 I have been engaged by New Zealand Police – Ngā Pirihimana o Aotearoa (*NZ Police*) to assist with its submission on Plan Change 9 (Historic Heritage and Natural Environment) to the Hamilton City Operative District Plan (*ODP*) (*PC9*). That submission opposes:
- (a) the proposed scheduling of the Hamilton Central Police Station (*the Station*) located at 12 Anzac Parade, Hamilton (*the Site*) as a “B” ranked Heritage Item in Schedule 8A of the ODP (*the Schedule*); and
  - (b) the proposed amendments to a rule within the ODP which would classify demolition of a “B” ranked building as a discretionary activity.
- 1.4 I prepared a brief of evidence dated 22 September 2023 which addressed planning matters in relation to the proposed scheduling of the Station, including the methodology used by Hamilton City Council (*HCC*) to identify the values of prospective heritage items (*Primary Evidence*). I presented that evidence along with Ms Cassin and Mr Wild, heritage experts on behalf of NZ Police, at the PC9 Session #2 Built Heritage hearing on 7 November 2023.
- 1.5 I have the qualifications and experience as set out in my Primary Evidence.

### **Code of conduct**

- 1.6 Although this is not an Environment Court proceeding, I confirm that I have read and am familiar with the Environment Court’s Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of

evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## **2 SCOPE OF SUPPLEMENTARY EVIDENCE**

2.1 My evidence is presented on behalf of NZ Police and addresses planning matters associated with the proposed scheduling of the Station.

2.2 In my Primary Evidence, I assessed the proposal to include the Station in the Schedule against the relevant provisions of the National Policy Statement for Urban Development 2020 (*NPS-UD*), the Waikato Regional Policy Statement (*WRPS*), and the ODP. For brevity I do not repeat this prior analysis in any detail in this statement. My Primary Evidence should however be read in conjunction with this supplementary statement, which:

- (a) updates my previous analysis in light of:
  - (i) further information regarding the Station contained in the Hamilton City Council Supplementary Assessment, included as Appendix 2 to Ms Elise Caddigan's supplementary evidence of behalf of HCC dated 3 July 2024;
  - (ii) the analysis of heritage experts Ms Caddigan, The Heritage Studio (*THS*) (attached as Appendix 1 to Ms Caddigan's evidence), and Mr Wild; and
  - (iii) the evidence presented by Mr Rahui Papa on behalf of Tainui Group Holdings Limited (*TGH*) and NZ Police; and
- (b) responds to HCC's assessment of the Station as set out in its section 32 report and the evidence of Ms Laura Galt on behalf of HCC dated 24 August 2023 and 3 July 2024.

2.3 In preparing my evidence, I have reviewed:

- (a) the primary briefs of evidence of Ms Elise Caddigan dated 24 August 2023 and Ms Laura Galt dated 1 September 2023 on behalf of HCC;
- (b) the supplementary evidence of Ms Elise Caddigan (Heritage Values) on behalf of HCC dated 3 July 2024, including:

- (i) THS's recategorisation assessment, included as Appendix 1 (*THS Recategorisation Assessment*); and
  - (ii) the Hamilton City Council: Supplementary Assessments included as Appendix (*HCC Supplementary Assessment*);
  - (c) the supplementary evidence of Ms Laura Galt (Planning) on behalf of HCC dated 3 July 2024;
  - (d) the evidence of Mr Rahui Papa on behalf of TGH and NZ Police dated 24 July 2024;
  - (e) the evidence of Mr Adam Wild on behalf of NZ Police dated 24 July 2024; and
  - (f) the section 32 report dated 22 June 2022 prepared by HCC for PC9 (HCC Section 32 Report).
- 2.4 I have also reviewed the relevant Resource Management Act 1991 (*RMA*) documents including the NPS-UD, the WRPS, the ODP, and the Waikato-Tainui Environmental Management Plan 2013, Tai Tumu, Tai Pari, Tai Ao (*WT – EMP*).

### **3 UPDATED PLANNING ANALYSIS**

#### **Primary Evidence recap**

- 3.1 As set out in my Primary Evidence, inclusion of the Station on the Schedule would make development activities relating to the Station subject to additional consenting constraints (including objectives and policies) which, among other outcomes, would make it significantly more challenging and costly to obtain resource consent for its demolition.<sup>1</sup>
- 3.2 In that context, in my Primary Evidence, I considered whether the proposed scheduling of the Station (and the implications of that) was the most appropriate way to achieve the objectives of PC9 and the ODP, and the RMA. As part of that, I assessed the proposed scheduling against the directives of the relevant documents. I concluded that scheduling the Station would not implement the relevant objectives of the following RMA documents:

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<sup>1</sup> Primary Evidence, at 3.8.

- (a) **NPS-UD** – The proposed scheduling would constrain the ability for the Site to be used in future to achieve the intensification outcomes envisaged by Objective 3 and Policy 3. It would not recognise that development on the Site needs to be able to change over time in response to changing circumstances of site ownership and occupation (Objective 4). It would also not provide for the cultural wellbeing of Waikato-Tainui, including their values and aspirations for long term development of the Site, or the principles of Te Tiriti (Objectives 1 and 5 and Policy 9).
- (b) **WRPS** – The proposed scheduling does not implement relevant objectives of the WRPS. In particular, it does not result in the Station or the Site (as a physical resource) being managed in way that recognises the needs of current and future generations and the need to work with the relevant agencies, landowners, resource users and communities (Objective IM-01) Further, scheduling the Station would also not recognise or provide for the relationship of Waikato-Tainui with the Site and their role as kaitiaki (Objective IM-07), nor would it represent a sustainable or efficient use of the Site and Station (Objective IM-08A).
- (c) **ODP** – The proposed scheduling of the Station on land returned to Waikato-Tainui would not be consistent with the new Policy 19.2.1d<sup>2</sup> proposed by PC9, nor the relevant the strategic provisions within the ODP relating to the values, aspirations and role of Waikato-Tainui as tangata whenua.<sup>3</sup>

3.3 I concluded that, having regard to efficiency and effectiveness requirements of section 32, scheduling of the Station was not the most appropriate outcome. I observed that it did not appear that in the preparation of PC9 any attempt had been made to quantify the costs associated with scheduling the Station, which could be extremely significant both because of consent process costs and the ultimate worst case of consent to demolish the Station being declined. It also did not appear to me that HCC or the relevant heritage / planning experts for

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<sup>2</sup> The relationship Mana Whenua have with both the whenua and awa, and the spiritual, cultural and/or historical significance of the whenua and awa has to Mana Whenua shall be recognised and provided for.

<sup>3</sup> Objective 2.2.9, Policy 2.2.9a, Policy 2.2.9b.

HCC had considered the cultural effects on Waikato-Tainui of the scheduling. That oversight (regarding both cultural matters and the cost/benefit analysis) does not appear to me to have been remedied in the most recent evidence provided by HCC's experts.

- 3.4 At the time my Primary Evidence was filed, the assessment methodology for possible items for inclusion in the Schedule was heavily contested and information regarding heritage values of the Station was, with respect, limited.
- 3.5 In that context, I concluded that the heritage values of the Station were not well-substantiated, and given the significant constraints and costs that will be generated by the proposed scheduling, the risk of acting (i.e. confirming the scheduling) in the face of the uncertain or insufficient information is in my opinion too high.<sup>4</sup>
- 3.6 Since that hearing, various heritage experts involved in this proceeding have participated in expert conferencing on the methodology for assessing prospective heritage items. That resulted in the production of a joint witness statement which outlined a revised methodology that was agreed by the majority of the heritage experts. As set out in Mr Wild's supplementary statement, that revised methodology was endorsed by the Panel via Interim Guidance #1 (*Endorsed BH Assessment Methodology*).<sup>5</sup>
- 3.7 Heritage experts on behalf of HCC (Ms Caddigan and THS) have reassessed the Station using the Endorsed BH Assessment Methodology, as has Mr Wild. The key points of difference between those experts relate to their respective assessments of the *physical/aesthetic/architectural qualities* and the *context qualities* of the Station.<sup>6</sup>
- 3.8 Since my Primary Evidence was filed, I have also had the benefit of reviewing the evidence of Mr Rahui Papa on behalf of TGH and NZ Police. That evidence describes the relationship between Waikato-Tainui, the Site and the Station, and outlined the reasons for Waikato-Tainui's opposition to the proposed scheduling of the Station.

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<sup>4</sup> Primary Evidence, at 8.1-8.4.

<sup>5</sup> Supplementary evidence of Mr Adam Wild, at 3.1-3.2.

<sup>6</sup> Supplementary evidence of Mr Adam Wild, at 4.9; Supplementary Statement of Evidence of Ms Elise Caddigan on behalf of HCC dated 3 July 2024, at 78.

3.9 As a result of those briefs of evidence as well as the further information provided by the HCC Supplementary Assessment of the Station, I have updated my planning analysis of the proposal to include the Station in the Schedule as a Plan Ranking "B" heritage building and the proposed rule which would apply to demolition of the Station if it was included in the Schedule. In short, I remain of the opinion that including the Station in the Schedule is not an appropriate way to achieve the objectives of the ODP (including as amended by PC9) or the purposes of the Act.

### **Updated analysis**

3.10 A summary of my updated analysis, based on s32(2) of the RMA, is included as **Appendix A**.

3.11 As it was for my Primary Evidence, my updated analysis of the proposed inclusion of the Station in the Schedule is primarily framed by section 32 of the RMA, and by the RMA requirements for:

- (a) the ODP (as amended by PC9) to give effect to national and regional policy statements;
- (b) any change to the ODP to accord with HCC's functions under section 31; and
- (c) any change to the ODP to take account of any relevant planning document recognised by an iwi authority.

3.12 For the purposes of this analysis, the relevant objectives of PC9 seek:

- (a) That historic heritage which contributes to an understanding and appreciation of the history and cultural of the City is identified and significant heritage resources are protected.<sup>7</sup>
- (b) To identify and protect the heritage values of significant buildings, structures and their setting and surroundings.<sup>8</sup>

3.13 Inclusion of the Station (among other buildings) in Schedule 8A is identified by HCC in its HCC Section 32 Report as a provision intended to

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<sup>7</sup> Objective 19.2.1.

<sup>8</sup> Objective 19.2.3.

achieve those objectives. The evaluation attached to that Report does not identify any other relevant ODP objectives.

- 3.14 As an “amending proposal” however, a section 32 analysis of PC9 must examine the provisions and objectives of the amending proposal and the objectives of the existing proposal to the extent that those objectives are relevant to the objectives of the amending proposal. As I address further below, there are a number of existing ODP objectives which have direct bearing on PC9 which have not been addressed by HCC.

*Heritage objectives*

- 3.15 I have considered the evidence of Ms Caddigan (informed by the THS Recategorisation Assessment and the HCC Supplementary Assessment) and Mr Wild regarding the heritage values of the Station. On balance, I prefer the evidence of Mr Wild, who, on applying the Endorsed BH Assessment Methodology, finds that the Station is not eligible for inclusion in the Schedule. In my opinion, Mr Wild’s evidence is more compelling as:

- (a) He has considered the rationale put forward by HCC’s experts in support of their high ranking for the Station, and has provided robust reasons as to why he disagrees and favours a lower ranking.
- (b) For example, while he acknowledges that the Ministry of Works had responsibility for constructing the Station, and that Frank Irvine Anderson as the District Architect had substantial involvement in its design, there is no evidence to suggest that the Station holds a particularly special place for either the organisation or Mr Anderson.<sup>9</sup> In Mr Wild’s opinion, “it is, in short, considered a relatively routine project”.<sup>10</sup> For that reason he does not consider that the Station’s association with either Mr Anderson or the Ministry confers high physical/aesthetic/architectural value. Further, while Mr Wild accepts that the Station is a “representative example of Brutalist architecture” he does not consider that it is ‘distinctive’, and as such, as medium value at best.<sup>11</sup>

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<sup>9</sup> Supplementary evidence of Mr Adam Wild, at 4.9(a).  
<sup>10</sup> Supplementary evidence of Mr Adam Wild, at 5.9.  
<sup>11</sup> Supplementary evidence of Mr Adam Wild, at 5.2-5.3.

(c) Importantly, unlike Ms Caddigan’s or THS’s Recategorisation Assessment, Mr Wild’s assessment has been appropriately informed by the submission of Waikato-Tainui and the evidence of Mr Papa and Superintendent Bird.

3.16 On the basis that it does not achieve the eligibility criteria for inclusion in Schedule 8A, I do not consider that that outcome is the most appropriate way to achieve the heritage objectives of PC9 or the ODP more generally, which focus on the protection of heritage values of significant buildings.<sup>12</sup> In particular, I consider that the costs associated with that scheduling would considerably outweigh the benefits associated with the social effects of protecting the heritage value of the Station which, on the strength of Mr Wild’s evidence, is *medium* at best.

3.17 For the reasons set out in my Primary Evidence, I also consider that that outcome would be inconsistent with the directions of the WRPS relating to heritage. Those directions focus on “protecting places of historic and cultural heritage in order to retain the identity and integrity of the Waikato region’s and New Zealand’s history and culture”.<sup>13</sup> As Mr Wild’s evidence makes clear, the heritage value of the Station simply does not warrant the level of protection that inclusion on the Schedule would afford it. Put simply, on heritage grounds alone, there is no justification in a section 32 sense for including the Station in Schedule 8A of the ODP.

#### *Other ODP objectives*

3.18 As a “heritage-focussed” plan change, PC9 is rightly primarily focussed on achieving the relevant heritage objectives. As I have set out however, there are other objectives in the existing ODP which are relevant to the assessment of PC9’s provisions. I referenced some of these in my Primary Evidence, but they are restated below:

- (a) Objective 2.2.9: Resource management priorities are developed in partnership with tangata whenua.
- (b) Policy 2.2.9a: The relationship tangata whenua have with the City is recognised and promoted.

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<sup>12</sup> For example, ODP objective 19.2.3.

<sup>13</sup> For example, WRPS HCV-01.

- (c) Policy 2.2.9b: Development considers effects on the unique tangata whenua relationships, values, aspirations, roles and responsibilities with respect to an area.

3.19 In my Primary Evidence, I briefly addressed the extent to which inclusion of the Station in the Schedule using the previous assessment methodology would achieve those objectives. Based on the information I had at the time, I concluded it would not.

3.20 I have now had the benefit of reviewing Mr Papa's evidence which is directly relevant to that assessment. Of particular importance are the following statements from his evidence:

As noted, the return of land or the whenua to Waikato-Tainui has always been at the heart of its Raupatu Claim...The whenua is and has always been our taonga.<sup>14</sup>

The return of our taonga was required to recognise and support the restoration and ongoing enhancement of our mana, including through providing for future development opportunities on that land. Those opportunities (and the return of some of the whenua more generally) in turn allowed the tribe to begin finally moving out of grievance mode towards a more hopeful, prosperous future.<sup>15</sup>

It is for that same reason that securing the return of that land with the opportunity for "unencumbered possession" – i.e. free from buildings and structures which served no purpose for us – was so important.<sup>16</sup>

The Station is an embodiment of that grievance and an ongoing reminder of that painful past for Waikato-Tainui.<sup>17</sup>

TGH does not consider that these features of the Station represent any heritage value that is worth protecting, and that to include the Station on the Schedule:<sup>18</sup>

...prioritises the association of the Site with the Police over the tribe's historical relationship to it;

...protects and places value on a building which:

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<sup>14</sup> Evidence of Mr Rahui Papa, at 3.11 and 3.13.

<sup>15</sup> Evidence of Mr Rahui Papa, at 3.14.

<sup>16</sup> Evidence of Mr Rahui Papa, at 3.15.

<sup>17</sup> Evidence of Mr Rahui Papa, at 4.9.

<sup>18</sup> Evidence of Mr Rahui Papa, at 5.4.

- (i) has historically acted as a post-box for sending our people to incarceration and has exacerbated the grievances experienced by our people;
- (ii) both NZ Police and Waikato-Tainui agree is no longer fit for purpose (in every sense); and

...as discussed further below, imposes further constraints on the future use of the Site which risk prolonging or indeed preventing the fulfilment of the redress promised to Waikato-Tainui.

3.21 Based on that evidence, the proposed inclusion of the Station in the Schedule clearly would not reflect a partnership approach to developing resource management priorities. It would not recognise and protect Waikato-Tainui's relationship to the Station or the Site (which form part of the City), and would have adverse effects on both the values of Waikato-Tainui and their aspirations. In that regard, I do not consider that scheduling the Station is either efficient or effective in achieving Objective 2.2.9 of the ODP or its implementing policies.

3.22 In my opinion, there is also a significant risk of including the Station in Schedule 8A which is associated with frustrating the lease arrangements provided as part of the redress obtained via the Waikato-Tainui Raupatu Claims Settlement Act 1995. It is understood that that Treaty settlement provision was not known to Council at the time of preparing PC9 and neither did Council have knowledge of the offensive symbolism of the Station to tangata whenua, or the evidence of the importance to tangata whenua of having land returned in a cleared and unencumbered state to allow its full potential to be realised. These considerations, now all available to the Council via the evidence of Mr Papa, strongly favour the option of not scheduling the Station on the basis that it is neither an efficient nor effective way of achieving the relevant objectives of the ODP.

3.23 Finally, amendments made by notified PC9 to the purpose statement of the ODP's Heritage Chapter seek to make it clear that "it is only appropriate for mana whenua to identify their relationship and that of their culture and traditions with their ancestral lands, water, areas, waahi tapu and other taonga."<sup>19</sup> Other amendments state that mana whenua

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<sup>19</sup> PC9 Heritage Chapter Purpose Statement paragraph c.

“have historical rights, authority and control associated with their taonga, sites of significance within Hamilton, despite mana whenua historically not being involved in decision making that fulfils their obligations and responsibilities as kaitiaki.<sup>20</sup>”

- 3.24 While these amendments may have a focus on archaeological sites (given that PC9 also contains archaeological sites provisions), they nevertheless convey the broader intent of PC9 in providing for enhanced recognition of the relationship of mana whenua with their taonga in Hamilton. In my opinion, it is clear that in light of the evidence of Mr Papa, scheduling the Station would be inconsistent with this intent.

*Other plan change considerations*

WRPS and WT-EMP

- 3.25 As I have summarised earlier and in my Primary Evidence, my opinion is that including the station in Schedule 8A would not give effect to the WRPS. In light of Mr Papa’s evidence, that opinion is further strengthened with regard to IM-07 which seeks to recognise and provide for the relationship between tangata whenua and the environment.
- 3.26 Since preparing my primary evidence, I have also considered the provisions of WT-EMP.
- 3.27 The WT-EMP contains a chapter addressing Rights of First Refusal on Crown Lands, which in part explains the basis upon which the 1995 Waikato-Tainui Deed of Settlement was signed. Section 12.1.3 of the WT-EMP records that in order to provide redress “the Crown agreed to return as much land as is possible that the Crown has in its possession to Waikato-Tainui”. Mr Papa’s evidence sets out that the Station Site was part of the returned land.
- 3.28 In turn, Policy 12.3.1.1 of the WT-EMP is “*to ensure the protection of the integrity of the agreements in the 1995 Settlement and the good faith relationship entered into between Waikato-Tainui and the Crown*”.

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<sup>20</sup> PC9 Heritage Chapter Purpose Statement paragraph d.

3.29 In my view, proceeding to include the Station in Schedule 8A, in the knowledge that doing so may frustrate the relevant part of the 1995 Settlement, would be inconsistent with the WT-EMP.

3.30 In addition to Policy 12.3.1.1, I agree with Mr Papa that the following provisions of the WT-EMP are also relevant to this matter:<sup>21</sup>

- (a) Objective 25.3.2: Urban and rural development is well planned and the environmental, cultural, spiritual, and social outcomes are positive.
- (b) Policy 25.3.2.1: To ensure that urban development is well planned and the environmental, cultural, spiritual and social outcomes are positive.
- (c) Method (g): Land use and development of Waikato-Tainui owned land, regardless of the nature of the ownership is supported, providing such use and development is consistent with this plan and/or the position and perspectives of those holding mana whakahaere in the area of this land use and development activity.

3.31 For the reasons outlined in Mr Papa's evidence, it is clear that the proposed scheduling of the Station which directly impacts its use and development would not generate positive cultural and social outcomes for Waikato-Tainui, and is not supported by Waikato-Tainui, as tangata whenua.

#### Council functions

3.32 Section 31 of the RMA sets out the Functions of Territorial Authorities (e.g. HCC) for the purpose of giving effect to the RMA in its District.

3.33 One of those functions is:<sup>22</sup>

the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.

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<sup>21</sup> Evidence of Mr Rahui Papa, at 2.16.

<sup>22</sup> RMA section 31(1)(a).

3.34 There is a strong directive in the above function to achieve integrated management. In the context of the proposed inclusion of the Station in Schedule 8A, this in my view means that all relevant matters need to be considered and weighed up in making that planning decision. As I have set out earlier, when all relevant matters are considered, they weigh strongly against including the Station in Schedule 8A.

Summary: Part 2

3.35 PC9 ultimately must implement Part 2 of the RMA. The primary focus of PC9 is on the requirements of section 6(f), but the assessment of most appropriate way to achieve that is not undertaken in a vacuum. The assessment must consider all relevant RMA provisions. Based on the evidence of Mr Papa, section 6(e) and section 8 (as particularised in Hamilton planning documents) are clearly also relevant.

3.36 The evidence of Mr Wild confirms that the Station is not eligible for protection on heritage grounds. The evidence of Mr Papa confirms the inappropriateness of protecting the Station in light of the tribe's relationship with the Site (as taonga) and with the Station. Based on that evidence, I consider that scheduling the Station also falls short of the Te Tiriti principles of active protection and redress. In that context, I consider that the only appropriate outcome is for the Station not to be listed in Schedule 8A.

3.37 I have considered an alternative that would see the Station retained in Schedule 8A, but demolition would be made a controlled activity ie could not be declined consent but could have conditions attached. However, that outcome is neither effective nor efficient because inclusion of the Station in that Schedule:

- (a) would affirm the heritage values of the Station which, on the evidence of Mr Wild, are not at a level of significance to warrant the level of protection that scheduling would provide them; and
- (b) would, in the words of Mr Papa, "protect and place value on a building" which represents the historical grievances of the tribe,<sup>23</sup> and, on the evidence of Superintendent Bird, an outdated model of

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<sup>23</sup> Evidence of Mr Rahui Papa, at 5.4(b).

policing that does not reflect the modern approach that NZ Police has sought to implement.<sup>24</sup>

3.38 On that basis, I consider that the costs associated with the social, cultural and economic effects of that option also do not make it an effective or efficient way of achieving the objectives of the ODP (as amended by PC9).

#### **4 RESPONSE TO HCC ASSESSMENTS**

4.1 The planning assessments undertaken by HCC's experts in support of PC9's approach to including built items in Schedule 8A comprise:

- (a) The HCC Section 32 Report.
- (b) The HCC "Themes and Issues" section 42A report (Section 42A Report).
- (c) The briefs of evidence by Ms Laura Galt, dated 1 September 2023 and 3 July 2024.

#### **Response**

4.2 I addressed the Section 42A Report in my Primary Evidence, and do not address that further here.

4.3 The HCC Section 32 Report was prepared at a "whole of plan change" level and as a result is coarse and high level in its analysis. For example, with regard to Built Heritage, the Report assesses at a high level the costs and benefits of the general approach of scheduling more heritage buildings in the city.<sup>25</sup> As a result of this generality, the individual circumstances of each built heritage item were not taken into account or tested sufficiently in accordance with section 32 to make the planning decision as to whether or not to schedule a building.

4.4 While I acknowledge that when dealing with hundreds of individual heritage buildings, the practicalities of undertaking a section 32 analysis for each building would make the task laborious. However now that the process has now been refined to only a few heritage buildings (the Station being one of them) in contention, I do not consider it

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<sup>24</sup> Evidence of Superintendent Bird, at 4.6 and 4.8.

<sup>25</sup> PC9, HCC Section 32 Report, page 12.

unreasonable to expect such a level of analysis in the case of contested built heritage items.

- 4.5 Given the coarseness of the HCC Section 32 Report, this means that, in the case of the Station, the significant adverse cultural effects of scheduling the Station (as set out in the uncontested evidence of Mr Papa) were not taken into account in the section 32 evaluation in making the planning decision to schedule the Station, and nor were the Te Tiriti Settlement implications (also set out in the evidence of Mr Papa). This is despite the fact that the section 32 evaluation noted that the environmental, social and cultural significance of adding 182 new heritage buildings to the ODP heritage building schedule was High.<sup>26</sup>
- 4.6 These are important omissions material to the overall planning decision to schedule the Station particularly in the context of section 32(1)(c) of the RMA which requires that a section 32 evaluation report contains a level of detail that corresponds to the scale and significance of environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.
- 4.7 With regard to the scheduling of the Station, I disagree with the finding of the HCC Section 32 Report, that the amending Built Heritage provisions including the additions to the list of protected heritage buildings in Schedule 8A (ie including the Station) would recognise and provide for all of the relevant section 6 RMA Matters of National Importance.<sup>27</sup> While the HCC Section 32 Report (in terms of Built Heritage) focuses on section 6(f),<sup>28</sup> it makes no mention of section 6(e)<sup>29</sup> which in the case of the Station is also a relevant consideration.
- 4.8 Nor do I agree with the conclusion of the HCC Section 32 Report that the process for the preparation of PC9 and the provisions of PC9 have taken into account the principles of Te Tiriti o Waitangi<sup>30</sup> as required by section 8 of the RMA.

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<sup>26</sup> PC9, HCC Section 32 Report, page 12.

<sup>27</sup> PC9, HCC Section 32 Report, page 17.

<sup>28</sup> RMA, section 6(f) requires decision-makers to have particular regard to the protection of historic heritage from inappropriate subdivision, use, and development.

<sup>29</sup> RMA, section 6(e) requires decision-makers to have particular regard to the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

<sup>30</sup> PC9, HCC Section 32 Report, page 21.

- 4.9 The apparent consideration of Te Tiriti principles in the Report indicates that the Council was, as I understand it, unaware that the Station and the Site is subject to Treaty settlement provisions that have the potential to be frustrated by the scheduling of the Station. As I have outlined above, it is in my view, clear, that the decision to schedule the Station was not an informed decision on the matters that affect the interests of Waikato-Tainui and has not actively protected the interests of Waikato-Tainui in the matter as far as reasonably practicable.
- 4.10 For her part, Ms Galt's supplementary evidence statement does not address the Station specifically, other than simply to make the amendments to Schedule 8A in accordance with Ms Caddigan's recommendations (focused entirely on heritage aspects) in her supplementary evidence statement.
- 4.11 Neither Ms Galt or Ms Caddigan have undertaken any further section 32 cost-benefit analysis in either their primary or supplementary evidence, nor it would appear have they considered the range of wider relevant planning matters that I have considered in this evidence and in my Primary Evidence.
- 4.12 Given that these wider matters were raised during the first stream hearing for this matter I consider they should have been addressed in Ms Galt and Ms Caddigan's assessments.

## **5 CONCLUDING COMMENTS**

- 5.1 The decision to schedule the Station as a Category "B" ranked building in the ODP is a planning method that in itself requires consideration of the various matters set out section 32. The Council's decision to persist with scheduling on the Station based on (contested) heritage values is not based on a section 32 assessment that necessarily addresses whether scheduling is the most appropriate way to achieve the objectives of the ODP (as amended by PC9).

5.2 The section 32 analysis I have undertaken indicates clearly that the proposed scheduling of the Station is not an appropriate way to give effect to PC9 or the relevant objectives of the ODP when all relevant matters are taken into account. For that reason, I do not support the proposed scheduling of the Station.

**Grant Eccles**

**24 July 2024**

## Appendix A

**APPENDIX A – SECTION 32(2) COST-BENEFIT ANALYSIS - HAMILTON CENTRAL POLICE STATION**

**Option 1 – Add the Station to Schedule 8A (ie the PC9 approach)**

	<b>Benefit</b>	<b>Cost</b>
<b>Environmental</b>	At best, moderate. The heritage values of the Station are contested and would appear to rely at least in part on who the lead architect was that designed it.	Significant. If consent to demolish the Station is not gained, through loss of residential and/or employment intensification development potential of the large inner city site.
<b>Economic</b>	Nil.	Significant. NZ Police will incur costs of preparing and lodging a resource consent application to demolish the Station – required mitigation costs will also accrue. Process costs could be significant if a notified process is followed. If consent to demolish is not granted then NZ Police will be faced with significant and unbudgeted costs of bringing the Station up to Building Code requirements as well as long term building maintenance costs.
<b>Social</b>	Nil.	Significant. Refer to the evidence of Mr Papa.
<b>Cultural</b>	Nil.	Significant. Refer to the evidence of Mr Papa.
<b>Overall Conclusion</b>	Costs are potentially significant in all aspects while benefits are moderate at best and restricted to heritage matters.	
<p><b>Is there insufficient or uncertain information ie what is the risk of acting or not acting?</b></p> <p>Significant risk of acting given the risk of frustrating a Te Tiriti settlement provision that was not known to Council at the time of preparing PC9, nor was the offensive symbolism of the Station to tangata whenua, or the evidence of the importance to tangata whenua of having land returned in a cleared and unencumbered state to allow its full potential to be realised as per the 1995 Deed of Settlement.</p>		

**Option 2 – Do not add the Station to Schedule 8A**

	<b>Benefit</b>	<b>Cost</b>
<b>Environmental</b>	Significant. There will be no rule in the Operative District Plan impacting the Site being able to be cleared. Demolition as a permitted activity facilitates the opportunity for inner city employment/residential development on the site.	Minor to moderate. The Station may hold some heritage value, although these values are in dispute.
<b>Economic</b>	As above.	Nil.
<b>Social</b>	Significant. Closely aligned to Cultural – see below.	Nil.
<b>Cultural</b>	Significant. There will be no rule in the Operative District Plan inhibiting the Dite from being returned to Waikato-Tainui unencumbered of buildings as required by Te Tiriti settlement. See evidence of Mr Papa.	Nil.
<b>Overall Conclusion</b>	Benefits are significant in all aspects while costs are moderate at worst and restricted solely to contested heritage values.	
<p><b>Is there insufficient or uncertain information ie what is the risk of acting or not acting?</b></p> <p>No risk of acting.</p>		

**Option 3 – Add the Station to Schedule 8A but with different activity status for demolition (controlled)**

	<b>Benefit</b>	<b>Cost</b>
<b>Environmental</b>	Significant. There will be reduced District Plan impediment (ie a controlled activity can't be declined) to the Site being able to be cleared, facilitating opportunity for inner city employment/residential development on the Site.	Moderate to significant. The Station may hold some heritage value, although these values are in dispute.
<b>Economic</b>	As above.	Minor to moderate. Cost of resource consent application to demolish the Station as well as condition compliance.
<b>Social</b>	Significant. Closely aligned to Cultural – see below.	Moderate to significant. Closely linked to Cultural - see below.
<b>Cultural</b>	Significant. There will be reduced District Plan impediment to the Site being able to be returned to Waikato-Tainui unencumbered of buildings as required by Treaty settlement. See evidence of Mr Papa.	Moderate to significant. If conditions of consent require the history of the Site as a policing facility to be commemorated on an enduring basis.
<b>Overall Conclusion</b>	Benefits are significant in all aspects while costs are moderate at worst in terms of heritage values and potentially significant in terms of environmental, social and cultural.	
<p><b>Is there insufficient or uncertain information ie what is the risk of acting or not acting?</b></p> <p>Moderate risk of acting given the risk of frustrating a Te Tiriti settlement provision is lower but at increased cost to achieve.</p>		