

**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

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**REBUTTAL STATEMENT OF DR ANN MCEWAN**  
**30 May 2023**

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**Response to HCC Legal Submission and Expert Evidence – 29 May 2023**

- 1 To assist the panel and offer corrections to some of the statements presented yesterday I would like to provide the following comments.
- 2 It was noted yesterday that there are no character provisions in PC 12 and therefore, if an HHA is deleted, there is no 'fall back' character position available. I believe this is an unfortunate outcome of the singular approach HCC has taken to the development of PC 9 and the HHAs. By contrast other Tier 1 councils such as Waipa District Council and Christchurch City Council have identified character clusters or areas as part of their NPS-UD and MDRS work streams. I consider that HCC, having rejected a combination heritage-character approach, has erred in proposing a large number of HHAs that are more appropriately described as character areas according to the consistency and representativeness criteria devised by Mr Knott.
- 3 It is incorrect to say that other, unspecified, councils provide a level of detail that is unnecessary to HHA identification and implementation. As one example, the Christchurch City Council RHA report that I appended to my evidence is only nine pages long, with a large font and numerous illustrations. The remainder of the report is largely taken up by individual record forms that both justify the extent and boundaries of the HHA and provide a guide to owners as to the heritage value of their property. As Commissioner Morrison-Shaw alluded to late yesterday afternoon, it is possible to design a differential planning framework for key buildings within an HHA and those that stand within its boundaries but whose demolition and redevelopment would not be regretted. This is the case with Christchurch's Residential Heritage Areas, the purpose of which is to offer protection to defining and contributory buildings and manage change on neutral and intrusive sites. This is not a matter of, as Mr Knott described it, being 'lost in the amount of information' but rather about proving a robust and defensible HHA under RMA s6(f) while at the same time facilitating good outcomes in partnership with owners by providing clear direction.
- 4 Over the last couple of months HCC has been referring potential HHA resource consent applicants to me to prepare HIAs. So it appears to be incorrect that a 'competent planner' can provide and then, presumably, assess a Heritage Impact Assessment, which is now an information requirement for HHA resource consent applications. I have undertaken

four HIAs to date for HHA owners and have another two in progress. Yesterday afternoon I was contacted by a seventh party who had been told by HCC to contact me in regard to an HIA for a property in the Oxford/Marshall Streets HHA. These reports clearly come at a cost to the client/owner and also identify at this point in time that HCC is interpreting PC9 to mean that a heritage professional needs to prepare the HIA, regardless of what was presented to the panel yesterday.

- 5 In my experience preparing HIAs for properties in Hayes Paddock and the Frankton Railway Village is relatively straight forward, given that these areas are already included in the ODP and have significant heritage value established by important and nationally recognised historic narratives. For new HHA area reports it has been hard to discern what HCC requires to interpret how the 'content and detail' of the HIA should 'correspond with the nature and potential adverse effects of the proposal' (1.2.28c). New HHA assessment criterion E9 requires that for proposed alterations and additions effects are assessed in regard to the 'historic heritage values of the building, the local area and HHA as a whole'. With cursory documentation from HHC it appears that the burden of generating a historic heritage value assessment for individual properties within the HHAs must fall to applicants.
- 6 Contrary to the opinions of the council's experts, best practice historic heritage resource identification and assessment in New Zealand does exist and has been developed since the 1950s, starting with the promulgation of the Town and Country Planning Act 1953 and the establishment of the National Historic Places Trust (now Heritage NZ Pouhere Taonga) in 1954.
- 7 Since I began historic heritage research, identification and assessment work in the late 1980s, best practice has evolved, notably with a step away from the numeric, scoring type approach taken by HCC's experts. Such a quantitative approach was favoured 30 plus years ago because it offered the appearance of an objective, pseudoscientific analysis, when in fact it was open to interpretation and subject to criticism as people argued over the numbers from which statements of significance could not easily be made. Since the 2003 amendment to the RMA, which saw the protection of historic heritage elevated to a section 6 matter, best practice has been to assess potential historic heritage items and areas by taking a qualitative, evidence-based approach that closely follows the RMA

definition of historic heritage resources. As Mr Miller rightly noted yesterday, New Zealand best practice accepts that a high level of significance must be reached to meet the threshold for district plan scheduling of historic heritage resources under RMA s6(f). That is why both the RPS and ODP include the word 'significant' and 'significance' in their assessment criteria.

- 8 With regard to the RPS, and having assisted WRC at the time of the RPS review, I can inform the panel that the assessment criteria at APP7 are intended to guide heritage assessment at a local authority level. In this way the RPS gives effect to the RMA and directs the local district plan to follow suit. The Regional Heritage Inventory referred to in the RPS is actually in existence, in the form of all of the heritage schedules in each Waikato local authority district plan. It is therefore not correct to state that the RPS criteria are not relevant to PC9. Having said that I also note that council's heritage experts have provided no reason why the criteria in the ODP have not been amended and applied to the HHA process. Best practice is that a single set of criteria is used for items and areas, thus giving effect to the RMA and the RPS.
- 9 New Zealand is not, as characterised by Mr Miller, behind in the identification and protection of HHAs, although we do it differently to other jurisdictions because the law is different in each case. Historic heritage areas are scheduled in district plans around the country; the Grahamstown Heritage Area in Thames was first scheduled in c.1993 and the Savage Crescent Conservation Area in Palmerston North dates to 1996. The latter area is a state house precinct that demonstrates the longstanding recognition of 20<sup>th</sup> century heritage areas in New Zealand, which continues to evolve with time. Similarly the 2009 ODP for the Far North District Council includes nine heritage precincts in the plan and, as with the 2004 Nelson Resource Management Plan that schedules seven heritage precincts, the FNDC offers design guides to help owners and council planners to understand the heritage values of their area and facilitate good consent outcomes. Occasionally the naming of these areas differs but the large number of heritage areas around the country attests to the best practice framework that HCC could have referred to and applied.
- 10 I also take issue with Mr Knott's contention that 'the very best' examples of residential development in Hamilton have been identified as HHAs.

Only with comparative analysis can a 'best' area be identified and the development period approach, which simply overlays three chronological periods over the development of Hamilton since the 1870s, offers little in the way of a guide to determine 'best-ness'. Ways to highlight important residential developments are offered by considering the key points in Hamilton's history – the coming of the railways, the development of Hamilton East and West, the provision of railway and state housing, the impact of Modernism, for example. Dr Gu referred to the influence of the Ministry of Works but without researching the work of that entity in Hamilton there is no way of determining 'ground zero' for MoW housing in the city, if it exists, and then examining the authenticity and integrity of an area that embodies those heritage values.

- 11 Finally, Mr Knott was questioned as to the number of properties that might be a minimum for an HHA. Again there are carefully refined approaches to this issue that have been devised by other councils. Christchurch City Council, for example, has a threshold of 15 properties and/or one side of a street and/or one block. I did not develop this threshold but have applied it and in my experience the smaller the number of properties identified the more likely the presence of a cluster of individual heritage items rather than a heritage area.

**Dr Ann McEwan**

**30 May 2023**

