



**Hearing Panel:** Independent Hearing **Hearing Date:** 3 December 2020  
Commissioners - Richard Knott (Chairperson) and Bill Wasley

**Report Name:** Supplementary Evidence on Publicly Notified Resource Consent Application to Demolish a B-ranked Heritage Building, being the Temple View Block Plant (H135). **Author:** Lana Gooderham

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## 1 PURPOSE

1. This report constitutes supplementary evidence to my earlier S42a Report (issued 2 September 2020) and my supplementary S42a Report (issued 2 November 2020) prepared under the Resource Management Act 1991, which provides my advice and recommendations as an independent planner. My supplementary evidence has been prepared based on the information available as at 3 December 2020, including the applicants' evidence, submitted evidence, and any other matters raised over the course of this hearing process. My original S42a Report, supplementary S42a Report and supplementary evidence will be considered by the Commissioners in conjunction with all other technical evidence and submissions to the application to form and make their decision under delegated authority on behalf of Hamilton City Council as the consenting authority.
2. The purpose of the supplementary evidence is as follows:
  - (i) To address any key residual matters raised by the applicant and submitters through the pre-circulated evidence and raised at the hearing;
  - (ii) To introduce a revised set of conditions in response to the draft conditions put forward by Mr Chris Dawson in his hearing evidence, dated 9 November 2020
  - (iii) To provide a recommendation as to whether consented ought to be granted.
3. I rely on my original s42a Report (dated 2 September 2020) and my Supplementary s42A Report (dated 2 November 2020) as a comprehensive overview and assessment of the proposal, and do not seek to repeat any of this information in my supplementary evidence

## 2 APPLICANTS' EVIDENCE

4. In respect of the applicants' evidence, I consider that my S42a Report and Supplementary Report have comprehensively considered and addressed the matters raised. Notwithstanding this, I consider it useful to provide some further clarification on the reference to Part 2 of the RMA in the opening Legal Submission and Mr Dawson's evidence.
5. The legal submission references the Court of Appeal decision in *RJ Davidson Family Trust v Marlborough District Council* (2018) 20 ELRNZ367. My understanding of this decision is that it clarifies the circumstances in which a reference to Part 2 of the RMA is appropriate. This case confirms that it will be appropriate to refer to part 2 RMA considerations where the District Plan provisions do not constitute a robust implementation of a National Policy Statement, Regional Policy Statement or other superior policy statement.
6. My understanding in reading Mr Dawson's evidence is that he considers Part 2 to be a relevant consideration as a result of the District Plan not giving effect to the WRPS and the National Policy Statement for Urban Development. While I acknowledge that Regional Policy Statement was only made fully operative after the District Plan became operative, I do not consider that any evidence has been presented today that would lead me to believe that the District Plan does not constitute a robust implementation of the RPS. In my opinion, the District Plan acknowledges the outcomes sought for Historic Heritage in the RPS, and identifies the resource consenting process as an appropriate mechanism to assess historic heritage effects.
7. In respect of the National Policy Statement for Urban Development, again I acknowledge that the District Plan has not been changed to give effect to this Policy Statement. Notwithstanding this, it is my understanding that while the NPS UD emphasises the importance of providing for additional housing within urban areas where certain criteria are met, the Policy Statement does reference matters within Section 6 of the RMA, as matters that need to be considered alongside this requirement. As such, it is my view that the protection of Historic Heritage will remain an important consideration when determining where it is appropriate to enable urban intensification.
8. In my view, when assessing resource consent applications, you always have Part 2 of the RMA at the back of your mind in order to identify situations where plan provisions may not be adequately prepared to address certain matters. However, in this case, I am comfortable that the plan provisions with regards to historic heritage are consistent with Part 2 and the relevant case law regarding interpretation of Section 6(f) in particular.

## 3 SUBMISSIONS

9. Section 4 of my original s42A report provided a comprehensive overview of submissions on the application. The report stated that a total of 13 submissions were received during the submission period for this publicly notified resource consent, with 12 submissions in

support and 1 submission in opposition. In addition, one late submission was received on the application.

10. In respect of the other submissions, today we have heard from one submitter in support being representatives of the New Zealand Labour Missionary Charitable Trust. We have also heard from one submitter in opposition, being Ms Meshwayla MacDonald.
11. I considered the content of the original submissions in my original S42a Report, and had regard for these submissions in my further assessment in my Supplementary s42A Report. In my view, the matters raised by the submitters in today's proceedings have been canvassed and thoroughly considered throughout the body of evidence presented by the applicant and the evidence prepared by myself and Council's experts.
12. In hearing from both submitters today, it is clear that there are very strong personal and spiritual connections to the Temple View site. In my view, these views are both valid and have been taken into account in my consideration of the application. The number of submissions, or lack of thereof, is not reflective of the weight given to those submissions.
13. I intend to provide a summary of the matters I have considered as part of my assessment further in my evidence; however, I would like to note at this point that in my s42a report and supplementary report I have concluded that heritage values will be lost as a result of the demolition. Notwithstanding this I am required to undertake a balanced assessment of all matters to come to a recommendation of the appropriateness of the proposal.

#### 4 PROPOSED DRAFT CONDITIONS

14. My original S42a Report presented a suite of draft conditions, should the Commissioners be of mind the grant the resource consent. These conditions have been further refined throughout the evidence exchange process. I have considered the draft conditions put forward by the Mr Chris Dawson in his evidence, dated 9 November 2020, and as presented at the proceedings today. In response to these conditions, and with advice from Ms Wendy Turvey, I present a revised set of draft conditions, attached as Attachment 1 of this supplementary evidence. For ease of reference, I have provided two sets of draft conditions, one illustrating my proposed changes as track changes, and the secondary set providing a clean version of draft conditions incorporating my changes.
15. In summary, I propose the following changes or additions to the draft conditions as presented by Mr Chris Dawson:
  - (i) Condition 1 – I have accepted the correction to the dates further information was provided.
  - (ii) Condition 3 – I have re-drafted this condition to require that a commemorative display be provided in the proposed Rose Garden that incorporates information on the Block Plant. I note that the applicant does not seek to restrict the commemorative display to only contain information

about the Block Plant. I can confirm that it is not the intent that the commemorative display to be restricted only to the Block Plant, and the condition has been worded to provide flexibility. I have also revised the wording around the information that needs to be provided to Council for certification prior to the installation of the display.

- (iii) Condition 4 – I have accepted the changes proposed by the applicant to ensure that the condition refers to the correct Museum title.
- (iv) Condition 5 – With advice from Ms Wendy Turvey, I have accepted the changes proposed by the applicant with regards to the information to be supplied with a detailed building record.

16. In light of the above, I seek to clarify my position on the extent of mitigation the abovementioned conditions provide. I do not consider that conditions as outlined fully mitigates the loss of a heritage building. Rather, it is my view that the level of mitigation as outlined above better reflects the importance of the building and its historic values than the mitigation proposed in the application as lodged.

## 5 CONCLUSION AND RECOMMENDATION

17. Resource consent is sought for the demolition of a B-ranked heritage building, being the Block Plant building, at Temple View, Hamilton City. The primary matters for consideration relate to the heritage effects associated with the demolition of a listed heritage building in the Operative District Plan.
18. My original s42a Report provided a comprehensive assessment of effects, as well as an assessment of the overall alignment of the proposal with the relevant Objectives and Policies and Assessment Criteria in the District Plan. While the applicant had discounted a range of uses through economic and structural assessments, and I was able to discount a range of uses based on the information available, I did not consider that specific uses, such as Places of Assembly uses, could be discounted by the information that had been provided to date.
19. In coming to this view, I referred to the provisions of the ODP. That is, I considered activities that were either permitted activities or restricted discretionary activities. While I acknowledge that restricted discretionary activities have the ability to be approved or declined, it is my opinion that these activities are not out of scope of what can reasonably anticipated in this Zone. On the basis that a Places of Assembly use had not been assessed, in taking a balanced approach, my recommendation was that the consent be declined.
20. Following the receipt of further information from the applicant discounting additional potential uses for the Block Plant building, my supplementary s42A Report concluded that the applicant has demonstrated that the demolition of the Block Plant building is a balanced approach that considers a range of factors, including economic feasibility. As such, my supplementary s42A report altered the recommendation of my original report. That is, based on my assessment of all of the information provided by the applicant, expert evidence and

matters raised in submissions, I recommended that the application for demolition be approved.

21. At this stage, I would like to emphasise the careful balancing approach taken to this application. In both my reports, I have not disputed the historic value of the building, and the adverse effects that would result from the demolition of this building.
22. My assessment of effects is based on the environment as consented through the CDP consents. That is, I acknowledge that the retention of the Block Plant is shown on the consented CDPs, and it is my opinion that the consented plans illustrate a layout where the Block Plant could be accommodated within a newly developing residential environment.
23. The applicant has presented a range of alternative use options which would require varying degrees of physical intervention to the built fabric of the Block Plant. While some of these uses would result in a physical change to the building that would likely erode the historic qualities of the building, in my opinion this is not the case for all potential uses, for example the Gym/Men's Shed combination.
24. In light of the above, the compelling matter in support of the demolition of the building is therefore the economic feasibility of an alternative use. Again, the applicant has provided robust economic information on a range of reasonable and non-fanciful alternative uses that has enabled me to determine that these uses are not economically feasible. This leads me to the view that demolition is an appropriate and balanced response to the matters raised through this application process. Taking into account all of the information presented, I therefore seek to reconfirm my view that the demolition of the Block Plant represents a balanced approach, and recommend that the resource consent be approved, subject to conditions.



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3 December 2020

Attachment 1: Revised Conditions of Consent, as at 3 December 2020