

**Before the Hearings Panel  
At Waimakariri District Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Waimakariri District Plan

**Between** **Various**

**Submitters**

**And** **Waimakariri District Council**

**Respondent**

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**Council Officer's Preliminary Response to written questions on Historic  
Heritage on behalf of Waimakariri District Council**

**Date: 21/08/2023**

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**INTRODUCTION:**

- 1 My full name is Bryony Annette Steven. I am employed as a Graduate Planner for Waimakariri District Council.
- 2 The purpose of this document is to respond to the list of questions published from the Hearings Panel in response to my s42 report.
- 3 In preparing these responses, I note that I have not had the benefit of hearing evidence presented to the panel at the hearing. For this reason, my response to the questions may alter through the course of the hearing and after consideration of any additional matters raised.
- 4 I also note that given the timing of these questions, my preliminary responses in some instances have not been informed by consideration of evidence or legal submissions lodged with the Council following the issuing of my s42A report. Where I have considered such evidence, I have recorded this within the preliminary answers below.
- 5 Following the conclusion of this hearing, a final right of reply document will be prepared outlining any changes to my recommendations as a result of evidence presented at the hearing, and a complete set of any additions or amendments relevant to the matters covered in my s42A report.
- 6 The format of these responses in the table below follows the format of the questions from the Panel.
- 7 I am authorised to provide this evidence on behalf of the District Council.

**Date:** 21/08/2023

*B. Steven*

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Paragraph or Plan reference	Question
<p><b>Para 76</b></p>	<p><b>You state:</b></p> <p><i>“The implication of adopting the definition in HH-AN2 would mean that any owner of a property associated with human activity pre-1900 who wanted to dig over their vegetable garden or plant a tree would need to obtain an archaeological authority from HNZPT to do so.”</i></p> <p><b>Please explain how an advice note in a District Plan could require an authorisation to be obtained under the HNZPTA.</b></p>
<p>My concern stemmed from my interpretation of the proposed definition that any earthworks, including regular gardening work, on a pre-1900 site would require an archaeological authority. I recognise that my interpretation was incorrect and the statement of evidence by Ms Baird on behalf of Heritage New Zealand has provided further information that has clarified the issue for me.</p>	
<p><b>Para 110</b></p>	<p><b>You state:</b></p> <p><i>“The HH rules that are recommended to continue to apply to the EI chapter are HH-R4, HH-R6, HH-R7, HH-R8 and HH-R9 which concern the relocation and demolition of scheduled historic heritage items.”</i></p> <p><b>Can you please explain how these rules would be triggered by infrastructure?</b></p>
<p>Mr Maclennan in his memo ‘Integration between EI Chapters and the rest of the Proposed Plan’ discussed integration between the HH and the EI chapters. In this memo he communicated to the Panel that his recommendation on the integration matter was to add a ‘how to interpret and apply the rules’ section</p>	

Paragraph or Plan reference	Question
	<p>in the EI chapter to communicate to users of the Plan that the specified Historic Heritage provisions still apply.</p> <p>Infrastructure providers that seek to relocate or demolish a scheduled historic heritage item would still need to have regard to these provisions and apply for resource consent under the HH chapter.</p>
<p><b>Para 122/123</b></p>	<p><b>You state that:</b></p> <p><i>“The Strategic Directions chapter (SD chapter) was drafted to provide the District with strategic direction on those matters that relate to the District as a whole or relate to a number of zones or chapters and that are of strategic importance. Consequently, numerous specific matters of national and District importance are not provided for in a strategic direction objective. In the drafting of the Proposed Plan, the s32 for Strategic Directions notes that the intention was for there to be no hierarchy between the SD objectives and the other objectives and policies across the plan. Under this approach, I do not consider a SD objective specifically for historic heritage is necessary as the objectives and policies in the HH chapter and other related chapters have equal status with the SD objectives.”</i></p> <p><b>Would you not consider that this logic will also apply to any request for a policy from any other chapter to be included in the SD Chapter?</b></p> <p><b>From the Panel's review of the SDs, these cover all but clauses (f) and (g) of s6. The Panel could understand why (g) is not addressed in the circumstances of Waimakariri, but given the national and regional direction in respect to</b></p>

Paragraph or Plan reference	Question
	<p><b>historic heritage, we remain unclear as to why historic heritage is not addressed. How is historic heritage both nationally and regionally significant, but not so for Waimakariri district? Compared to all the other s6 matters covered in the SDs?</b></p> <p><b>Without a hierarchy as such what do you see is the purpose then of having SD objectives?</b></p>
<p>In understanding the approach to Strategic Directions, I have relied upon the S32 Report and the S42A Report on Strategic Directions and the more recent memo on Strategic Directions in response to the questions from the Panel in Minute 6.</p> <p>It is my understanding that the SD objectives were drafted to not have primacy over the other objectives in the plan. The SD objectives were drafted to provide specific guidance for strategic issues in the District that require guidance or management additional to the objectives in the Proposed Plan. Therefore, not all of the s6 matters may be provided for within a SD objective as this was not the drafting approach.</p> <p>As Mr Buckley has explained in his memo, under the drafting approach <i>“consideration of all provisions within higher order documents would be achieved across the entire plan without directive provisions being subjugated by (potentially) non-directive strategic direction objectives. On this basis, all objectives would be given equal weight and considered based on their intent, through language used, rather than whether they are considered a strategic issue for the district.”</i></p> <p>Historic Heritage is a matter of national, regional, and local significance and therefore, if the strategic directions were to have primacy over the other objectives in the Plan, then it would be appropriate to consider a SD objective</p>	

Paragraph or Plan reference	Question
	<p>for historic heritage. However, I note that I consider the HH chapter does provide an objective that appropriately gives effect to s6(f) (subject to the discussion in the next question).</p> <p>Additionally, I note that there is no requirement within the National Planning Standards for the strategic directions to have primacy over the rest of the objectives in the plan.</p>
<p><b>Paras 136 - 140</b></p>	<p><b>In this section you discuss s6(f) of the Act and consider that the addition of ‘where practicable’ is contrary to this and the RPS provisions. However, s6(f) is qualified. It is not an absolute ‘protect’. How does the current objective allow us to understand what is ‘inappropriate subdivision, use and development’ of historic heritage? Under the current objective, it is unlikely that a heritage building could be demolished if it was unsafe and not economically viable to strengthen (i.e. not practicable) if HH P8 did not provide for it.</b></p>
	<p>With further consideration, I agree that the objective does not clearly set out the qualification in section s6(f). However it is my understanding of the Objective that the statement “<i>overall contribution to the identity of the District</i>” is intended to establish this qualification. I recognise that this qualification may not be sufficiently clear, and I consider that this may be addressed with an amendment. Based on the evidence I have received to date, I consider the following amendment may be appropriate:</p> <p>“Historic heritage and its overall contribution to the identity of the District is recognised, <u>maintained and protected</u> <del>and maintained</del> from <u>inappropriate subdivision, use, and development.</u>”</p>

Paragraph or Plan reference	Question
	<p>However, I continue to hold the same view as expressed in the S42A report that the amendment that is proposed by Concept Services is not appropriate and is contrary to the RMA section 6(f) direction.</p>
<p><b>Para 137</b></p>	<p><b>Please comment specifically on the point made in the submission as to whether the HH rules are consistent with HH-O1.</b></p>
	<p>The submission by Concept Services seeks to amend HH-O1. In the submission, Concept Services state:</p> <p><i>“The HH rules in the PWDP provide for the maintenance and repair, relocation and demolition of historic heritage depending on its classification in HH-SCHED2. The rules pertaining to relocation are consistent with Policy HH-P6. The requested amendments to Objective HH-O1 ensure that the HH rules and Policy HH-P6 are consistent with Objective HH-O1.”<sup>1</sup></i></p> <p>I rely on the analysis in the S32 Report that assessed the rules in the chapter to be consistent with the objective as it was notified.</p> <p>I have suggested an amendment to HH-O1 in response to the previous question. Subject to additional evidence heard during the hearing, I am minded to recommend changes to the objective as set out previously. I consider that it would be appropriate to provide an evaluation of these changes under s32AA of the RMA after having considered any additional views expressed by submitters during the hearing.</p>
<p><b>Para 205</b></p>	<p><b>Mr Maclennan advises that the HH policies will still apply to infrastructure so while the change might not implement rules in the HH chapter, may it not assist in implementing the rules in the EI chapter?</b></p>

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<sup>1</sup> Concept Services submission point [230.4] pg 3 of original submission.

Paragraph or Plan reference	Question
	<p>I had not considered this, and I agree that the policy with the amendment requested by MainPower could assist in implementing the rules in the Energy and Infrastructure chapter.</p>
<p><b>Para 207</b></p>	<p><b>You state:</b></p> <p><i>“However, in the event that the Panel do not accept the recommendation of Mr Maclennan, I consider that the policy could provide for the maintenance, repair and upgrade of existing infrastructure provided that heritage values remained protected”.</i></p> <p><b>Can you please explain what you mean. That Mainpower's relief could be accepted?</b></p>
	<p>The intention of this statement was to convey to the Panel that the primary reason for rejecting the submission was due to the recommendation of the Energy and Infrastructure author, Mr Maclennan that only identified provisions in the HH chapter apply to the EI chapter.</p> <p>As a result of Mr Maclennan’s recommendation, it was my view that the proposed amendment to HH-P7 would not support the implementation of the Historic Heritage provisions and would therefore not have the effect that MainPower seek.</p> <p>However, recognising that the Panel had not made a decision on the recommended approach, I wanted to communicate to the Panel that I considered such an amendment could be appropriate if the Panel did not adopt Mr Maclennan’s recommendation.</p> <p>I would like to reiterate that any changes to HH-P7 to provide for infrastructure would need to ensure that the heritage values remain protected.</p>



Paragraph or Plan reference	Question
<p>Para 231</p>	<p>You state:</p> <p><i>“Heritage NZ [178.18] are correct in identifying there is no stand-alone policy to provide for the adaptive re-use of scheduled heritage items. However, HH-P5 Adverse effects seeks to manage effects of subdivision, use and development on scheduled heritage in a way that (1) “provides for ongoing use and re-use that is sensitive to identified heritage values”. I therefore consider that the re-use of historic heritage items is already provided for within the HH chapter policy framework”.</i></p> <p>From our reading of HH-P5, it is focussed on the effects of subdivision, use and development on historic heritage and heritage settings, and is not about the use of a historic heritage item or heritage setting itself. Are we correct? If so, does this change your assessment?</p>
<p>I agree that the policy manages the effects of subdivision, use and development on historic heritage and heritage settings. My understanding of the policy is that it seeks to manage these effects so as to provide for clauses 1 – 4, which includes providing for ongoing use and re-use.</p> <p>I consider that HH-P5 covers the issue but if the Panel considers it necessary, a standalone policy for the reuse of historic heritage would more directly address the issue.</p> <p>I note that the Statement of Evidence of Ms Baird on behalf of Heritage New Zealand provides further information to support a standalone reuse policy, however there is no suggested wording for such a policy. Subject to additional evidence heard during the hearing, I am minded to recommend an adaptive</p>	

Paragraph or Plan reference	Question
reuse policy (noting I am also proposing a potential change to the objective framework).	
Para 233	<b>Given that HH-P5 also applies to heritage settings is your recommended amended title correct?</b>
	<p>With further reflection, I consider that reference should be made to heritage settings as this would improve consistency within the Historic Heritage chapter and improve the interpretation and implementation of the policy.</p> <p>I consider the amendment could be changed to include heritage settings to read as follows:</p> <p><u>'Manage effects on Historic Heritage and Heritage Settings'</u></p>
Para 247	<p><b>You state:</b></p> <p><b><i>"It is at the discretion of Council to determine whether or not resource consent fees ought to be waived..."</i></b></p> <p><b>Please explain fuller how the Council has discretion to waive resource consent fees. What is the process for a council to see fees for resource consents including any waivers?</b></p>
	<p>As I have stated in paragraph 247, the RMA enables Council to both charge and remit fees that are payable under section 36 of the Act. The RMA does not provide conditions as to what the Council can consider when waiving consent fees, and it is therefore at the Council's full discretion and subject to Councils financial delegation's regime.</p>

Paragraph or Plan reference	Question
Para 389	<p><b>Please clarify whether HHRFs are part of the District Plan or sit outside the Plan?</b></p> <p><b>If it is the latter, then is the finalisation of an HHRF for the Bellgrove farmhouse a relatively straight forward matter?</b></p>
<p>It is my understanding that the HHRFs are part of the plan, in the sense that they provide the assessment of the reasons for why heritage resources are listed, and what the significance criteria are. For practical reasons, they do not sit on the 'face of the plan'.</p> <p>In relation to Bellgrove, it is recognised that an intervening resource consent has redefined the setting and this consent has been given effect to. On this basis, the changes required are minor updates of the mapped setting and land title.</p>	

**Dr McEwan's response to questions from the Panel**

Para 85	<p><b>Can Dr McEwan please advise if she agrees with your recommendation in respect to Heritage NZ's requested definition for "recording".</b></p>
<p>Dr McEwan has considered this question and has provided the following answer:</p> <p><i>"In regard to providing a definition of recording, I fully agree with your recommendation to reject this submission.</i></p> <p><i>In respect of the HNZPT submission, 'to record' or 'recording' are in common, every day usage and there is no heritage-specific definition that needs to be provided for readers of the PDP in my opinion. HNZPT goes further than both</i></p>	

*the standard dictionary definition of recording and its definition in the ICOMOS NZ Charter [see attached] by inserting the provision that such recording should be 'both descriptive and analytical'. In my opinion this conflates descriptive recording with analytical heritage assessment and therefore goes well beyond the intention to document changes to a heritage item over time. Should there be any confusion as to the meaning of the word 'recording' then reference to the dictionary and the ICOMOS NZ Charter would resolve that problem.*

*Additionally I note that one of the PDP uses of the word 'recorded' is in relation to archaeological sites. In my opinion the word in this context will be comprehensible to anyone reading the relevant sentences of the HH Chapter's Introduction."*

**Para 261**

**Can you please confirm if you liaised with Dr McEwan in coming to the conclusion regarding painting of buildings being exempted from the rule? If you did not, can Dr McEwan please provide her perspective on the proposed exemption.**

I did not liaise with Dr McEwan in reaching my conclusion on this issue.

To answer the Panel's question, I asked Dr McEwan to provide her perspective.

Dr McEwan provided additional attachments in her response, and I have included these at the end of my preliminary response to questions. These attachments are the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value 2010, the ICOMOS definition of 'recording', the Christchurch District Plan definition of 'maintenance' and the definition of 'repairs', the Proposed Waimakariri District Plan definition of 'maintenance or repair', and a photo of a heritage item in Nelson that provides an example of paint as a sign.

Dr McEwan provided the following answer:

*"In regard to painting, I can't recall if we discussed this but agree with your position that the requirement to have a heritage professional design and/or*

*supervise maintenance and repair in the form of painting would be unduly onerous and unreasonable.*

*I would, however, feel more comfortable if the PDP definition of maintenance and repair specifically mentioned painting in regard to ‘finishes and characteristics’ and I’m not sure where in the notified plan there is the ability to have any oversight of paint colour. A finish would be paint or plaster, for example, but are you implying that colour is a characteristic? If so then I foresee issues with implementing and monitoring HH-R1 in the absence of a more fulsome definition of maintenance and repair. I note that CCC has separate definitions for maintenance and repair [attached] and that the former includes mention of painting.*

*In terms of paint colour, in my experience problems most often arise when a commercial owner wants to ‘brand’ a heritage building with their corporate livery – think Warehouse red, for example. In that case you can argue that paint is being used as a sign. Given that the sign rules don’t seem to allow for oversight of paint colour as ‘flat’ signage, and that the only use of the word ‘colour’ in the HH chapter is in regard to the architectural and contextual heritage assessment criteria, then I think there’s a potential problem that needs to be addressed somewhere in the plan. Attached pic is a heritage item in Nelson that provides an example as paint as sign.*

*So, in summary, I agree with the accepted submission point that paint should be exempt from the HH-R1. I do however have some concerns as to how council will be in a position to assess paint colour in the context of the proposed wording of the chapter. It may be that the most reasonable course of action is to step back from controlling paint colour, noting that HH-MD1 doesn’t offer that ability either. WDC could still have some say in the choice of colour via non-stat methods such as design guides and heritage funding. Alternatively there is a need in my view for some more words in the chapter to specifically address exterior painting – both as signage and, potentially, as being detrimental to heritage values if, for example, a stone or brick wall is painted over.”*

Having considered the advice by Dr McEwan, I do think that there is a need to control painting where it may affect the character of a scheduled heritage item, however I also consider there is a need to enable practical painting to occur. I have not yet turned my mind to how a provision could be worded to achieve this balance, however I can respond to this matter in my right of reply report.

## Attachments to Dr McEwan’s response to Panel’s question on HH-R1 on the S42A recommendation to exempt painting.

### 1. ICOMOS definition of ‘Recording’

**Recording** means the process of capturing information and creating an archival **record** of the **fabric** and **setting** of a **place**, including its configuration, condition, **use**, and change over time.

### 2. Christchurch District Plan definitions of ‘Maintenance’ and ‘Repairs’

#### Maintenance

in relation to a heritage item or heritage setting, means regular and ongoing protective care of the item or setting to prevent deterioration and to retain its heritage value. It includes the following, where there is no permanent damage or loss of heritage fabric:

- a. cleaning, washing or repainting exterior or interior fabric using a method which does not damage the surface of the heritage fabric;
- b. reinstating existing exterior or interior surface treatments;
- c. temporary erection of freestanding scaffolding;
- d. laying underground services and relaying paved surfaces to the same footprint;
- e. upkeep of gardens, including pruning of trees, pruning or removal of shrubs and planting of new trees or shrubs (except planting within, or adjoining, plots within cemeteries); and
- f. in relation to crematoria and cemeteries, maintenance also includes:
  - i. protective care and routine works to enable their ordinary functioning, such as temporary and reversible modifications or additions to buildings;
  - ii. installation of plaques;
  - iii. restoration, repair and reinstatement of monuments; and
  - iv. disturbance of soil for burials and interment of ashes.

#### Repairs

in relation to a heritage item or heritage setting, means to replace or mend in situ decayed or damaged heritage fabric, using materials (including identical, closely similar or otherwise appropriate material) which resemble the form, appearance and profile of the heritage fabric as closely as possible. It includes:

- a. temporary securing of heritage fabric for purposes such as making a structure safe or weathertight; and
- b. Building Code upgrades which may be needed to meet relevant standards, as part of the repairs.

### 3. Waimakariri Proposed District Plan definition of ‘Maintenance or repair’

#### MAINTENANCE OR REPAIR

#### DEFINITION

means in relation to identified historic heritage, works that will restore or keep heritage fabric in a sound condition by using the same or similar materials and retaining the existing form, proportions, finishes and characteristics. It includes Building Act 2004 and Building Code upgrades necessary as part of the works or where to satisfy or increase compliance with Building Act 2004 and Building Code requirements including structural seismic upgrades, fire protection and provision of access.

4. Heritage item in Nelson that provides an example as paint as sign



5. ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value 2010

[https://icomos.org.nz/wp-content/uploads/2020/12/NZ\\_Charter.pdf](https://icomos.org.nz/wp-content/uploads/2020/12/NZ_Charter.pdf)