

SECTION 42A REPORT

Report on Submission 535.85 and further submission
FS/323.143 on the Proposed Waikato District Plan

Addendum to Hearing 14: Historic Heritage s42A report

Report prepared by: Betty Connolly

28 July 2020



TABLE OF CONTENTS

1	Introduction	4
1.1	Qualifications and experience	4
1.2	Code of Conduct	4
1.3	Conflict of Interest	4
1.4	Preparation of this report	4
2	Scope of Report	4
2.1	Matters addressed by this report and overview of the topic	4
2.2	Statutory requirements	5
3	Consideration of Submission 535.85 and Further Submission <i>FS1323.143</i>	5
3.1	Introduction	5
3.2	Analysis	5
3.3	Conclusion	7
3.3.1	Recommendations	7
3.3.2	Recommended amendments	7
3.3.3	Section 32AA evaluation	7

List of Submissions and Further Submissions addressed in this report

Submitter	Submission number
Hamilton City Council	535.85

Further Submitter	Submission number
<i>Heritage New Zealand Pouhere Taonga</i>	<i>FS/323.143</i>

I Introduction

1.1 Qualifications and experience

1. My name is Betty Marguerite Connolly, and I am a Senior Planner of the Strategic Planning Team at Waikato District Council (WDC). I hold the qualification of Bachelor of Social Science (Hons) (Geography) and Graduate Diploma Social Sciences from University of Waikato, New Zealand.

I have been employed in local government for many years and have 18 years' planning and resource management experience at the WDC, including policy development in both the WDC Operative District Plan and the Proposed District Plan, and associated s.32 assessments and s.42a report preparation, as well as developing, co-ordinating and processing plan changes.

I have been involved in several Heritage planning processes within WDC and the wider Waikato District since being in the planning environment.

1.2 Code of Conduct

2. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is 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.
3. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

1.3 Conflict of Interest

4. As stated above I confirm that I have been involved in heritage processes for WDC but do not consider that this previous work causes any real or perceived conflict of interest in respect of this report.

1.4 Preparation of this report

5. I am the author of this report.
6. In preparing this report I rely on expert advice on historic heritage provided by Dr Ann McEwan, Heritage Consultancy Services.
7. The scope of this evidence relates to evaluation of a submission from Hamilton City Council (HCC) [535.85] and a further submission from Heritage New Zealand Pouhere Taonga (HNZPT) [FS/323.143] received in relation to the scheduling of the former St Paul's Methodist Church. Ms Alice Morris, Principal Planner at HCC, has authored the hearing report for Hearing 14: Historic Heritage on behalf of Council, therefore it is not appropriate that submission 535.85 be addressed in that report.

2 Scope of Report

2.1 Matters addressed by this report and overview of the topic

8. This report is prepared in accordance with section 42A of the RMA.
9. This report considers the submission received by WDC in relation to the scheduling of the former St Paul's Methodist Church following the removal of the building from Hamilton City and its subsequent relocation to Te Kowhai in the Waikato District.

2.2 Statutory requirements

10. The statutory considerations which are relevant to the content of this report have been considered in the main report for Hearing 14: Historic Heritage and will not be restated here.

3 Consideration of Submission 535.85 and Further Submission FS/323.143.

3.1 Introduction

11. HCC submitted that the former St Paul's Methodist Church should be added to Schedule 30.1 Historic Heritage Items.
12. At the time of lodging the submission the building was *"located at London Street Hamilton and a resource consent has been granted for its relocation from Hamilton and HCC's jurisdiction to Te Kowhai and under WDC jurisdiction. Due to the heritage significance of the building and to align with the resource consent decision HCC seeks the inclusion of this building, once it is reinstated onto its new location at Te Kowhai, in the Proposed Plan's Historic Heritage Items [Schedule 30.1] as it has regional heritage significance."*¹ The submission goes on to provide a short outline of the building, which was built in 1904 and, although alterations have been made over time, remains largely intact.
13. HNZPT, in their further submission, supported this addition *"when supported by a review from a suitably qualified heritage expert against the relevant heritage significance assessment criteria of the Waikato Regional Council Policy Statement."*²

3.2 Analysis

14. HNZPT has a set of Information Sheets on the Sustainable Management of Historic Heritage Guidance, and relevant to this analysis is Information Sheet 13 - Relocation of historic buildings. The Principles section of this information sheet states: *"Relocation will generally have a serious adverse effect on the significance of a place. Buildings are part of an environmental context. This may include gardens, outbuildings, fences, streetscape and a wider townscape or landscape. Relocation removes buildings from these settings."*³ NZHPT encourages the retention of significant buildings on their original sites and settings, and considers that relocation is discouraged except where:
 - *"Relocation is required to save the building as a last resort."*
15. HCC had, at the time of lodging the submission, already issued a resource consent for removal of the building as a result of a hearing on 21 November 2017. Prior to removal of the building, a requirement of the consent was that a restoration plan for the upgrading of the building, once relocated, was to be prepared, and this was to be enforced by a Deed of Covenant between the owner and HCC. This covenant was offered by the applicant to HCC on an *Augier* basis⁴, being that it is voluntarily proposed by the applicant on the understanding that it cannot be challenged by any consent holder.
16. During the resource consent hearing it was noted by submitters that the relocation of the building within Waikato District meant it was outside the City's jurisdiction and future use and reinstatement of the building could not be considered as part of the resource consent process. Neither would the building automatically be afforded heritage protection in the

¹ Hamilton City Council submission number 535, page 14.

² Waikato Regional Policy Statement, 10A Historic & Cultural Heritage Assessment Criteria.

³ NZHPT – Sustainable Management of Historic Heritage Guides, Information Sheet 13.

⁴ *Augier* basis [ie conditions that have been clearly and unequivocally volunteered by applicants but would otherwise be *ultra vires*] <https://www.simpsongrrierson.com/articles/2018/rma-amendments-and-consent-conditions-more-certainty-or-more-scope-for-litigation>.

Waikato District. It was also noted in detail that the removal of the building from its current site would have adverse effects on the heritage values of the church building. While noting that the church was the oldest church on its original site in Hamilton and therefore a unique situation, Commissioner Wasley commented as follows: “Relocation of the church building will remove its historic association with the locality and will take away the contextual significance by removing the building from its original site and setting. It is acknowledged that it will result in removing one of the last remaining churches from its original site.”⁵

17. In his decision,⁶ Commissioner Wasley stated: “it would be appropriate to grant consent for removal of the building as sought. This will allow for retention and refurbishment of the building albeit in a different location.” He also went on to say “that the building would no longer have its historic and CBD context, the actual heritage building would not be lost to the Waikato region.” He concluded his decision with: “Whilst the original context for the building will no longer exist because of its relocation, retention and refurbishment of the church building will be achieved.”
18. It is not the role of this report to comment on the resource consent hearing or the outcome, but rather to provide background - as I understand it - to the submission. The submission from HCC seeks that, due to the heritage significance of the building which was well canvassed during the hearing and to align with the resource consent decision, the building be included in Schedule 30.1, as it has regional heritage significance.
19. Dr McEwan has undertaken an evaluation of the building in its current setting (attached Appendix 2). Her report states that “the building has been conserved by virtue of its relocation ... but it has no historic heritage relationship with its new site and nor is it now in ecclesiastical use.” Dr McEwan’s review of the building, using the criteria for assessing heritage significance for the WDC plan review, is summarised as follows:
 - (a) the former church has no historic association with its new site, therefore if there are any **archaeological** qualities present, they will be completely unrelated to the building;
 - (b) The **architectural** qualities of the building are typical, rather than remarkable, of Frederick Daniell’s ecclesiastical work and of the typology of early 20th century Protestant churches. The building can be described as having a modest level of architectural significance in light of the criteria, but only vestigial **cultural** qualities due to its former use as a church;
 - (c) The building has **historic** interest as a former church, but its removal from its original site to another district, and the fact that it is no longer in ecclesiastical use undermine its significance under this criterion;
 - (d) It is considered unlikely that the building has **scientific** qualities that might be brought to light in the future, and the building does not reveal a “high degree of creative or technical achievement” that would establish its **technological** qualities.
20. Dr McEwan’s opinion, after assessing the building in line with the criteria developed for the District Plan Review⁷, was that the building makes no contribution to an understanding of the district’s development and its integrity has been undermined due to the modifications which have been undertaken.
21. In their further submission, NZHPT provided no additional information that would be beneficial to understanding the heritage significance of this building. They support additions to heritage listings when they are supported by a review from a suitably-qualified heritage

⁵ Page 25 <https://www.hamilton.govt.nz/our-services/planningguidanceandresourceconsents/publicly-notified-applications/Documents/Church%20-%20Decision.pdf>

⁶ Page 40 and 41 <https://www.hamilton.govt.nz/our-services/planningguidanceandresourceconsents/publicly-notified-applications/Documents/Church%20-%20Decision.pdf>

⁷ Waikato Regional Policy Statement, 10A Historic & Cultural Heritage Assessment Criteria; Proposed Waikato District Plan, Policy 7.1.3 [b] Heritage Items;

expert against the relevant heritage significance assessment criteria of the Waikato Regional Council Policy Statement (RPS). I advise that the criteria used when assessing heritage items at the outset of this process were derived from the RPS, therefore this building has been assessed under the requirements requested by NZHPT. It is noted that the building is not listed by HNZPT at its new location at Te Kowhai, nor was it listed in its original location in Hamilton.

3.3 Conclusion

22. The resource consent application and decision has been reviewed, and I can find no statement or expectation contained within the decision by Commissioner Bill Wasley that scheduling of the former church could or should be undertaken by WDC. Here I note that, in any case, neither a resource consent, nor any condition on a resource consent, can compel a local authority to undertake any particular course of action in a plan process governed by Schedule 1 of the RMA.
23. There is no dispute that the former St Paul's Church was a significant heritage resource and a widely recognised landmark while on the original site in London Street. The removal to Te Kowhai, however, has negated that heritage status and in its new location the building holds no significance to the Te Kowhai area or the wider Waikato District.
24. I have read the report of the assessment undertaken by Dr McEwan and concur with her comments and recommendation. I therefore consider that the submission from Hamilton City Council [535.85] should be rejected and the further submission from New Zealand Heritage Pouhere Taonga [FS/323.143] should be accepted in part by the Panel.

3.3.1 Recommendations

25. For the reasons given above, I recommend that the Hearings Panel:
Reject Hamilton City Council [535.85]
Accept in part Heritage New Zealand Pouhere Taonga [FS/323.143].

3.3.2 Recommended amendments

26. No amendments are required to Schedule 30.1 Historic Heritage Items.

3.3.3 Section 32AA evaluation

27. As I have not recommended any amendments, no s32AA evaluation is required to be undertaken.

Attachment 1: Table of submission points

Attachment 2 & 3: Assessment of former St Paul's Church (by Dr McEwan) and photographers

Attachment 4: Commissioner's decision on resource consent application

Attachment 5: Sustainable Management of Historic Heritage Guides, Information Sheet 13

Attachment 6: 570 Horotiu Road, Te Kowhai - do not schedule.