

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2024-AKL-

**I MUA I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

UNDER the Resource Management Act 1991 ("**Act**" or "**RMA**")

IN THE MATTER of an appeal under clause 14 of Schedule 1 to the Act

BETWEEN **MAGGIE BLAKE**

Appellant

AND **AUCKLAND COUNCIL**

Respondent

**NOTICE OF APPEAL AGAINST THE DECISION ON PROPOSED PLAN CHANGE 82 TO THE
AUCKLAND UNITARY PLAN**

28 MARCH 2024

**ELLIS GOULD
LAWYERS
AUCKLAND**

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TO: The Registrar

Environment Court
Auckland

1. Maggie Blake (“**the Appellant**”) appeals against part of the decision (“**Decision**”) of Auckland Council (“**the Council**”) on Proposed Plan Change 82 – Amendments to Schedule 14 Historic Heritage Schedule (“**PC82**”) to the Auckland Unitary Plan (“**AUP**”).
2. The Appellant made a submission on PC82 on 28 September 2022.¹
3. The Appellant is not a trade competitor for the purposes of 308D of the Act.
4. The Appellant received notice of the Decision on 16 February 2024.
5. The Decision subject to the appeal was made by the Council.
6. The Appellant appeals the parts of the Decision which decline to:
 - (a) amend the AUP planning maps to reduce the extent of place for the Elgin Street Historic Heritage Area (“**Elgin St HHA**”) so that it excludes the properties at 331 – 335 Great North Road, Grey Lynn (“**GNR Site**”); and
 - (b) make consequential changes to AUP Schedule 14.1 Schedule of Historic Heritage and Schedule 114.2 Historic Heritage Areas – Maps and statements of significance to reflect the removal of the Properties from the Elgin St HHA.

Reasons for the Appeal

7. PC82, in its present form:
 - (a) Will not promote the sustainable management of the natural and physical resources in the Auckland Region, and is inconsistent with Part 2 and other provisions of the RMA;

¹ The submission was originally made on a related plan change which notified at the same time (Plan Change 78: Intensification) but was reallocated by the Council to PC82 as the Council determined that the decisions requested in this and other submissions related to PC82 instead. The Council re-notified the submission as part of PC82 on 16 February 2023.

- (b) Does not achieve the functions of the Council as required under section 31 of the RMA;
- (c) Is not the most efficient or effective outcome in terms of section 32 of the RMA;
- (d) Will not meet the reasonably foreseeable needs of future generations; and
- (e) Will not enable the social, economic and cultural wellbeing of the community.

In addition, and without limiting the generality of the above:

Background

- 8. The Appellant owns the GNR Site, as well as the adjoining site at 1 Elgin Street, Grey Lynn (formerly 335A Great North Road) ("**Elgin St Site**"). Both the GNR Site and the Elgin St Site are identified as being located within the Elgin St HHA and are therefore subject to the provisions of AUP Chapter D17 Historic Heritage Overlay which apply to scheduled historic heritage places.
- 9. There are two buildings on the GNR Site:
 - (a) A timber villa with a 1920s masonry parapet shopfront modification at 333 – 335 Great North Road ("**the Shop Villa**"); and
 - (b) A 1920's two storey masonry shop and flat building at 331 Great North Road ("**the Masonry Building**").
- 10. There is one building on the Elgin St Site: A brick masonry building which is individually scheduled as a Category B Item under the AUP (ID 01673) ("**the Bakery**").
- 11. The Appellant seeks to remove the GNR Site (containing the Shop Villa and the Masonry Building) from the Elgin St HHA on the basis that:
 - (a) The heritage values exhibited by the Shop Villa and the Masonry Building do not warrant protection in terms of the heritage significance criteria and thresholds set out in Chapter B5 (Historic Heritage and Special Character) of the AUP Regional Policy Statement ("**RPS**"); and

(b) The removal of the GNR Site from the Elgin St HHA is more appropriate in achieving the purpose of the Act than retaining the Elgin St HHA over the GNR Site.

12. The Appellant does not challenge the inclusion of the Elgin St Site (or the Bakery) within the Elgin St HHA.

Historic Heritage Areas

13. Under the AUP, Historic Heritage Areas (“**HHAs**”) are groupings of interrelated, but not necessarily contiguous, places or features that collectively meet the criteria for scheduling in Chapter B5 of the RPS. Each HHA has a statement of significance which summarises the heritage values of each HHA and the relative importance of the values. It is those values that warrant protection in terms of section 6(f) of the Act.
14. Properties within HHAs are subject to the provisions of Part D17 Historic Heritage Overlay of the AUP, which restricts the use and development of scheduled historic heritage places. This results in a more onerous consenting regime for the use and development of land within the Historic Heritage Overlay, when compared to a property located outside of that overlay.

The Decision

15. The Decision was not a consensus one. The majority of the Hearing Panel declined the relief sought in the Submission and concluded that the GNR Site should remain within the Elgin St HHA. The minority view was that the GNR Site should be removed from the Elgin St HHA.

Reasons for Removal

16. The Appellant agrees with the minority view of the Hearing Panel set out at paragraphs 408 – 431 of the Decision. Namely that:
- (a) While the Shop Villa and the Masonry Building may have some historic value, it is not the historic value as particularised in the Statement of Significance. That is, the historic value is not sufficiently associated with the Elgin St HHA and provides only a minor contribution to it.

- (b) The Elgin St HHA is tightly defined. The GNR Site is located on its periphery. There are a number of factors which distinguish the Shop Villa and the Masonry Building from the balance of buildings within the Elgin St HHA.
- (c) If the Shop Villa and Masonry Building were excluded, the overall value of the Elgin St HHA will not be adversely affected. Both the Council's heritage expert, and the Appellant's heritage expert agreed that the integrity of the Elgin St HHA would not be compromised if the GNR Site were excluded.
- (d) In the context of the RPS framework, the Shop Villa and Masonry Building do not warrant retention within the Elgin St HHA.
- (e) In terms of section 32 RMA, retaining the GNR Site within the Elgin St HHA is not the most efficient and effective approach. Removing the GNR Site from the Elgin St HHA is more appropriate in achieving the purpose of the RMA, the National Policy Statement on Urban Development 2020 and Chapter B2 of the RPS, than retaining the Elgin St HHA over the Site.

Relief Sought

17. The Appellant seeks the following relief:
- (a) That the appeal be allowed;
 - (b) Amendments to the Decisions Version of PC82 to address the issues raised in this notice, including:
 - (i) Reducing the extent of place for the Elgin St HHA so that it no longer applies to the properties at 331 – 335 Great North Road, Grey Lynn; and
 - (ii) Amendments to the AUP planning maps and AUP Schedules 14.1 and 14.2 to reflect the removal of the properties at 331 – 335 Great North Road, Grey Lynn from the Elgin St HHA.
 - (c) Such further orders, relief, consequential amendments or other amendments as are considered appropriate and necessary to address the Appellant's concerns set out above.

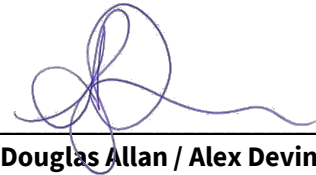
- (d) Costs of and incidental to this appeal.

Attachments

18. The following documents are attached to this notice:
- (a) **Attachment 1:** A copy of the Appellant's submission;
 - (b) **Attachment 2:** A copy of the Decision; and
 - (c) **Attachment 3:** A list of persons to be served with a copy of this notice.

DATED this 28th day of March 2024

MAGGIE BLAKE by her solicitors and
duly authorised agents Ellis Gould



Douglas Allan / Alex Devine

ADDRESS FOR SERVICE: The offices of Ellis Gould Lawyers, Level 31, Vero Centre, 48 Shortland Street, PO Box 1509, Auckland 1140, DX CP22003, Auckland, Telephone: (09) 307-2172, Facsimile: (09) 358-5215. Attention: Alex Devine. adevine@ellisgould.co.nz.

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
- Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Act.
- You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not have attached a copy of the appellant's submission and (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice: If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Attachment 1: A copy of the Appellant's submission

SUBMISSION ON PROPOSED PLAN CHANGE 78 TO THE AUCKLAND UNITARY PLAN

To: Auckland Council

Name of submitter: Maggie Blake and Jeff Scholes

This submission relates to proposed plan change 78 of the Auckland Unitary Plan (AUP).

This submission relates the following sites:

- The submission is concerned with the land that is located at 331-335A Great North Road, Grey Lynn.



Figure 1 – Proposed Zoning

This submission relates the following Section(s) of the proposed Plan Change:

- Chapter D - Historic Heritage Overlay
- Chapter H – Terraced Housing and Apartment Zone
- Walkable Catchment and Rapid Transit Corridor

The specific Plan Change provisions that this submission relates to are:

- a) The site has always been zoned Terrace Housing and Apartment Buildings Zone and this aligns with the zoning strategy along this strategically important arterial road and is supported by the public transport accessibility and walkability of the area, and existing zoning context around the site. However, the extent of Heritage Overlay across the site limits the efficient use of this land resource.
- b) The site has excellent walkable access to public transport, city centre, local services, amenities and open space. This is demonstrated by the site being identified as falling within a walkable Catchment.
- c) It is considered that the separated priority bus routes along Great North Rd means it meets the definition of 'rapid transit' under NPS UD and should be zoned to achieve as such.
- d) There is considerable development occurring around the site along Great North Road, with 155 apartments under construction to the west at 339-359 Great North Road and the zoning to the east will allow for similar development.
- e) The submitter seeks to remove the historic heritage overlay from the southern parts of the site as shown in **Figure 2**, with the overlay and extent of place as it relates to the scheduled bakery building (ID 1673) on site remaining unchanged. This amendment would clearly fall within the scope of the proposed plan change as it relates directly to the fact the site falls within the walkable catchment and is located on a rapid transit public transport corridor.



Figure 2 – Proposed Zoning Change

The reasons for the submitter's concern are:

1. The applicable provisions and overlay do not promote the sustainable management of natural and physical resources, contrary to Part 2 of the Resource Management Act 1991 ('the Act');
2. The provisions and overlay are not soundly based on evidence or an appropriate costs benefit analysis as required by section 32 of the Act;
3. The provisions and overlay is contrary to the National Policy Statement: Urban Development and or the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021
4. The applicable objectives, policies and rules of the Plan Change, as they relate to the Submitter's site:
 - i) will not promote the sustainable management of natural and physical resources;
 - ii) are inconsistent with the purpose and principles of the Act;
 - iii) will give rise to adverse effects on the environment that are not avoided, remedied or mitigated;
 - iv) are inappropriate and unjustified in terms of Section 32 of the Act.
5. The specific reasons for the submitters' concerns are as follows:
 - a) The submitter **opposes** the retention of the historic overlay beyond the scheduled item across the site. The location of the site within a walkable catchment and adjacent to a rapid transits public transport route support the efficient use of a portion of the site.

The submitter seeks the following decision from the Auckland Council, regarding the Proposed Plan Change 78:

- a) That the area of land at 331-335A Great North Road has the extent of the historic heritage overlay reduced over a portion of the site as set out in **Figure 2**, with it being retained purely across the existing scheduled bakery building (ID 1673) on site.
- b) That the Terraced Housing and Apartment Zone is retained on the site.
- c) Any other consequential changes that would give effect to the relief sought in this submission.

37.1

The submitter wishes to be heard in support of their submission. If others make a similar submission, the submitter will consider presenting a joint case with them at a hearing.

The submitter is not a trade competitor, and could not gain an advantage in trade competition through this submission.



Ila Daniels

Campbell Brown Planning Limited

For and on behalf of Maggie Blake and Jeff Scholes as there duly authorised agent as its duly authorised agent.

Date: 28 September 2022

Address for service of submitter:

Maggie Blake and Jeff Scholes
C/- Campbell Brown Planning Limited
PO Box 147001
Ponsonby
AUCKLAND 1144

Attention: Ila Daniels

Mobile: (021) 147 9681

Email: ila@campbellbrown.co.nz

Attachment 2: A copy of the Decision
(attachments excluded)

Decision following the hearing of Plan Change 82 to the Auckland Unitary Plan under the Resource Management Act 1991



PROPOSAL - Amendments to Schedule 14, Historic Heritage Schedule to the Auckland Unitary Plan - Operative in part (AUP (OP))

This plan change is **approved with amendments**. The reasons for this, and the amendments made, are set out below.

Plan Change number:	82 - Amendments to Schedule 14, Historic Heritage Schedule
Hearing commenced:	Tuesday 16 May 2023, 9.30 a.m.
Hearing panel:	Greg Hill (Chairperson) Karyn Kurzeja Juliane Chetham Dr Stephanie Mead Richard Knott
Appearances:	<p><u>For the Submitters:</u></p> <p>Devonport Heritage Incorporated Warwick Goldsmith, Legal Jackie Gillies – Heritage Architect Margot McRae Trish Deans</p> <p>Devonport Takapuna RSA Chris Mullane - Lieutenant Commander Muzz Kennett, President</p> <p>Katherine Mason</p> <p>Munro Homestead Trust Josephine Elworthy-Jones - Owner John Brown, Heritage and Planning</p> <p>University of Auckland Karl Cook - Planning Tim Stevenson – Heritage Architect</p> <p>Andrew Nock</p> <p>Paul Jenkin Architect (but not presenting as an expert)</p>

	<p>Dr Julia Gatley Heritage Architect (but not presenting as an expert)</p> <p>Kainga Ora Jennifer Caldwell, Legal Brendan Liggett, Corporate</p> <p>Radio New Zealand Mark Bullen - Corporate Hadleigh Pedler – Legal Steve White – Transmission Engineer</p> <p>Heritage New Zealand - Pouhere Taonga Alice Morris – Planning Robyn Byron – Heritage Architect Alexandra Foster – Heritage Assessment Advisor</p> <p>Jeremy Bartlett (owner) Dr Ann McEwan Heritage - Expert</p> <p>Maggie Blake and Jeff Scholes Alex Devine – Legal Tom Gill – Owners’ representative Jono Payne – Planning Lloyd Macomber - Heritage Expert</p> <p><u>For the Council:</u> Felicity Wach, Legal Noel Reardon, Heritage Division Manager Megan Patrick, Heritage Manager Emma Rush, Senior Advisor Rebecca Freeman, Heritage Expert Dr David Bade, Heritage Expert Cara Francesco, Heritage Expert Megan Walker, Heritage Expert</p> <p><u>Hearings Advisors</u> Cate Mitchell and Sam Otter</p>
Tabled Evidence	MaryAnn Savage New Zealand Defence Force Danny Watson
Hearing adjourned	Wednesday 17 May 2023
Hearing Reconvened:	26 September 2023.

Introduction

1. This decision is made on behalf of the Auckland Council (“the Council”) by Independent Hearing Commissioners Greg Hill (Chairperson), Juliane Chetham, Karyn Kurzeja, Stephanie Mead and Richard Knott, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (“the RMA”).
2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 82 (“PC 82”) to the Auckland Council Unitary Plan Operative in Part (“AUP-OP”) after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and evidence presented to us.
3. PC 82 is a Council-initiated plan change that has been prepared following the standard RMA Schedule 1 process (that is - the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA).
4. The plan change was publicly notified on 18 August 2022 following a feedback process involving Iwi, as required by Clause 4A of Schedule 1. Notification involved a public notice as well as letters to directly affected landowners and occupiers alerting them to the plan change. The latter step was aimed at ensuring that landowners and occupiers of properties affected by potentially significant changes were made aware of the changes.
5. The submission period closed on the 29 September 2022. A summary of submissions was notified for further submissions on 5 December 2022. A total of 37 submissions, of which 4 were late but accepted by the Hearing Panel prior to submissions being notified for further submissions. Eleven further submissions were received.

LIST OF ABBREVIATIONS

Abbreviation	Meaning
AUP (OP) or Unitary Plan	Auckland Unitary Plan Operative in Part (15 November 2016)
CMA	Coastal Marine Area
Council	Auckland Council
Extent of place or EOP	Historic Heritage Overlay Extent of Place
Heritage NZ	Heritage NZ Pouhere Taonga
IHP	Independent Hearing Panel
MDRS	Medium Density Residential Standards
Methodology	Methodology and guidance for evaluating Auckland’s historic heritage
NPS UD	National Policy Statement on Urban Development
NZHL/RK	New Zealand Heritage List/Rārangi Kōrero

PAUP	Proposed Auckland Unitary Plan
RMA or the Act	Resource Management Act 1991
RPS	Regional Policy Statement (within the Auckland Unitary Plan)
SDR	Summary of Decisions Requested

SUMMARY OF THE PLAN CHANGE

6. PC 82 was described in detail in the section 42A hearing report. We have not repeated that in any detail, but a summary of key components is set out below. We note that PC 82 was one of five plan changes and two variations notified on the 18 August 2022¹.
7. PC 82 is a plan change to amend Schedule 14.1 Schedule of Historic Heritage (Schedule 14.1) and Schedule 14.3 Historic Heritage Place Maps (Schedule 14.3) of the AUP and its plan maps to update the category status and/or other information for historic heritage places already included in the AUP Historic Heritage Overlay. The Historic Heritage Overlay applies to scheduled historic heritage places on land and in the coastal marine area (CMA) that are identified in Schedule 14.1 and in the plan maps.
8. As notified, PC 82 proposes to amend Schedule 14.1 for 99 historic heritage places. The amendments include the deletion of some historic heritage places. We have accepted the submissions from some of the submitters who address amendments to the Schedules and Maps that were notified as part of PC 82. We address the matter of the scope of these submissions later in this decision.
9. The amendments proposed correct errors and anomalies, as well as the deletion of some historic heritage places from Schedule 14.1.
10. PC 82 does not amend any objectives and policies in the AUP or introduce any new objectives, policies, rules or zoning to the AUP. The AUP policy approach and its purpose and function are not changed by PC 82. We have not accepted (or evaluated) any submissions which have sought to change any of these provisions; accepting that they are not “on” PC 82.

BACKGROUND TO AND DEVELOPMENT OF THE PLAN CHANGE

11. We think it is important, for context, to briefly address the background to PC 82 as to how the plan change was developed, and its scope (as defined by the Council). This was fully addressed in the section 32 Evaluation Report and the section 42A report.

Category A*

12. PC 82 was initiated to amend the category status of 99 already-scheduled historic heritage places that are identified in Schedule 14.1 as category A*. During the creation of the AUP, each historic heritage place in Schedule 14.1 was either “rolled over” from a historic

¹ Plan change 79: Amendments to the transport provisions, Plan change 80: RPS Well-Functioning Urban Environment, Resilience to the Effects of Climate Change and Qualifying Matters, Proposed Plan Change 81: Additions to Schedule 14 Historic Heritage Schedule, Proposed Plan Change 82: Amendments to Schedule 14 Historic Heritage Schedule, Proposed Plan Change 82: Additions and amendments to Schedule 10 Notable Trees Schedule, Variation 4 to PC60: Open Space and Other Rezoning Matters and Variation 5 to PC66 (Private): 57 and 57A Schnapper Rock Road.

heritage schedule in a legacy district or regional plan² or added to the historic heritage schedule via the Proposed Auckland Unitary Plan (PAUP). Each individual historic heritage place was allocated a category (A, A* or B).

13. The AUP (OP) states that Category A* places are the most significant scheduled historic heritage places identified in legacy plans where the total or substantial demolition or destruction was a discretionary or non-complying activity, rather than a prohibited activity³.
14. Category A* is an interim category until a comprehensive evaluation of these places is undertaken and their category status is addressed through a plan change process. The Category A* places in PC 82 were comprehensively re-evaluated by the Council and PC 82 addresses this category status of those places⁴.

Errors and anomalies

15. PC 82 proposes a range of amendments to correct errors and update information for scheduled historic heritage places. Some historic heritage places in Schedule 14.1 are subject to errors (in Schedule 14.1 and the plan maps), with other places requiring information in Schedule 14.1 to be updated (for example changes to legal descriptions to align with the Council's property information). Furthermore, some places required amendment to ensure there is consistency with how similar places are identified in Schedule 14.1.

Deletions

16. PC 82 proposes to delete 14 places from Schedule 14.1 and the plan maps. To be eligible for inclusion in Schedule 14.1, historic heritage places must meet the thresholds and criteria outlined in the AUP (OP's) Regional Policy Statement (RPS)⁵.
17. Two of the places proposed for deletion in PC 82 no longer exist, having been destroyed by fire or demolished via resource consent. The other ten places proposed for deletion were reviewed by the Council to determine their historic heritage significance. Having completed that review it was determined that those places did not meet the RPS criteria and threshold⁶.

MAIN ISSUES RAISED BY SUBMISSIONS

18. The main issues or topics raised in the submissions included:
 - Support for PC 82, either generally or in relation to specific historic heritage places;
 - Support and opposition to changing the category of some historic heritage places, including the interiors of buildings in the scheduling of the historic heritage place, and amendments to exclusions and/or to the Historic Heritage Overlay Extent of Place (extent of place);
 - Support and opposition to the deletion of historic heritage places; and

² A legacy plan is a district or regional plan that was replaced by the Auckland Unitary Plan (see Unitary Plan section A1.2 Replacement of operative plans)

³ Unitary Plan, D17.1 Background

⁴ The A* review reports for the historic heritage places in PC 82 were made available on Council's website as part of the plan change information.

⁵ Policy B5.2.2(3)

⁶ The significance reviews of these places were made available on Council's website as part of the PC 82 information.

- A number of submissions seeking amendments to historic heritage places that we have determined were “on” the plan change as notified. That is - they were in scope, and we address this in more detail below.

LOCAL BOARD VIEWS

19. The section 42A Report provided⁷ the feedback from the Local Boards. We do not repeat the Local Board comments here, but acknowledge the extensive comments, requests and feedback given, and this was fully set out in the section 42A report. To the extent we have been able, within the bounds of the submissions lodged, we have taken them into account in making our decision.

SCOPE – ARE SUBMISSIONS “ON” PC 82

20. Prior to addressing the statutory provisions and the submissions, and our decisions on them, we address the issue of scope. The Council’s position on scope was addressed in its opening legal submissions. We do not fully agree with them, and set out our position on scope below.

21. The issue of the scope of submissions (if they are “on” the plan change) has been well canvassed in legal submissions and evidence before the Hearing Panel, from both the Council and various submitters. While the Council (and submitters) can have a view on scope, it is the Hearing Panel that determines if a submission (or part of a submission) is in scope or not.

22. The legal principles relevant to determining whether a submission is “on” a plan change (in scope) are well-settled. They are not repeated here in any detail⁸. Very briefly, determining the issue of scope involves addressing the following two questions (also referred to as ‘limbs’):

- (a) Whether the submission addresses the change to the status quo advanced by the plan change; and
- (b) Whether there is a real risk that persons potentially affected by such a change have been denied an effective opportunity to participate in the plan change process.

23. Determining the first question requires an understanding of the status quo affected by the plan change. This must be derived from a review of the relevant section 32 report and the changes actually proposed to the plan. Although local authorities promoting discrete changes to their plans invariably focus on the specific changes proposed, with the objective of limiting the scope of the plan change and thus submissions that are permissible under the first limb, the actual status quo that is being addressed must be determined by reference to the nature and context of the notified change.

24. In the case of each of PC 81, 82 and 83, where the proposed changes are to add, delete or amend line items to, from or within specific AUP (OP) schedules, it is those actions undertaken to or within that component of the AUP (OP) that set the status quo being

⁷ Section 42A Report at section 9

⁸ Refer to our PC 78 Interim Guidance on this matter

changed and the nature of the changes. Submissions seeking relief of a similar kind (add, delete or amend), to the same part of the plan, will be “on” the plan change for the purposes of the first test in the Hearing Panel’s view.

25. Whether or not the submission relief passes the second limb, involves other ‘natural justice’ factors. That is, on a case-by-case basis, the potential for a ‘*submissional sidewind*’, i.e., a without notice impact on a third party’s rights, may nonetheless render an otherwise fairly and reasonably made submission point unable to be accepted.
26. For the purposes of PC 82, we have considered the submission points listed in the section 42A report as being ‘out-of-scope’. We have found some of those submissions to be ‘in-scope’ as we consider that they pass both limbs referred to above. That is - in terms of the first limb regarding the ‘status quo’ of change proposed by PC 82, and as the changes sought only relate to amendments to Schedule 14, Historic Heritage they do not in our view give rise to ‘submissional sidewind’ concerns. We have addressed them below.

THE HEARING PROCESS AND EVIDENCE

27. The hearing was held on the 16 and 17 May 2023. The hearing was re-convened on the 26 September 2023 to hear from several submitters whom the Council had deemed to be ‘out-of-scope’ and on that basis those submitters had decided not to attend the initial hearing (addressed more below). During the hearing, we heard from the parties listed at the beginning of this decision report.
28. Given the issue of scope (addressed earlier); and that some submitters whom the Council considered out-of-scope presented legal submissions and evidence to us⁹; and that the Council had not evaluated those places, we requested that as part of the Council’s Reply they provide an evaluation. The Council did this in its Reply and attached Memos from its experts. We thank the Council for doing this, acknowledging their primary position that these submissions were not within the scope of PC 82.
29. Kāinga Ora and the University of Auckland responded to the Reply Memos. We address these and the evidence in later sections of this report, but record the submissions made by those submitters are “in scope”.
30. Given the issue of ‘scope’, the Hearing Panel issued a Direction - ‘Out-Of-Scope’ Submissions Plan Change 82 - Additions to Schedule 14 Historic Heritage Schedule (PC 82).¹⁰
31. Paragraph 2 of that Direction stated:

The hearing of PC 82 has been held; with the Council and all submitters (who requested to be heard) having been heard. The hearing has subsequently been adjourned. However, the Hearing Panel has become aware that some submitters may have chosen not to appear and present evidence at the hearing due to the Council’s section 42A report advising that their submissions were ‘out of scope’.
32. The Direction provided an opportunity for a number of submitters deemed out of scope in the Council’s section 42A report to provide evidence and/or appear before the Hearing Panel.

⁹ E.g. - Kāinga Ora, the University of Auckland and Devonport Heritage

¹⁰ Dated 26 June 2023

Three submitters¹¹ sought to provide evidence and/or appear before the Hearing Panel. The Hearing Panel determined that their submissions satisfied both limbs of the scope case law, and on that basis the PC 82 hearing was re-convened to hear these submitters and any associated further submissions.

33. In the absence of any evidence or further information from submitters, we have essentially accepted the recommendations of the expert planners as set out in the section 42A report, including their section 32AA evaluations and the views they expressed at the hearing.

RELEVANT STATUTORY PROVISIONS CONSIDERED

34. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. We do not need to repeat the contents of the Plan Change Request and the section 32 Evaluation Report in any detail, as they were set out in the section 42A report. We address the merits of those below. We accept the appropriate requirements for the formulation of a plan change has been appropriately addressed in the material before us.
35. We also note that the section 32 Evaluation Report, and the section 32AA Evaluation Report prepared by the council experts clarifies that the analysis of efficiency and effectiveness of the plan change is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal – noting we have a different view on the scope of PC 82 than the Council, which we address in this decision. Having considered the plan change and the evidence, we are satisfied that PC 82 has been developed in accordance with the relevant statutory requirements.
36. Clauses 10 and 29 of Schedule 1 require that this decision must include the reasons for accepting or rejecting submissions. We address these matters below, as well as setting out our reasons for accepting or rejecting the submissions.
37. We also note that we must include a further evaluation of any proposed changes to the Plan Change arising from submissions; with that evaluation to be undertaken in accordance with section 32AA of the RMA¹². With regard to that section, the evidence presented by the Applicant, Submitters and Council Officers, including the section 32AA included by the council’s planner officers (which we adopt), and this report, including the changes we have made, effectively represents that assessment.

OUR FINDINGS AND DECISIONS ON THE SUBMISSIONS

38. We address the submissions below, our findings on them, and the amendments made to the AUP (OP) Heritage Schedule and Maps. For efficiency reasons, we have essentially adopted the format of the section 42A report in terms of the submissions being grouped by theme, submitter and/or historic heritage places. Again, for efficiency reasons we have created a separate grouping of submissions – “Submissions considered out of scope of PC 82 by the Council - but ‘in scope’ by the Hearing Panel” for those submissions not otherwise

¹¹ Ideation Building Group Ltd, Jeremy Bartlett, and Maggie Blake and Jeff Scholes.

¹² RMA, section 32AA(1)(c)

addressed in the other sections of this decision. We address those submissions in that section of this decision report.

39. With respect to further submissions, they can only support or oppose an initial submission. Our decisions on the further submissions reflects our decisions on those initial submissions having regard, of course, to any relevant new material provided in that further submission. For example, if a further submission supports a submission(s) that opposes the Plan Change and we have determined that the initial submission(s) be rejected, then it follows that the further submission is also rejected.

Submissions Supporting PC 82 (General or no Specific Place)

40. The following table lists submissions that support the plan change, either generally, or in relation to the amendments proposed to a particular historic heritage place or places. These submissions are on historic heritage places where there are no submissions opposing the amendments in relation to the place or seeking further amendments unless this is specifically noted.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
4.1	Simon Nicolaas Peter Onneweer	It is important that historic heritage places are identified correctly and managed appropriately.	FS11 The Rosanne Trust
7.1	KiwiRail Holdings Limited	Retain Category B listing as proposed for Henderson Railway Station, Railside Avenue, Henderson.	
7.2	KiwiRail Holdings Limited	Retain exclusions (interior of buildings and buildings and structures after 1987) as proposed.	
7.3	KiwiRail Holdings Limited	Retain the addition of criterion H Context in the identification and evaluation of the historic values of the place.	
8.1	Sie Chung Ting	Approve the deletion of St Andrew's Church, 40 Rankin Avenue, New Lynn. as it was demolished in 2019 so it does not qualify as a heritage property. <i>ID 00189 St Andrew's Sunday School Hall (former)</i>	
11.3	Catholic Diocese of Auckland	Approve the amendments proposed to listing 01119. <i>ID 01119 St Frances de Sales and All Souls Catholic Church and cemetery</i>	
14.1	Kennedy Park WWII Installations Preservation trust	Approve the re-evaluation and confirmation of the Castor Bay Battery complex as a Category A place.	

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
		<i>ID 01060 Castor Bay Battery complex</i>	
14.2	Kennedy Park WWII Installations Preservation trust	Approve the merger of the complex and the Red Bluff/Castor Bay Battery recreation hut. <i>ID 01060 Castor Bay Battery complex</i> <i>ID 02686 Red Bluff/Castor Bay Battery recreation hut (former)</i>	
14.3	Kennedy Park WWII Installations Preservation trust	Approve the deletion of ID 02686 recreation hut from the heritage schedule and the recognition of the former hut as a primary feature of the Castor Bay battery complex. <i>ID 02686 Red Bluff/Castor Bay Battery recreation hut (former)</i>	
17.1	Castor Bay Ratepayers and Residents Association Incorporated	Approve the re-evaluation of the Castor Bay Battery complex as a Category A. <i>ID 01060 Castor Bay Battery complex</i>	
17.2	Castor Bay Ratepayers and Residents Association Incorporated	Approve the merger of the Castor Bay Battery Complex and the Category A Red Bluff/Castor Bay Battery recreation hut. <i>ID 01060 Castor Bay Battery complex</i> <i>ID 02686 Red Bluff/Castor Bay Battery recreation hut (former)</i>	
17.3	Castor Bay Ratepayers and Residents Association Incorporated	Approve the deletion of ID 02686 [Red Bluff/Castor Bay Battery recreation hut] and recognition of the former hut as a primary feature of the Castor Bay Battery Complex. <i>ID 02686 Red Bluff/Castor Bay Battery recreation hut (former)</i>	
23.6	Heritage New Zealand Pouhere Taonga (Heritage NZ)	Approve the amendment for ID 01150 Hydrographic Survey Station and mast and the merging of historic heritage places ID 01150, 01152, 01154 and 01168 into the renamed ID 01150 Windsor Reserve commemorative landscape. <i>ID 01150 Windsor Reserve commemorative landscape</i>	FS04 Devonport Heritage

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
23.12	Heritage NZ	Approve the scheduling of Falls Hotel as a Category B place ¹³ . <i>ID 00127 Falls Hotel (former)</i>	
23.14	Heritage NZ	Approve the plan change for Swan Arch. <i>ID 00134 Swan's Arch and vault</i>	
23.23	Heritage NZ	Approve the proposed plan change recommendation ¹⁴ . <i>ID 00925 Masonic Lodge Onewa No. 182 (former)</i>	FS04 Devonport Heritage
23.26	Heritage NZ	Approve the proposed plan change recommendations ¹⁵ . <i>ID 01050 Frank Sargeson's Cottage</i>	
23.28	Heritage NZ	Approve the proposed plan change recommendations ¹⁶ . <i>ID 01054 Pumphouse and "Green Shed"</i>	
23.29	Heritage NZ	Approve the proposed extent of place including the adjacent theatre building. <i>ID 01054 Pumphouse and "Green Shed"</i>	
23.31	Heritage NZ	Approve the plan change including the Category A classification and inclusion of interiors [ID 01059 Watts' Residence (former)/Golder House (former)]. <i>ID 01059 Watts' residence (former)/ Golder House (former)</i>	
23.32	Heritage NZ	Approve the plan change, including the merging of Red Bluff/Castor Bay Battery recreation hut (former) with this place and its deletion as a separate place from the Historic Heritage Overlay. <i>ID 01060 Castor Bay Battery complex</i> <i>ID 02686 Red Bluff/Castor Bay Battery recreation hut (former)</i>	

¹³ Submission 23.13 from Heritage NZ queries why the interiors of the Falls Hotel are not included in the scheduling.

¹⁴ Submissions 23.24 and 23.25 from Heritage NZ queries why the interiors of the Masonic Lodge are not included in the scheduling and seek changes to the A* review report for the place.

¹⁵ Submission 23.27 from Heritage NZ seeks an amendment to the A* review report for Frank Sargeson's Cottage.

¹⁶ Submission 23.30 from Heritage NZ queries why the interiors of the Pumphouse are not included in the scheduling.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
23.33	Heritage NZ	Approve the plan change, including the inclusion of the interiors. <i>ID 01083 Second House</i>	
23.34	Heritage NZ	Approve the proposed plan change ¹⁷ . <i>ID 01099 Holy Trinity Church and Hall</i>	
23.37	Heritage NZ	Approve the proposed plan change [ID 01100 Devonport Power Station (former)]. <i>ID 01100 Devonport Power Station (former)</i>	
23.38	Heritage NZ	Approve the Category A classification [ID 01107 Rockcliff]. <i>ID 01107 Rockcliff</i>	
23.39	Heritage NZ	Approve the plan change, including the inclusion of the interiors of key public rooms at street level [ID 01120 The Esplanade Hotel]. <i>ID 01120 Esplanade Hotel</i>	
23.40	Heritage NZ Pouhere Taonga	Approve the plan change recommendations ¹⁸ . <i>ID 01121 Devonport Post Office (former)/Council building (former)</i>	FS04 Devonport Heritage
23.41	Heritage NZ Pouhere Taonga	Approve the plan change recommendations ¹⁹ . <i>ID 01122 Mays' Building</i>	FS04 Devonport Heritage
23.42	Heritage NZ Pouhere Taonga	Approve the plan change recommendations ²⁰ . <i>ID 01134 Devonia Building</i>	FS04 Devonport Heritage
23.43	Heritage NZ Pouhere Taonga	Approve the plan change recommendations ²¹ . <i>ID 01136 Alisons' Building</i>	FS04 Devonport Heritage
23.44	Heritage NZ	Approve the plan change recommendations. <i>ID 01150 Hydrographic Survey Station and mast</i>	
23.45	Heritage NZ	Approve the plan change recommendations.	

¹⁷ Submissions 23.35 and 23.36 from Heritage NZ seek amendments to the exclusions identified for the Holy Trinity Church and Hall.

¹⁸ Submission 20.9 from Ms Mason seeks that the category of the former Devonport Post Office/Council building be revisited.

¹⁹ Submission 20.3 from Ms Mason seeks a change of category for the Mays' Building and submission 22.6 from Devonport Heritage seek that this place should be a category A.

²⁰ Submission 22.8 from Devonport Heritage seek that this place should be a category A.

²¹ Submission 22.9 from Devonport Heritage seek that this place should be a category A.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
		<i>ID 01151 Devonport World War I Memorial</i>	
23.49	Heritage NZ	Approve the plan change ²² . <i>ID 01124 Bank of New Zealand (former)</i>	FS04 Devonport Heritage
23.50	Heritage NZ	Approve the plan change [ID 01132 Victoria Theatre]. <i>ID 01132 Victoria Theatre</i>	
23.51	Heritage NZ	Approve the plan change [ID 01143 Earnscliffe, 44 Williamson Avenue, Belmont]. <i>ID 01143 Earnscliffe</i>	
23.54	Heritage NZ	Approve the plan change [ID 01149 E W Alison Memorial and Clock]. <i>ID 01149 Alison Clock</i>	
23.55	Heritage NZ	Approve the plan change [ID 01158 Watson Memorial Clock]. <i>ID 01158 Watson Memorial Clock</i>	
23.56	Heritage NZ	Approve the plan change, including the scheduling of the interiors [ID 01166 St Augustine's Memorial Church and Mission Hall (former)] <i>ID 01166 St Augustine's Memorial Church and Mission Hall (former)</i>	
23.58	Heritage NZ	Approve the plan change to amend the category status of Our Lady Star of the Sea Graveyard, 28 Picton Street, Howick (ID 01372) to incorporate the church as a Category B place in Schedule 14.1. <i>ID 01372 Our Lady Star of the Sea Church and cemetery</i>	
27.1	Keith Vernon	Approve the amendments sought by the plan change.	
32.1	Kok Nam Ting	Approve the deletion the heritage overlay [inferred to be the deletion of ID 00189 at 40 Rankin Avenue (also known as 22 Margan Avenue), New Lynn]. <i>ID 00189 St Andrew's Sunday School Hall (former)</i>	

²² Submission 23.48 from Heritage NZ seeks that the interior of the bank be included in the scheduling.

Evaluation

41. Submissions supporting the plan change are acknowledged, and were not opposed by any party including the Council.

Decisions on submissions

42. That the submissions supporting the plan change be **accepted** or **accepted in part** to the extent that other submissions (addressed below) seek amendments to specific historic heritage places in PC 82.

Submissions Opposing PC 82 (General or no Specific Place)

43. The following table summarises submissions that generally oppose the plan change.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
9.1	Lloyd Kirby	There are a huge amount of homes built in the 1950s, 1960s, 1970s, 1980s and 1990s that have no real character and that could easily be replaced without too much uproar. Pre 1945 buildings should be granted protection and retained.	
10.1	Rosemary Kirby	There is a huge amount of homes built in the 1950s, 1960s, 1970s, 1980s and 1990s that have no real character and that could easily be replaced without too much uproar. Pre 1945 buildings should be granted protection and retained.	
16.1	Geoffrey John Beresford	Auckland Council should withdraw the [plan] changes.	

Evaluation

44. The submissions in the table above oppose PC 82 or seek that it be declined without referring to a specific historic heritage place.
45. Submissions 9.1 and 10.1 oppose the plan change on the basis that many homes built in the 1950s, 1960s, 1970s, 1980s and 1990s have no real character and could be replaced, but buildings constructed prior to 1945 should be protected and retained. While we acknowledge these express the view of the submitters, we find that these submissions are not “on” the plan change; which is to amend the Heritage Schedule. Notwithstanding this, the submitters did not provide any evidence to support their submissions.
46. Submission 16.1 is a generic submission that has been made to this plan change as well as plan changes 78, 79, 80, 81 and 83. One of the general reasons given in the submission is that the changes will generate significant adverse effects on the environment in terms of

several matters, including 'loss of heritage/character'. The submission does not seek specific amendments to PC 82.

47. We do not find it is appropriate that PC 82 is withdrawn; noting that this is a decision for the Council to make and not the Hearing Panel. Notwithstanding this, it is our finding that for the reasons set out in this decision it is not appropriate, in section 32 terms, to decline the entire plan change.

Decision on submissions

48. That submissions **9.1**, **10.1** and **16.1** be **rejected**

Submissions from Heritage NZ Relating to Specific Themes

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
23.8	Heritage NZ	Approve the plan change with the modifications necessary to ensure any exclusions proposed will not impede the ability to consider the place as a whole, and/or prevent the potential for reversal of past unsympathetic modifications and the restoration and recovery of identified heritage values associated with these places [modifications outlined in further submission points below].	
23.9	Heritage NZ	Amend the plan change to identify in Schedule 14.1 where a historic heritage place is also on the Heritage NZ List/Rārangi Kōrero.	
23.13	Heritage NZ	No specific decision requested in relation to a question about the lack of detail given about why the interiors are excluded. <i>ID 00127 Falls Hotel (former)</i>	
23.15	Heritage NZ	Generally retain the plan change recommendations. <i>ID 00143 Henderson Railway Station</i>	
23.16	Heritage NZ	No specific decision stated, but question raised about why interiors were not accessed for assessment or included in the recommended schedule entry. <i>ID 00143 Henderson Railway Station</i>	
23.17	Heritage NZ	Amend the historical narrative in the report to ensure the focus is wider than that of the building alone and include mention of other components, specifically the associated platform and specific reference to the role of the station as the main distribution point for products of the nearby Corban's Winery.	

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
		<i>ID 00143 Henderson Railway Station</i>	
23.22	Heritage NZ	No specific decision stated. Query why interiors are not included in the recommended schedule entry for the Worker's Cottages. <i>ID 00896 Chelsea Estate Refinery Cottages</i>	
23.24	Heritage NZ	No specific decision stated. Query why the interiors are excluded and not discussed in the review report, as these can be very important in relation to the historical significance of masonic lodges still in use which are becoming increasingly rare. <i>ID 00925 Masonic Lodge Onewa No. 182 (former)</i>	
23.25	Heritage NZ	No specific decision stated. The lodge has been assessed as having little knowledge value as knowledge is known from other sources. There is concern with this approach. One type of knowledge is not a substitute for another. <i>ID 00925 Masonic Lodge Onewa No. 182 (former)</i>	
23.27	Heritage NZ	Amend the report to more clearly reference important connections of the place with aspects of LGBTTFQI+ heritage, including in its statements of significance. <i>ID 01050 Frank Sargeson's Cottage</i>	
23.30	Heritage NZ	No specific decision stated. Unsure why the interiors of the pumphouse building are excluded as it is not clear if they have been viewed and evaluated as part of the assessment. <i>ID 01054 Pumphouse and "Green Shed"</i>	
23.35	Heritage NZ	No specific decision stated. Query why interiors are not assessed in particular as these are publicly accessible buildings. <i>ID 01099 Holy Trinity Church and Hall</i>	
23.36	Heritage NZ	Amend the plan change to remove the 1957 vestry extension and 1989 extension to the hall from the Exclusions as they are physically attached to the church and hall buildings and form part of the place and its historical development. The 1957 extension is a rare and unusual example of change within a historic context by known and respected architecture firm Mark-Brown and Fairhead. <i>ID 01099 Holy Trinity Church and Hall</i>	FS04 Devonport Heritage

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
23.46	Heritage NZ	Amend the plan change to include the interiors as appropriate in the scheduling. <i>ID 01123 Post Office (former)</i>	
23.47	Heritage NZ	Subject to submission point above, approve the plan change. <i>ID 01123 Post Office (former)</i>	FS04 Devonport Heritage
23.48	Heritage NZ	No specific decision stated. Query why the interiors have not been assessed and considered for inclusion, in particular relating to the surviving safe/concrete vault located centrally within the building. <i>ID 01124 Bank of New Zealand (former)</i>	FS04 Devonport Heritage
23.52	Heritage NZ	Amend the plan change to identify specific plantings that have historic heritage value specifically in the schedule entry for this place. <i>ID 01144 O'Neills Point Cemetery</i>	
23.53	Heritage NZ	Subject to the above, approve the plan change. <i>ID 01144 O'Neills Point Cemetery</i>	

Evaluation

49. Heritage NZ's submission on PC 82 (**submission 23**) seeks amendments relating to several themes, which we address below.

Heritage New Zealand List/Rārangī Kōrero

50. Submission **23.9** seeks the plan change be amended to identify in Schedule 14.1 where a historic heritage place is also on the Heritage New Zealand List/Rārangī Kōrero (the List).
51. The List identifies New Zealand's significant and valued historical and cultural heritage places. Heritage NZ is required to continue and maintain the List, which is the same as the register established under section 22 of the Historic Places Act 1993.
52. We acknowledge that including the Heritage NZ listing number as information in Schedule 14.1 may assist plan users to identify places that are also listed with Heritage NZ. However, we agree with the Council's expert opinion as set out in the Section 42A report, that it is not appropriate for the following reasons:
- amendments to include new places in the List would require amendments to the AUP to ensure Schedule 14.1 is up to date,

- the List is a different tool than Schedule 14.1; it is governed by different legislation (the Heritage New Zealand Pouhere Taonga Act 2014) and places managed under that Act and the AUP (OP) are not subject to the same rules, and
- information about places within the List is available online via Heritage NZ's website via a searchable format.

53. In addition, advisory text is included in the AUP (OP) Chapter D17 and in the introduction to Schedule 14.1 to inform plan users that scheduled historic heritage places may also be included in the List. We do not believe it is necessary to add to this information by including Heritage NZ List numbers in Schedule 14.1.

54. In regards to the above, we have essentially relied upon, and agree with the Council's section 42A report, which we found convincing.

Exclusions, including interior of buildings

55. **Submission 23.8** seeks the plan change be approved, subject to the modifications necessary to ensure any exclusions proposed will not impede the ability to consider the historic heritage place as a whole and/or prevent the potential for reversal of past unsympathetic modifications and the restoration and recovery of identified heritage values associated with these places.

56. Schedule 14.1 includes a column to identify the exclusions for each historic heritage place. The AUP (OP) identifies exclusions to Schedule 14.1 as:

“Some scheduled historic heritage places have listed exclusions in Schedule 14.1 Schedule of Historic Heritage, for example the interiors of buildings or ancillary buildings. Features listed as exclusions do not contribute to, or may detract from the values for which the historic heritage place has been scheduled.”²³

57. Features that are identified as exclusions are also subject to the provisions of the Historic Heritage Overlay. However, in many cases development that affects features identified as exclusions is subject to a lesser level of control than the controls that apply to the primary features of a scheduled place or activities within the extent of place²⁴.

58. Submission 23.8 and the reasoning behind it is acknowledged. It is important that any part or feature of a place recommended as an exclusion be clearly identified in the Exclusions column of Schedule 14.1 and that a piecemeal approach to scheduling is not taken. Submission 23.8 does not request any specific amendments or relief; however other submission points in Heritage NZ's submission (which we address below) seek amendments to the identified exclusions for specific historic heritage places.

59. Submissions 23.13, 23.16, 23.22, 23.30, 23.35, 23.46 and 23.48²⁵ discuss the status of the interior of buildings for particular historic heritage places within Schedule 14.1. Most of the

²³ AUP (OP), Chapter D17.1 Background

²⁴ AUP (OP), Chapter D17, Table D17.4.1 Activity table – Activities affecting Category A, A* and B scheduled historic heritage places

²⁵ These submission points relate to the following places: ID 00127 Falls Hotel, ID 00143 Henderson Railway Station, ID 00895 Chelsea Estate Cottages, ID 00925 Masonic Lodge Onewa No. 182 (former), ID 01054 Pumphouse and “Green

submission points do not seek a specific decision but query why particular interiors were not accessed for assessment and/or why particular interiors were not included in the recommended schedule entry.

60. Heritage NZ produced and appeared at the hearing to present expert evidence on this matter and specific places. This evidence was from Ms Foster (Heritage Assessment Advisor), Ms Morris (planner) who also addressed the interiors, as well as “*Relevant Planning Instruments*”. Ms Bryon, Senior Conservation Architect, also addressed the importance of Interiors.
61. We have considered and acknowledge much of the evidence regarding the importance of the interiors and other features and values of the places by the Heritage NZ experts. However, we were not persuaded by much of the evidence as it related to the buildings/places and sites. This was because the evidence had a general focus on the following matters; pointing out the value of heritage places, that the witnesses did not agree with the recommendation made in the section 42A report, that more work was required as they did not consider the Council’s experts had undertaken the appropriate or necessary evaluations, that few if any site visits to inspect the interiors had taken place, and no detailed section 32AA evaluations were provided to us. In short, the Heritage NZ experts had not provided substantive evidence to support their requests on a building-by-building basis, and we found this disappointing. Given this, we have essentially agreed with the Council’s experts.
62. Ms Bryon and Ms Morris separately addressed the IYA Radio Transmitter Station in more detail. We address this place later in this decision.
63. As set out in the section 42A report, the Council’s Methodology and guidance for evaluating Auckland’s historic heritage (Methodology)²⁶ provides guidance for the inclusion of the interiors of buildings. The guidance states:

“Under the place-based approach, interiors of buildings and structures are considered to be an intrinsic part of the overall value of the place, recognising each place as an integral whole rather than a sum of separate parts. While this is the foundation principle, inclusion of an interior in the schedule may not always be possible because the interior has not been viewed, no recent photographic information has been able to be sourced, or the interior is modified to such an extent that its contribution to the identified values of the place has been lost.”²⁷
64. Again, as set out in the section 42A report we were advised that during the preparation of PC 82, requests were sent to landowners to access particular properties for the purposes of reviewing the historic heritage values of each place. Importantly, to us (and the Council Officers), none of the places where the Heritage NZ submission has queried the management of interiors had their interiors viewed or evaluated as part of the preparation of

shed”, ID 01099 Holy Trinity Church and Hall, ID 01123 Post Office (former), ID 01123 Post Office (former), ID 01124 Bank of New Zealand (former)

²⁶ Auckland Council, Methodology and guidance for evaluating Auckland’s historic heritage, August 2020

²⁷ Methodology, page 34

PC 82. The interior of the Masonic Lodge Onewa No. 182 (former) has been viewed by the Council since the notification of PC 82, and we discuss it below.

65. Council's heritage specialists have reviewed the Heritage NZ submission and did not consider sufficient information had been provided about the interiors of the buildings for them to recommend changes to the management of these interior features.

ID 00925 Masonic Lodge Onewa No. 182 (former)

66. Submission 23.24 did not seek specific relief but queried why the interior of the Masonic Lodge was excluded and not discussed in the review report.
67. The interior of the lodge is currently identified in the Exclusions column of Schedule 14.1. The interior was not viewed as part of the evaluation of the place but the evaluator, Ms Megan Walker, has now had the opportunity to view it. As set out in Ms Walker's memo, it is her view that the interior of the lodge has sufficient historic heritage value to be included in the scheduling of the place and she recommended an amendment to the Exclusions column of Schedule 14.1 for this place.
68. Ms Morris addressed this place in her evidence, and while acknowledging the Council's recommendation, highlighted what she saw as inconsistencies on the Council's approach to consider the interior of buildings.
69. We have accepted the Council's recommendation.

ID 01099 Holy Trinity Church and Hall

70. Submission 23.35 queried why the interiors of the Holy Trinity Church and Hall were not accessed as they are publicly accessible buildings. The interior of both the church and hall were viewed and re-evaluated as part of the A* review of that place. The interiors are included in the scheduling of the place and this is proposed to be retained in PC 82.
71. Also relating to the Holy Trinity Church and Hall, **submission 23.36** relates to ID 01099 Holy Trinity Church and Hall and seeks that the 1957 vestry extension to the church and 1989 extension to the hall be removed as exclusions, given they are physically attached to the church and hall buildings and form part of the place and its historical development. Further reasons are provided:

"HNZPT believes the 1957 extension to be an unusual or rare example of change within a historic context by known and respected twentieth century architectural firm Mark-Brown and Fairhead. We believe there are consequently few protected examples'.

72. In response to the request for the amendment of exclusions, Dr Bade was of the view that the vestry extension to the church and the 1989 extension to the hall should remain identified as exclusions because they do not contribute to the values of the place. Dr Bade acknowledged the vestry extension is designed by Mark-Brown and Fairhead but notes that this small addition is not significant within their body of work nor an illustrative example of the modernist design type for which they were noted.
73. Heritage NZ did not address this place in its evidence.

74. We have accepted the Council's recommendation.

Amendments to A review reports*

75. Submissions 23.17²⁸, 23.19²⁹, 23.25 and 23.27 request that amendments are made to the A* review reports for several historic heritage places in PC 82.

76. The A* review reports were prepared by the Council's heritage experts to assess the historic heritage values of each place to determine whether it meets the AUP (OP) thresholds for scheduling as a category A or category B place, or as an historic heritage area. The recommendations in each report inform changes to Schedule 14.1, including to the identified heritage values.

Trees and plantings

77. Submissions 23.52 and 23.53 support the recommendations in PC 82 as they relate to O'Neill's Point Cemetery³⁰ but seek amendments to identify specific plantings that have historic heritage value in the schedule entry for the place.

78. Mr Robert Brassey in his report discussed the trees and plantings as part of the place but did not support any specific trees or plantings being identified in Schedule 14.1 for the place because:

- it was unclear if the plantings were undertaken in accordance with the original plan and what, if any, of this planting survives, and
- a significant number of graves have been damaged by root intrusion from trees and shrubs.

79. Ms Ramsay for the Council reviewed Mr Brassey's report and supported its conclusions. It was her view that specific plantings within the cemetery should not be identified in the Schedule 14.1 entry for the place for the same reasons outlined in the A* review report for the place.

80. We accept the Council's recommendations.

Decisions on submissions

81. That submissions **23.15, 23.23, 23.26, 23.28, 23.29, 23.34, 23.47, 23.49** and **23.53** be **accepted**.

82. That submissions **23.17, 23.19, 23.25, 23.27, 23.8** and **23.53** be **accepted in part**.

83. That submissions **23.9, 23.13, 23.16, 23.22, 23.24, 23.25, 23.27, 23.30, 23.35, 23.36, 23.46, 23.48** and **23.52** be **rejected**.

²⁸ This submission point relates to ID 00143 Henderson Railway Station and is discussed elsewhere in this decision.

²⁹ This submission point relates to ID 00895 Manager's House and ID 00896 Chelsea Estate Cottages and is discussed elsewhere in this decision.

³⁰ PC 82 proposes to amend Schedule 14.1 for this place to change the category from A* to A, to correct the verified location, to amend the heritage values (remove D, E and G and add F) and to identify that the place is subject to the additional rules for archaeological sites and features.

SUBMISSIONS SEEKING A CHANGE IN CATEGORY STATUS

84. The following table summarises submissions received on PC 82 which request amendments to the plan change relating to the category of particular historic heritage places. Where the submissions on these places support the amendments proposed in PC 82 as notified, those submission points are referred to in the earlier section of this decision. Where other submissions seek amendments to a place in addition to a change of category, those submission points are discussed in other sections of this decision.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
20.1	Katherine Anne Mason	Reconsider the category of some historic heritage places to become A, rather than B, in the places identified.	
20.3	Katherine Anne Mason	Amend the plan change to protect Mays' Buildings under the Category A status (ID 01122).	
20.4	Katherine Anne Mason	Amend the plan change to revisit the heritage values and category of 9 Mays Street, Devonport (ID 1113).	
20.5	Katherine Anne Mason	Amend the plan change to revisit the heritage values and category of the Holy Trinity Church and Hall (ID 1099).	
20.6	Katherine Anne Mason	Amend the plan change to revisit the heritage values and category of Takapuna Grammar School (ID 1111).	
20.7	Katherine Anne Mason	Amend the plan change to revisit the heritage values and category of the Execution Site (ID 1161) ³¹ .	
20.8	Katherine Anne Mason	Amend the plan change to revisit the heritage values and category of the Pumphouse (ID 1054).	
20.9	Katherine Anne Mason	Amend the plan change to revisit the heritage values and category of the ID 1121 Devonport Post Office (former)/ Devonport Borough Council Building (former).	
20.10	Katherine Anne Mason	Amend the plan change to revisit the heritage values and	

³¹ Ms Mason's submission 20.2 also seeks to reinstate the Execution Site plaque (AUP Schedule ID 01161) – this submission is considered elsewhere in this decision.

		category of the Windsor Reserve area including the fountains (ID 01150).	
22.2	Devonport Heritage	Amend the plan change so that the former Mays' residence at 9 Mays Street, Devonport has a Historic Heritage A classification.	FS08 Avril Franceine Cowie
22.3	Devonport Heritage	Amend the plan change so that St Paul's Church at 100 Victoria Road, Devonport has a Historic Heritage A classification.	FS08 Avril Franceine Cowie
22.5	Devonport Heritage	Amend the plan change so that Duder House at 11 Church Street, Devonport has a Historic Heritage A classification.	FS08 Avril Franceine Cowie
22.6	Devonport Heritage	Amend the plan change so that May's Buildings at 5-15 and 17-19 Victoria Road, Devonport has a Historic Heritage A classification.	FS08 Avril Franceine Cowie
22.7	Devonport Heritage	Amend the plan change so that the BNZ Building at 14 Victoria Road, Devonport has a Historic Heritage A classification.	FS08 Avril Franceine Cowie
22.8	Devonport Heritage	Amend the plan change so that the Devonia Building at 61 Victoria Road, Devonport has a Historic Heritage A classification.	FS08 Avril Franceine Cowie
22.9	Devonport Heritage	Amend the plan change so that the Alisons' Buildings at 73-79 Victoria Road, Devonport have a Historic Heritage A classification.	FS08 Avril Franceine Cowie
25.1	Devonport – Takapuna RSA	Amend the plan change so that Memorial Drive has a Category A status because it has heritage values of national significance.	FS04 Devonport Heritage
25.2	Devonport – Takapuna RSA	Amend the plan change so the War Memorial Gates has a Category A status as it has heritage values of national significance.	
26.1	Gavin Matthew Sheehan	Amend the plan change so that ID 1062 is a Category A, if it cannot stay as Category A*.	

26.2	Gavin Matthew Sheehan	Amend the plan change so that ID 1146 is a Category A, if it cannot stay as Category A*.	
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Evaluation

85. We address the submissions below. However, we first set out the criteria and thresholds for scheduling for context to the decisions we have made.

Criteria and thresholds for scheduling

86. RPS Objective B5.2.1(1) states that significant historic heritage places are to be identified and protected from inappropriate subdivision, use and development. Policies in the RPS set out the criteria and thresholds a historic heritage place must meet in order to be scheduled. The relevant RPS policies are:

(3) Include a place with historic heritage value in Schedule 14.1 Schedule of Historic Heritage if:

(a) the place has considerable or outstanding value in relation to one or more of the evaluation criteria in Policy B5.2.2 (1); and

(b) the place has considerable or outstanding overall significance to the locality or greater geographic area.

87. The policy is worded so that the two dimensions need to be considered; the value of the place in terms of the criteria (i.e., it must have at least considerable or outstanding value in relation to one or more) as well as the overall significance of the place to the locality or wider area. The threshold for the second dimension requires an overall judgement as to significance in relation to geographic context.

88. The terms 'outstanding' and 'considerable' are not defined by the RMA or AUP (OP). The Methodology provides the following definitions:

Considerable: *of great importance and interest; retention of the identified value(s)/significance is very important.*

Outstanding: *of exceptional importance and interest; retention of the identified value(s)/significance is essential.*

89. Policy B5.2.2(5) outlines the different categories of a historic heritage place:

(5) Include a place with historic heritage value in Schedule 14.1 Schedule of Historic Heritage in one of the following categories:

(a) Category A: historic heritage places that are of outstanding significance well beyond their immediate environs;

(b) Category A: historic heritage places identified in previous district plans which are yet to be evaluated and assessed for their significance;³²*

(c) Category B: historic heritage places that are of considerable significance to a locality or beyond;

(d) Historic heritage areas.

90. As outlined above, the policy for category A places refers to significance well beyond the ‘immediate environs’ of the place, which in our view can be taken to mean significance that extends beyond the immediate neighbourhood that the place is located in.
91. We acknowledge that the RPS establishes a high bar for places to be added to Schedule 14.1 and sets out specific thresholds for a place to be scheduled as category A. Of the 2,273 scheduled historic heritage places in the region, relatively few (198) are category A. We further acknowledge it is not a ‘numbers game’ with respect to which category should apply, and that an appropriate evaluation is required as well as a judgment made as to the value of the place or building.
92. However, while most historic heritages places are Category B, a historic heritage place that is of local significance can be Category A where overall values of the place are truly outstanding (emphasis added). It is our view that the majority of the criteria scoring ‘outstanding’ is not required to meet the overall outstanding ‘test’ – one is enough.
93. The Council’s experts had evaluated and assessed the category A* historic heritage places subject to PC 82 for their significance in accordance with the relevant RPS policies. This was set out in the report on each place and was made available as part of the plan change documentation. Twenty-one places were proposed to be category A and 59 proposed to be category B.
94. In response to requests for a change in category for some places in PC 82, the heritage experts did not consider those places met the criteria and thresholds set out in the RPS for category A places. Their opinions were included in the memoranda included in Attachment 8 to the section 42A report. Based on that advice, the reporting officer supported the category of historic heritage places as proposed in PC 82. Submitters, and their experts, did not always agree with the Council’s experts’ opinions.
95. Based on the evidence before us from the Council’s experts and submitters (and their experts) we have agreed and disagreed with the recommendations set out in the section 42A report. We record here that we have considered in detail the evidence before us, but have not gone into significant detail about that evidence as it stands for itself. We have instead set out the evidence we prefer, brief findings and our decision. This is addressed below.

³² Category A* is a temporary category and is not available to newly scheduled historic heritage places.

The Sites and Places

96. In relation to the submission points below we heard from the Council, Devonport Heritage and Ms Mason. Our findings are set out below.

Residence – 9 Mays Street, Devonport – ID 01113³³

Significance Criteria	PC82		Jackie Gillies Evidence	
	Value	Context	Value	Context
A – Historical	Considerable	Local	Outstanding	Beyond locality
B – Social	Little	Local	Little	Local
C – Mana Whenua	No known	NA	No known	NA
D – Knowledge	Little	Local	Moderate	Local
E – Technology	Little	Local	Considerable	Beyond locality
F – Physical Attributes	Considerable	Local	Outstanding	Beyond locality
G – Aesthetic	Considerable	Local	Outstanding	Beyond locality
H - Context	Considerable	Local	Considerable	Local

* Shading highlights proposed amendments to PC82.

97. The table sets out the PC 82 “Value” and “Context” of the criteria set out by the Council– and those of Ms Gillies. We address these below and our findings on them³⁴.
98. We find that the historical significance of the building is less so than May’s Building (addressed below), and therefore agree with the Council assessment of “Considerable” historical significance, and not Ms Gillies “Outstanding”. We also accept the Council’s assessment of its Technology significance; that it is not of considerable Technology significance. Ms Gillies accepted this when asked.
99. However, we accept Ms Gillies evidence that in terms of the Physical Attributes and Aesthetic these go beyond the locality and are, overall, outstanding.
100. We accept Ms Gillies evidence in relation to “Value” and “Context” (as set out in the table above) for Knowledge, Physical Attributes and Aesthetic.
101. We also accept Ms Mason’s submission (submission 20.4) that this building should have a Category A listing.
102. Our decision is that the building warrants a Category A listing.

St Paul’s Presbyterian Church & Graveyard – ID 01118

Significance Criteria	PC82		Jackie Gillies Evidence	
	Value	Context	Value	Context
A – Historical	Considerable	Local	Considerable	Local
B – Social	Considerable	Local	Considerable	Local
C – Mana Whenua	No known	NA	No known	NA
D – Knowledge	Considerable	Local	Considerable	Local
E – Technology	Little	Local	Little	Local
F – Physical Attributes	Considerable	Local	Outstanding	Beyond locality
G – Aesthetic	Considerable	Local	Outstanding	Beyond locality
H - Context	Considerable	Local	Considerable	Local

* Shading highlights proposed amendments to PC82.

³³ The tables shown in the text for this tranche of the decision have been directly copied from Ms Gillies evidence.

³⁴ We do this for each of the places identified by Ms Gillies in her evidence.

103. We agree with Ms Gillies assessment and opinion as set out in her evidence (and the table above). On this basis we accept Ms Gillies evidence in relation to Knowledge, Physical Attributes and Aesthetic.

104. Our decision is that the building warrants a Category A listing.

Duder House, 11 Church Street, Devonport – ID 01098

Significance Criteria	PC82		Jackie Gillies Evidence	
	Value	Context	Value	Context
A – Historical	Considerable	Local	Outstanding	Beyond locality
B – Social	Little	Local	Little	Local
C – Mana Whenua	No known	NA	No known	NA
D – Knowledge	Little	Local	Considerable	Beyond locality
E – Technology	No	NA	Outstanding	Beyond locality
F – Physical Attributes	Considerable	Local	Considerable	Beyond locality
G – Aesthetic	Moderate	Local	Outstanding	Beyond locality
H - Context	Considerable	Local	Considerable	Local

* Shading highlights proposed amendments to PC82.

105. We accept Ms Gillies evidence that the building is outstanding for its Historical and Aesthetic attributes. However, we do not accept that this building is technologically “Outstanding”; accepting the Council expert’s view that it has no Technology significance. Ms Gillies accepted this when asked by the Hearing Panel. However, at the hearing Ms Gillies indicated that the building was of “Outstanding” Physical Attributes significance, for the reasons she had previously stated for Technology significance. We accept this view.

106. We also accept Ms Gillies opinion in relation to Knowledge.

107. Given the significance of the Duder family to Devonport and Auckland as a whole (despite not being originally built for Thomas Duder; it was built on land he owned), it is our finding that, overall, the building is of “Outstanding” value beyond the locality.

108. Our decision is that the building warrants a Category A listing.

Mays Buildings – ID 01122

Significance Criteria	PC82		Jackie Gillies Evidence	
	Value	Context	Value	Context
A – Historical	Moderate	Local	Outstanding	Beyond locality
B – Social	Moderate	Local	Outstanding	Local
C – Mana Whenua	No known	NA	No known	NA
D – Knowledge	Moderate	Local	Considerable	Local
E – Technology	None	NA	Little	Local
F – Physical Attributes	Considerable	Local	Outstanding	Beyond locality
G – Aesthetic	Considerable	Local	Outstanding	Local
H - Context	Considerable	Local	Outstanding	Local

* Shading highlights proposed amendments to PC82.

109. We accept Ms Gillies evidence that the building is “Outstanding” for its Historical, Physical Attributes, Aesthetics and Context. However, we do not accept that the building has “Outstanding” Social significance (and agree with the council’s assessment) – noting that much of Ms Gillies descriptions more correctly fall under some of the other criteria.

110. We find that overall, the building has “Outstanding” significance, including beyond the locality (in particular for historical).

111. We also accept Ms Mason’s submission (submission 20.3) that this building have a Category A listing.
112. Our decision is that the building warrants a Category A listing.

Bank of New Zealand (former) – ID 01124, Alisons’ Building – ID 01136

113. Devonport Heritage’s submission sought that these buildings warranted a Category A listing. However, Ms Gillies stated in her expert evidence³⁵:

I agree with Council that Alison’s Building (ID 01136) and the former BNZ building (ID 3 01124) should remain as Category B places....

114. We agree with the Council’s assessment and have accordingly not accepted Devonport Heritage’s submission points.

Devonia Building – ID 01134

Significance Criteria	PC82		Jackie Gillies Evidence	
	Value	Context	Value	Context
A – Historical	Moderate	Local	Considerable	Local
B – Social	Moderate	Local	Outstanding	Local
C – Mana Whenua	No known	NA	No known	NA
D – Knowledge	Little	Local	Moderate	Local
E – Technology	None	NA	None	NA
F – Physical Attributes	Considerable	Local	Outstanding	Beyond locality
G – Aesthetic	Considerable	Local	Outstanding	Beyond locality
H - Context	Considerable	Local	Outstanding	Local

* Shading highlights issues discussed above.

115. We accept Ms Gillies evidence that the building is “Outstanding” for its Physical Attributes, Aesthetics and Context. However, we do not accept that the building has “Outstanding” social significance (and agree with the council’s assessment) – as we are not convinced that association with the RSA (who use the first floor) gives the building outstanding Social significance.
116. However, as said, we accept the remainder of Ms Gillies’ assessment, and that overall, the building is of “Outstanding” value beyond the locality.
117. Our decision is that the building warrants a Category A listing.

Ms Mason

118. Submission 20.1, from Ms Mason seeks that the category of some historic heritage places is amended to A (rather than B) for the places identified in the submission. She also sought to amend the plan to protect Mays’ Buildings under the Category A status (ID 01122), and to revisit the heritage values and category of 9 Mays Street, Devonport (ID 1113) – submissions 20.3 and 4). These two places have been addressed above in terms of the Devonport Heritage submissions.

³⁵ Paragraph 16

119. Ms Mason also sought to revisit the heritage values and category of the Holy Trinity Church and Hall (ID 1099), Takapuna Grammar School (ID 1111), Execution Site (ID 1161)³⁶, Pumphouse (ID 1054), Devonport Post Office (former)/ Devonport Borough Council Building (former) (ID 1121) and Windsor Reserve area including the fountains (ID 01150).
120. We wish to acknowledge the significant amount of work (and time) Ms Mason would have put into researching these sites and places; the systems approach taken, and the manner in which she presented her evidence to the Hearing Panel. We accept that the evidence and material presented is well researched, factual and those places and sites have heritage value. However, while we acknowledge the evidence, we have agreed with the expert opinions of the Council officers; that the requests for a change in category for places in PC 82 do not meet the criteria and thresholds set out in the RPS for category A places (as set out earlier).
121. The expert opinions of the Council Officers were set out in the Memorandum included as Attachment 8 to the section 42A report. The Council's heritage expert, and Ms Rush, Council's expert planner, maintained their opinion once they had heard and considered Ms Mason's evidence. As stated, we have agreed with the Council experts' opinions.

Devonport /Takapuna Returned Services Association

122. Devonport /Takapuna Returned Services Association (RSA) presented before the Hearing Panel. They sought to: - amend the Plan Change so that Memorial Drive (submission 25.1) and the War Memorial Gates (submission 25.2) had a Category A status - as in their view both had heritage values of national significance. Devonport Heritage supported the RSA's submission 25.1.
123. It was the RSA and Devonport Heritage view that the site adds to the collective value of the significant and extensive number of military sites located on the North Shore which have a regional and national value. It was Devonport Heritage's view that³⁷:

The site is documented by the Auckland Council Heritage Team as a "memorial associated as a living memorial and is a relatively rare example of an avenue of trees planted to memorialise fallen soldiers."

This memorial is a rare and unique example of the Labour Governments policy from the 1940's, to encourage communities to erect remembrances that would become places to gather for social, educational, cultural and recreational purposes. It is for this reason that the Physical Attributes and Aesthetic Values of this site should be accepted as regionally and nationally significant.

124. The Council's experts (heritage and planning) disagreed with the submission points (Devonport-Takapuna RSA and G. Sheehan) which requested the memorial gates be Category A. The Council's memorandum (Dr Bade) set out that the memorial gates were "erected to commemorate former Takapuna Primary School students who were involved in World War I (including 16 who were killed). Although these former students were involved

³⁶ Addressed later in this decision

³⁷ Paragraphs 24 and 25

in the war at a national level, the memorial itself relates to those of the local area who attended the school. The memorial is, therefore, of local significance rather than of regional or national significance. This is consistent with other war memorials in the Schedule 14.1 Schedule of Historic Heritage in the Auckland Unitary Plan (AUP). Having the memorial as Category B does not belittle their sacrifice for the nation but reflects the historic heritage values of the memorial gates which were erected for the local community. According to the Methodology, Category A places have value which is “outstanding well beyond their immediate environs.”

125. The Council’s heritage expert (Ms Freeman) agreed that Memorial Drive is part of a national network of war memorials, and that taken together, these places have collective significance to the nation. However, while she agreed the place fits within this national context, she did not agree that Memorial Drive, individually, had value at that level. It was her opinion that Memorial Drive is a local war memorial that commemorates the sacrifice of local men. Places that are scheduled in Category A must be of “outstanding significance well beyond their immediate environs.”
126. As Ms Freeman pointed out the place cannot remain scheduled in Category A* because this category is an interim, temporary category. This category was introduced through the Unitary Plan to provide for those places in legacy plans that did not align with the proposed scheduling framework. Category A* is effectively a “holding pattern” until these places can be reviewed, and it now has been.
127. Ms Rush agreed with the expert’s opinion. We agree with the Council for the reasons set out in the section 42A report.

Gavin Sheehan

128. With respect to submission points 26.1 and 2 Mr Sheehan was of the view that Memorial Drive was part of a national network of war memorials and should be changed to Category A to recognise the sacrifice of the soldiers it memorialises. He did not provide any additional information or evidence or attend the hearing. On this basis we agree with the section 42A report and the Council’s expert’s opinion as set out above in the evaluation of the RSA’s submissions.

Decisions on submissions

129. That submissions **20.1** be **accepted in part** (to the extent that we have determined that some of the buildings and places be Category A).
130. That submissions **20.3, 20.4, 22.2, 22.3, 22.5, 22.6, 22.8**, be **accepted**.
131. That submissions **20.5, 20.6, 20.7, 20.8, 20.9, 20.10, 22.7, 22.9 25.1, 25.2, 26.1** and **26.2** be **rejected**.

SUBMISSIONS RELATING TO THE DELETION OF HISTORIC HERITAGE PLACES

132. The following table summarises submissions that relate to the deletion of specific historic heritage places as proposed in PC 82.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
20.2	Katherine Anne Mason	Reinstate the Execution Site Plaque (01161) in the schedule.	
22.4	Devonport Heritage	Amend the plan change to reinstate the Shell path along Queens Parade and King Edward Parade, Devonport and afford it a Historic Heritage A classification.	FS08 Avril Franceine Cowie
23.2	Heritage NZ	Approve the deletion of the entry for ID 02686 Red Bluff/Castor Bay Battery recreation hut (former), to merge this place with ID 01060 Castor Bay Battery Complex.	
23.3	Heritage NZ	Approve the deletion of Schedule 14.1 entry for ID 01152 Fountain.	
23.4	Heritage NZ	Approve the deletion of Schedule 14.1 entry for ID 01154 Memorial to J.P. Mays and H. Frankham.	
23.5	Heritage NZ	Approve the deletion of Schedule 14.1 entry for ID 01168 Nothing Happened plaque.	
23.7	Heritage NZ	Approve the deletion of Schedule 14.1 entries for 14 historic heritage places as their re-evaluation determined the place did not meet the required criteria and thresholds for scheduling.	FS05 Patrick Faigan and Maryanne Savage

Evaluation

Execution Site plaque - ID 01161

133. Submission 20.2 from Ms Mason sought that the Execution Site plaque be reinstated into Schedule 14.1. The Council's expert (Ms Freeman) did not support this request noting however that she acknowledged that the place has historic heritage values, but considered the values were moderate overall and that the place therefore does not meet the necessary requirements in the RPS for scheduling.
134. We again reiterate the significant amount of work (and time) Ms Mason put into researching these sites and places, and the systematic approach taken to her evidence. However, as we set out earlier in response to other submissions made by Ms Mason, we accept the Council's expert's opinion (Ms Freeman and Ms Rush) set out earlier (in the Memorandum included as Attachment 8 to the section 42A report).
135. The Council's experts (heritage and planning) agree that the place has heritage values. However, that the A* review found that the place had "Moderate" Historical, Social,

Knowledge and Context values, and to be included in Schedule 14, a place must be of “Considerable” or “Outstanding” overall value³⁸. The expert opinion of the Council’s experts is that the Execution Site plaque, which is of “Moderate” overall value, does not have sufficient value to be included in Schedule 14. The Hearing Panel agrees.

Shell path - ID 01147

136. Devonport Heritage (**submission 22.4**) seeks the Shell path to be retained in Schedule 14.1 because it is an integral part of the extent of place of the adjacent scheduled Commemorative sea wall³⁹. The Council’s expert (Ms Freeman) did not support this request and remained of the view that the Shell path should be removed from Schedule 14.1 and the plan maps.
137. Ms Freeman agreed that the Shell path adds to the setting and aesthetic values of the sea wall and the wider esplanade area and therefore the Shell path is part of the ‘place’ of the sea wall. She noted that the Shell path is already within the extent of place of the sea wall and because it is not identified as an exclusion to the sea wall in Schedule 14.1, the Shell path is already managed as part of the place.
138. Ms Gillies for Devonport Heritage stated in her expert evidence⁴⁰:

I agree with Council that ...the Shell Path (ID 01147) should be removed from the schedule.

139. We agree with the Council’s assessment and have accordingly not accepted Devonport Heritage’s submission points (which Devonport Heritage appear to accept).

Heritage NZ submissions 22.2 – 5 and 7 and including Residence, 76 Astley Avenue, New Lynn - ID 00241

140. Heritage NZ supported the deletion of a number of Heritage Items from the Schedule and plan maps, including the residence at 76 Astley Avenue, New Lynn - ID 00241. These are set out in the table above and in their submission.
141. No contrary evidence was provided to us in relation to the Heritage NZ submissions, and ‘supported’ by the Council in terms of the notified PC 82.
142. Mr Faigan and Ms Savage (FS05) are the owner-occupiers of the scheduled residence at 76 Astley Avenue, New Lynn⁴¹. They supported the Heritage NZ submission seeking the deletion of a number of scheduled places⁴². The residence was first scheduled by the former Waitakere District Council Plan as a Category III item for its locally significant historical and architectural values.

³⁸ Chapter B5.2.2(3)

³⁹ AUP Schedule 14.1 ID 02123 Commemorative Sea Wall

⁴⁰ Paragraph 16

⁴¹ Schedule 14.1 ID 00241

⁴² Noting that this place was not included in PC 82 as notified.

143. In their further submission, the tabled evidence and the section 42A report set out why the house should not be listed. This included:

- *Auckland Council's own investigation has recently shown that the house could not have been built before 1942.*
- *The house was not built of brick produced from the early New Lynn brickworks; these brickworks ceased production by the end of the 1930s and the bricks at 76 Astley Avenue are not stamped, unlike bricks from early brickworks, and cannot be sourced.*
- *The house has no connection to Crown Lynn, which was alluded to as a reason for its preservation.*
- *The house has no unique or significant architectural value and has no decorative features, including its brick walls. It is an example of the type of construction the Gardner company and others released after 1940 for lower priced housing to meet the swelling demand in New Zealand at that time.*
- *The house is derelict, with rusted steel lintels that are collapsing, holes in the roof, cracks in the wall and associated leaks and rot.*
- *Serious repairs have been undertaken by the owners, costing around \$50,000 but quotes to repair the exterior to ensure weathertightness have been put at \$400,000.*

144. Council's expert, Ms Freeman agreed that the residence does not meet the AUP (OP) criteria and thresholds for scheduling. We agree and have determined that the residence at 76 Astley Avenue, New Lynn be removed from the Schedule.

Decision on submissions

145. That submissions **23.2, 23.3, 23.4, 23.5** and **23.7⁴³** be **accepted**.

146. That submissions **20.2** and **22.4** be **rejected**.

SUBMISSIONS ON ID 00056 IYA RADIO TRANSMITTER STATION

147. PC 82 proposes the following amendments to ID 00056 IYA Radio Transmitter Station:

- amend the name of the place to be more historically correct,
- amend the legal description to remove the road reserve,
- amend the category from A* to A,
- amend the heritage values to add D (Knowledge), E (Technology) and H (Context), and
- amend the exclusions column to identify various features as exclusions.

⁴³ Including FS05

148. The plan change also proposes to amend the extent of place for the transmitter station to remove it from part of the driveway and from the neighbouring industrial area. The proposed extent of place is shown by the purple cross-hatched area below:



149. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
23.10	Heritage NZ Pouhere Taonga	Approve the scheduling of IYA Radio Transmitter Station as a Category A place.	FS07 Radio New Zealand Limited
23.11	Heritage NZ Pouhere Taonga	Amend the plan change to ensure the scheduled extents of the mast and buildings are contiguous in order to reflect the relationship between the two conceptually, historically and physically and to enable protection of a visual connection between them.	FS07 Radio New Zealand Limited

Evaluation

Extent of place

150. Submission 23.11 seeks that the scheduled extent of place for the transmission station include both the mast and buildings and that the extents of the mast and buildings should be contiguous in order to; reflect the relationship between the two conceptually, historically and physically linked features, and to enable protection of a visual connection between

them. The two structures are believed to be directly physically linked through interconnecting cables.

151. Radio New Zealand Limited (RNZ) was a further submitter (FS07) in relation to this place. RNZ is the owner and occupier of 2-12 Selwood Place, Henderson. RNZ has no objection to the changes to the scheduling of the transmitter station as proposed in PC 82 so accordingly supports Heritage NZ's submission 23.10. However, RNZ strongly opposed submission 23.11 and opposed any changes to the identification of the transmitter station or removal of exclusions as listed in PC 82 for the following reason as set out in the submission:

“RNZ's Facilities are an operational site that provide a key civil defence function. Any potential restrictions or limitations on RNZ's ability to make changes to the facilities to upgrade, maintain, remove or replace operational equipment (including the mast) could have significant impacts on RNZ's ability to carry out its functions.”

152. RNZ provided legal submissions and expert evidence on this matter. As set out in Mr Pedler's legal submissions (which also addressed the expert evidence)⁴⁴:

HNZPT's submission and evidence sought that the scheduled extent also include the transmission mast and interior of the transmission building. RNZ's further submissions strongly opposed the change to the scheduled extent to include the mast. RNZ also strongly opposed any changes to include additional parts of the interiors as sought in HNZPT's evidence.

As explained by Mr White, RNZ's Facilities at Henderson are an operational site that:

- 7.1 perform a critical civil defence role;*
- 7.2 provide greater coverage into areas not covered by FM stations, which is very important in emergency situations; and*
- 7.3 are designated for Telecommunication and Radio Communication Facilities in the AUP.*

Accordingly, it is critically important that RNZ is not unduly restricted from carrying out works that are fundamental to the ongoing operation of transmission activities at Henderson. Any potential restrictions on RNZ's ability to efficiently maintain, upgrade or replace the equipment would be significant.

RNZ is keenly aware of the responsibilities of preserving New Zealand's cultural heritage and supports the preservation of heritage values at the Henderson site where possible. However, preservation cannot 'lock in' the use of the site in the current equipment configuration.

153. We agree with the legal submissions and evidence presented to us.

⁴⁴ Paragraphs 6-9 of Mr Pedler's legal submissions

154. Ms Freeman agrees that the station and mast are linked both historically and physically (via underground cables) and that the space between the transmitter and mast is part of the place and primary to understanding the function of the place. However, as set out in her memorandum (as an input to the section 42A report), she does not have the information required to support the amendment of the extent of place, including the location and route of underground cables.
155. Furthermore, we note that the views of RNZ were sought during the preparation of PC 82. RNZ advised that the mast is not original and has been modified since its replacement in 1949 and that the mast is an ageing steel structure which requires a high degree of active maintenance. It will eventually need to be replaced for both operational and safety reasons.
156. As set out in the supporting information for PC 82, planning considerations helped determine the extent of place notified for the transmitter station in the plan change. These considerations include the fact that the mast is required for an essential public work (as set out above), the rules for demolition of primary features of scheduled historic heritage places in the AUP (OP), and the designation that applies to the site at 2-12 Selwood Road⁴⁵.
157. The planning advice recommended that the mast not be included in the extent of place nor listed as a primary feature for ID 00056, due to potential confusion about the relationship between the designation for the transmitter station and Chapter 17 Historic Heritage Overlay of the AUP (OP). In addition, the advice highlighted the fact that the transmitter mast is essential to RNZ's role under the Civil Defence Emergency Management Act 2002 and any delay in preventing ongoing use of the mast or the ability to broadcast would be unacceptable. This was confirmed in the legal submissions and evidence of RNZ.
158. We note from a site visit undertaken, that the current condition and management of the area between the transmitter station and the mast is such that they do not visually have the appearance of one entity, but two separate yet functionally linked items. We support the planning advice that informed PC 82 and the legal submissions and evidence of RNZ. We do not support the amendment of the extent of place for the transmitter station to include the mast.

Interiors

159. Commentary within Heritage NZ's submission (submission 23) states that it is unclear why the post-1935 equipment and all interiors are excluded from the scheduling. No specific decision is sought in relation to this matter and this matter has not been allocated a submission point number in the SDR.
160. However, Ms Freeman has considered the matter of interiors. Her advice, as set out in her memorandum, advised that the equipment inside the transmitter station is considered a 'moveable object' and therefore the AUP (OP) historic heritage provisions do not manage it. Ms Freeman agreed with Heritage NZ that the interior spaces of the transmitter station are largely original and intact. However, she considers that while some modifications, such as installation of ventilation systems, have been introduced to support the ongoing use of the

⁴⁵ AUP (OP), Designation 7301

place, these changes do not detract from the overall values of the place. She recommended that the interiors be removed from the Exclusions column of Schedule 14.1 to allow for these spaces to be managed by the provisions of the Historic Heritage Overlay.

161. As set out in the section 42A report, Ms Rush stated that she could not support any further changes to PC 82 to reflect Ms Freeman’s views on the interiors of the transmitter station because the comments in the Heritage NZ submission did not request a particular decision and were therefore not coded as a submission point in the SDR. Notwithstanding this point, which we agree with, RNZ did oppose the inclusion of the interiors. The legal submissions set out⁴⁶:

RNZ’s further submission opposed a submission from Heritage New Zealand Pouhere Taonga (HNZPT) which sought to expand the scheduled extent of RNZ’s “1YA radio transmitter station” to include the transmission mast and interiors.

162. For the reasons already set out above, we agree with RNZ and Ms Rush.

Decision on Submissions

163. That submission **23.10** be **accepted**.

164. That submission **23.11** be **rejected**.

SUBMISSIONS ON ID 00252 DONNER HOUSE AND STUDIOS

165. PC 82 proposes the following amendments to ID 00252 Donner House and studios:

- minor amendment to the name of the place,
- amend the category from A* to A,
- amend the primary feature to identify the residence and its two studios,
- amend the heritage values to add B (Social), D (Knowledge), E (Technology) and G (Aesthetic), and
- amend the exclusions to include parts of the interior as being subject to the provisions of the Historic Heritage Overlay.

166. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
13.1	Paul Jenkin	Delete the Gardener’s Retreat building [one of the studios] from the heritage listed in the scheduling of Donner House at 50 Kohu Road, Titirangi.	

⁴⁶ Paragraph 2 of Mr Pedler’s legal submissions

Evaluation

167. Submission 13.1 is from the owner of Donner House and studios, Paul Jenkin, and seeks that the studio building known as the 'Gardener's Retreat' at 50 Kohu Road is deleted from the scheduling of Donner House and studios.
168. The reason for the decision requested is that the studio is in a poor structural condition and will require significant works to stabilise and repair. Photographic evidence of the condition of the building was provided in the submission and again at the hearing by Mr Jenkin.
169. Ms Walker agreed that the studio (referred to in her A* review report as the 1963 studio or the second studio) has structural challenges but nonetheless considered that the building has important historic heritage values including Donner's experimental design philosophy, his innovative architecture, his use of discarded materials (this was fully set out in her memo included in Attachment 8 of the section 42A report). Mr Jenkin did not dispute it had value, but did not want to have overly restrictive planning provisions apply to this building (such as a prohibited activity in respect of demolition). Ms Walker did not support deleting the second (1963) studio from the scheduling of 50 Kohu Road and maintains that it be identified as a primary feature.
170. PC 82 proposes that Schedule 14.1 be amended to identify "Residence and two studios" as the primary feature of the place. The demolition or destruction of more than 70 percent of the primary feature of a Category A place is a prohibited activity under the AUP (OP) Historic Heritage Overlay⁴⁷. We acknowledge if we approved PC 82 as notified, the demolition of 70 percent or more of the studio would be a prohibited activity. As such, the only way to demolish the second (1963) studio lawfully would be a private plan change to the AUP (OP) to remove the studio from the Primary Features column. We do not support this given the structural integrity of the building as demonstrated to us by Mr Jenkin.
171. There is agreement between the council and Mr Jenkin that the second (1963) studio has significant structural issues that will need to be addressed. It is therefore our finding, based on the evidence before us, that it is unreasonable to identify that studio as a "primary feature" such that the prohibited activity status on demolishing more than 70 percent of it would apply.
172. However, based on the evidence of both Ms Walker and Mr Jenkin, notwithstanding the structural issues, we find there is historic heritage value of the second (1963) studio. We therefore find that the studio be included in the scheduling as proposed but not identified as a "primary feature". This means a resource consent (most likely a non-complying activity) could be sought to demolish the studio due to the structural issues. Clearly, the condition of the studio and its related heritage values would then be considered as part of any resource consent application and decision.

Decision on submission

173. That submission **13.1** be **accepted in part**.

⁴⁷ AUP (OP) Table D17.4.1 Rule A1

SUBMISSIONS ON ID 00895 MANAGER’S HOUSE (FORMER) AND ID 00896 CHELSEA REFINERY COTTAGES (FORMER)

174. PC 82 proposes the following amendments to ID 00895 Manager’s House (former):

- minor amendments to the name and primary feature,
- addition of legal description,
- amend the category from A* to A,
- amend the heritage values to add D (Knowledge) and E (Technology), and
- amend the exclusions column to identify the interior of the kitchens and bathrooms as an exclusion.

175. PC 82 proposes the following amendments to ID 00896 Chelsea Refinery cottages (former):

- minor amendment to the name,
- amend the category from A* to A,
- amend the primary feature to identify that there are four cottages, and
- amend the heritage values to add D (Knowledge).

176. The plan change also proposes to add an extent of place for the Manager’s House, as shown by the purple cross-hatched area below:



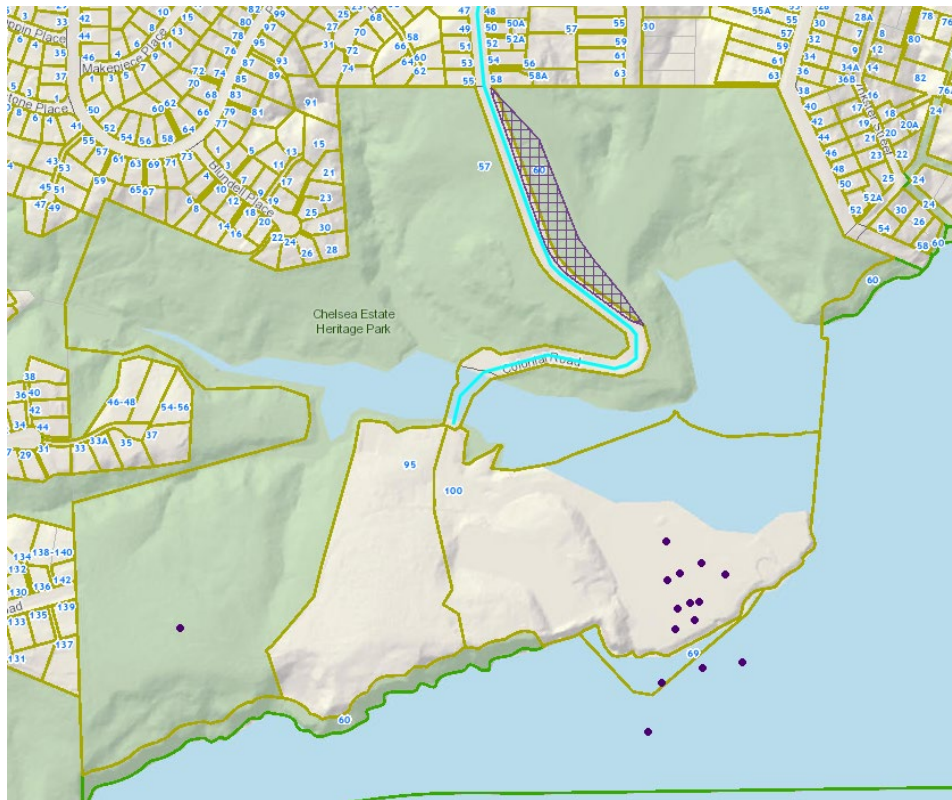
177. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
23.18	Heritage NZ Pouhere Taonga	No specific decision stated. All of the Chelsea Sugar Refinery Estate merits scheduling as a unified and contiguous entity.	
23.19	Heritage NZ Pouhere Taonga	Approve the plan change, including the Category A classifications, but amend the statements under Criteria H to reflect the regional and national importance of the context of the Manager's House and Refinery Cottages in the form of the wider Chelsea Estate.	
23.20	Heritage NZ Pouhere Taonga	Amend the individual extents of the two entries, particularly for the cottages which are currently very narrowly defined.	
23.21	Heritage NZ Pouhere Taonga	Approve the inclusion of interiors for the Manager's House.	
23.22	Heritage NZ Pouhere Taonga	No specific decision stated. Query why interiors are not included in the recommended schedule entry for the Worker's Cottages.	

Evaluation

178. The submissions received on the Manager's House (former) and Chelsea Refinery cottages (former) were from Heritage NZ. The submission (23.18) does not seek specific relief but considers that all the Chelsea Sugar Refinery Estate merits scheduling as a unified and contiguous entity. The relief that is sought in the submission relates to historic heritage places that are not the subject of PC 82. This raises the issue of scope which we have addressed below. Ms Foster presented evidence on behalf of Heritage NZ.
179. Schedule 14.1 includes 16 separate entries for buildings and structures that are part of the Chelsea Sugar Refinery. These features are located across the former Chelsea Estate at 57, 60 and 100 Colonial Road, Chatswood, and in the CMA.
180. Areas within the Chelsea Estate are managed via several precincts in the AUP (OP) for the purpose of providing for the existing operations of the sugar refinery as well as a future use scenario for mixed use development should refinery operations cease, while safeguarding significant heritage values. Chelsea Sub-precinct C applies to that part of the refinery site which is recognised as a unique industrial heritage site of national and international significance⁴⁸.

⁴⁸ AUP (OP) Chapter 1505 Chelsea Precinct



Chelsea Estate Heritage Park, showing the Historic Heritage Overlay Extent of Place (scheduled former Refinery cottages (purple cross-hatching)) and Historic Heritage Overlay Place (scheduled buildings and structures, purple dots, with no extent of place identified).

181. As set out above, the relief sought in submission 23.18 relates to historic heritage places that are not the subject of PC 82. We agree with the section 42A report that the decision requested is beyond the scope of PC 82. We also note that the section 42A report states⁴⁹:

“In any case, while I acknowledge the various scheduled historic heritage places within the Chelsea Sugar Refinery Estate are all part of one wider place, I do not think it is appropriate to manage the estate as one scheduled entity”. The Historic Heritage Overlay manages a range of activities including the demolition and modification of buildings and structures and their maintenance and repair, new buildings and structures and signs. The wider Chelsea Estate contains a number of buildings and structures that do not have significant historic heritage value, particularly within the sugar refinery”.

182. It was Ms Rush’s opinion that it is not appropriate to apply the provisions of the overlay to the entire area without evaluating the place first to determine whether it meets the criteria and thresholds of the AUP (OP) to be scheduled and to ensure that matters including primary feature(s) and exclusion(s) are identified to ensure the management of the place is appropriate to its values. We agree.
183. Submission 23.19 supported the amendments proposed in the plan change but sought an amendment to the review report to identify that the Manager’s House and Refinery cottages

⁴⁹ Paragraph 19.7

are of regional and national importance, under the criterion H (Context). This matter was addressed in memoranda prepared by the authors of the A* review reports for the Manager's House and cottages (Dr David Bade and Ms Walker respectively). These memoranda, which are included in Attachment 8 to the section 42A report, considered that the context of these two places is adequately covered in the A* reviews and no amendments were required. We agree.

184. Submission 23.20 sought that the individual extent of place for both the Manager's House and Refinery cottages be considered for expansion. No preferred extent of place was suggested but the submission notes that the cottages are very narrowly defined and recognition of nearby in-ground remains of previous workers' cottages that were located on the estate could be recognised.

185. Ms Foster set out that:⁵⁰

In my view, given the Chelsea Estate Refinery Cottages are part of an individual heritage place in the plan, the extent of place should incorporate all the features related to the provision of accommodation for workers not only including the extant buildings but also surviving physical and in ground archaeological features on both sides of Colonial Road, which graphically demonstrate and reflect the different developmental stages of and attitudes towards the provision of accommodation for the refinery workforce.

186. The Manager's House does not have an extent of place in the AUP (OP); and is only identified by a dot. PC 82 proposes to address this by adding an extent of place that covers the Manager's House, the 1923 garage, the small brick accessory building, the driveway (which is in its original position) and the lawn to the north of the house. Dr Bade considered the extent of place proposed in his evaluation identifies the area that contains the historic heritage values of the place and he does not support any amendment of the proposed extent of place. We agree with the Council experts.

187. Ms Walker, the author of the A* review report for the Refinery cottages, considers the extent of place in the operative AUP (OP) for the cottages is appropriate as it identifies the area that contains the historic heritage values of the place. Ms Walker does not believe there is sufficient information to increase the size of the extent of place as requested by Heritage NZ.

188. Submission 23.21 supported the inclusion of the interiors of the Manager's House in the scheduling. This matter is not in dispute, and we agree.

189. Submission 23.22 queried why the interiors of the Refinery cottages are not included in the recommended schedule entry, particularly given the buildings are in Council ownership and recently compiled assessment evidence exists (being the Heritage NZ 2009 listing report and the 2011 Chelsea Estate Heritage Park Conservation Plan).

⁵⁰ Paragraph 29 of Ms Foster's evidence

190. Ms Foster's evidence stated⁵¹:

I disagree with the s.42 recommendation to reject HNZPT's submission point 23.22 relating to the interiors of the cottages. Copies of the 2009 List report and relevant pages of the 2011 Conservation Plan are attached.

191. This matter has been discussed above in this decision. We do not support Heritage New Zealand's submission or evidence, and prefer the position set out in the section 42A report.

Decision on submissions

192. That submission **23.21** be **accepted**.

193. That submission **23.19** be **accepted in part** (that part which is supporting).

194. That submissions **23.18**, **23.20** and **23.22** be **rejected**.

SUBMISSIONS ON ID 00912 ST PETER'S RURAL TRAINING SCHOOL (FORMER)/ST PETER'S MĀORI COLLEGE (FORMER)/HATO PETĒRA COLLEGE (FORMER)

195. PC 82 proposes the following amendments to ID 00912 St Peter's Rural Training School (former)/St Peter's Māori College (former)/Hato Petēra College (former), 103 College Road, Northcote (Hato Petēra):

- amend the name of the place,
- amend the category from A* to B,
- amend the primary feature and exclusions columns in Schedule 14.1 to refer to a map added to Schedule 14.3 to further identify the primary feature and exclusions, and
- amend the heritage values to remove F (Physical Attributes) and G (Aesthetic).

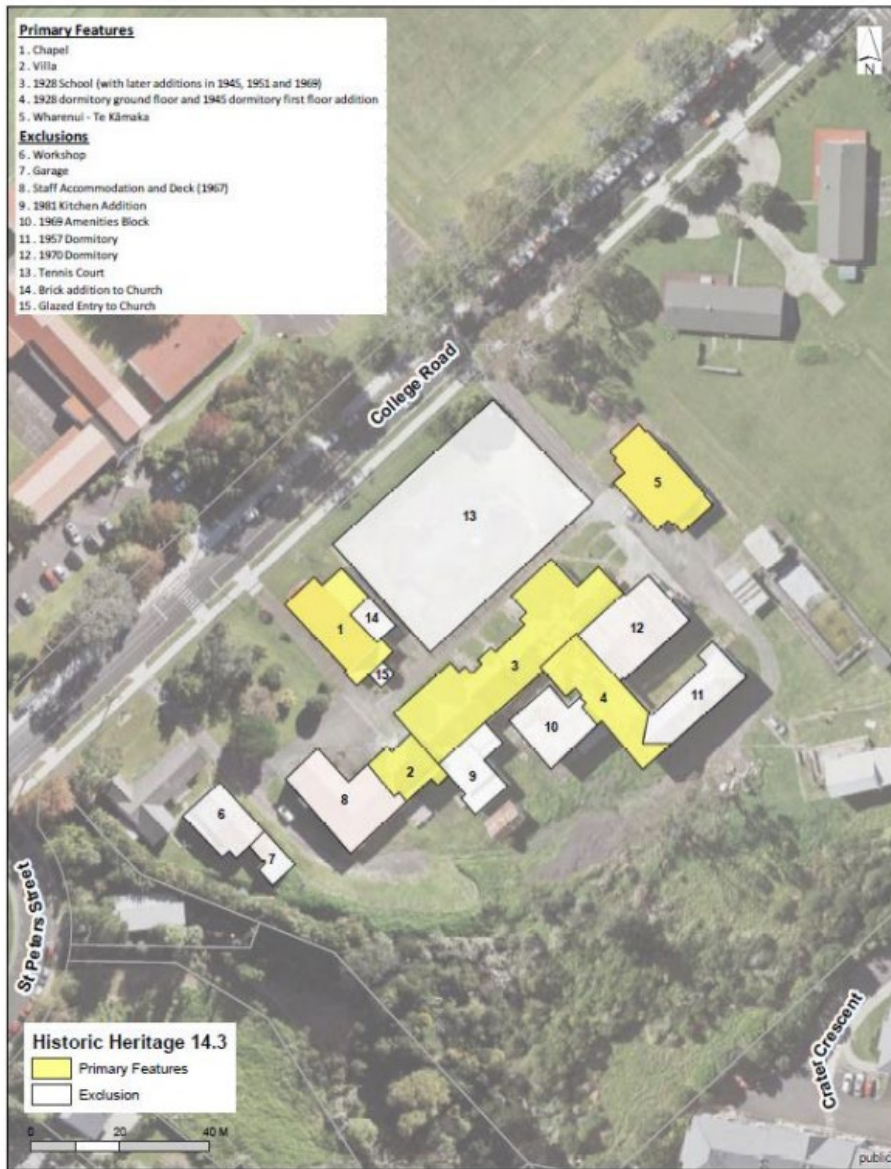
⁵¹ Paragraph 19 of Ms Foster's evidence

196. PC 82 also proposes to amend the extent of place for Hato Petēra so that it is removed from some of the structures that do not contribute to the historic heritage values of the place and also from the vegetated area to the south of the place. The proposed extent of place is shown by the purple cross-hatched area below.



197. PC 82 proposes to add the following map to the AUP (OP) Schedule 14.3 Historic Heritage Place maps, to identify which buildings and structures within the place are primary features and which are exclusions.

Map 14.3.14 Schedule ID 912 – St Peter's Rural Training School (former)/St Peter's Māori College (former)/Hato Petēra College (former)



198. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
11.1	Catholic Diocese of Auckland	Approve the changes proposed to listing 00912 that relate to the description, Category, assessment of values, exclusions and related matters.	
11.2	Catholic Diocese of Auckland	Amend the Historic Heritage Overlay Extent of Place to remove it from the southwest area as that land is comprised of buildings deemed excluded by Council as heritage features. (Refer to map attached to submission).	

Evaluation

199. Submission 11 is from the landowner, the Catholic Diocese of Auckland. The Diocese supports the amendments proposed for Hato Petēra that relate to the name/description, category, assessment of values, exclusions and related matters (submission 11.1).
200. The Diocese oppose the proposed amendment to the extent of place for Hato Petēra and seek that it is reduced further to remove it from the south-west area as that land is comprised of buildings deemed excluded by Council as heritage features (submission 11.2).
201. The area sought by the Diocese to be removed from the extent of place is shown in the figure below (identified by the red hatched area). This area contains four buildings, being three that are identified as exclusions (a workshop, a garage and staff accommodation building) and one building, a former teacher's residence and chapel, that is not identified as either a primary feature or exclusion within the place.

Proposed Historic Heritage Overlay Extent of Place



Red hatched area to be deleted.

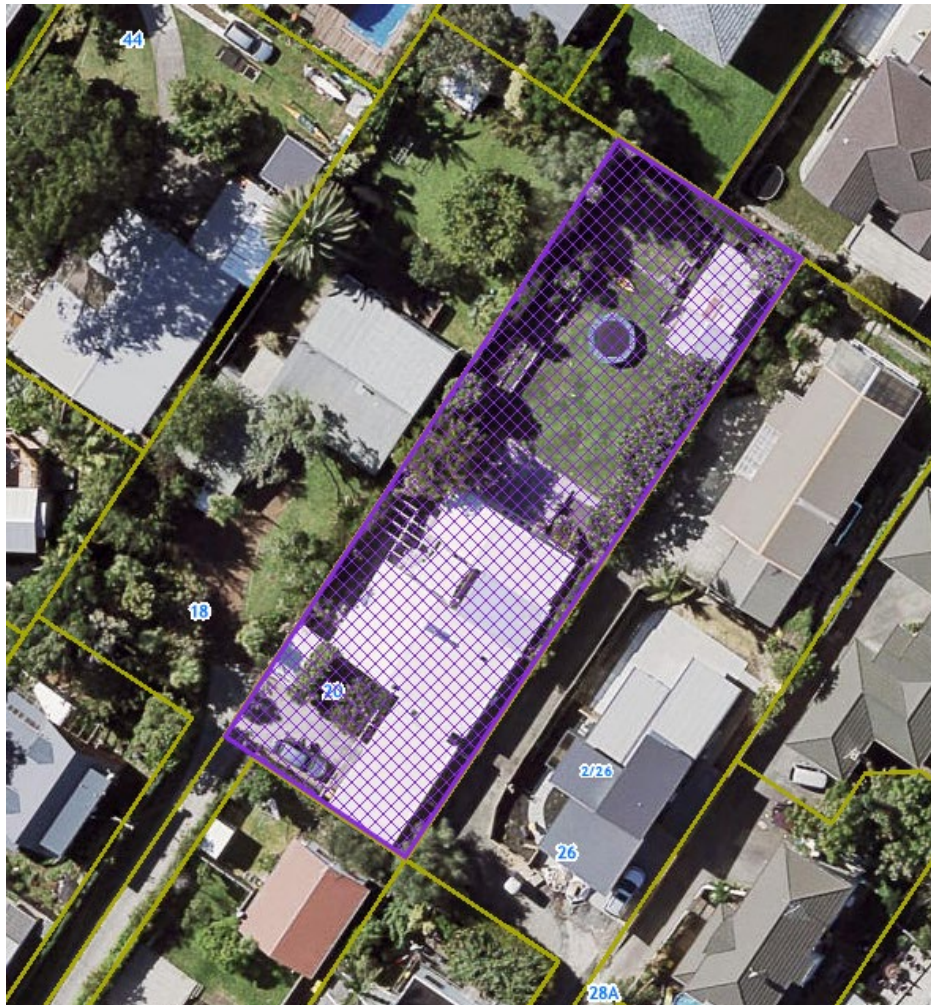
202. Council's expert (Ms Walker) considered the extent of place for Hato Petēra. She acknowledged that three of the buildings within the area sought to be removed by the Diocese are identified as exclusions and agreed that these do not need to be managed by the Historic Heritage Overlay. Ms Walker noted that the fourth building, the former teacher's residence and chapel, does have some historic heritage values that are significant to the history of the school. However, as outlined in her memorandum (Attachment 8 to the section 42A report) she agrees that the physical values in the area sought to be removed from the extent of place are not as strong as those within the remainder of the extent of place. She therefore supported an amendment to the extent of place as sought by the Diocese.
203. The submitter did not file any additional evidence or information, and nor did they attend the hearing. Having no contrary evidence and that the Council expert and the Submitter agree, we accept the submission and the opinion of the Council expert.

Decisions on submissions

204. That submissions **11.1** and **11.2** be **accepted**.

SUBMISSIONS ON ID 01084 FIRST HOUSE

205. PC 82 proposes the following amendments to ID 01084 First House at 20 Northboro Road, Hauraki:
- amend the category from A* to A, and
 - amend the heritage values to add B (Social), D (Knowledge) and H (Context).
206. PC 82 also proposes to amend the extent of place for First House, to remove the driveway, as shown below.



207. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
2.1	Hedgehog Trust	Remove First House, 20 Northboro Road, Hauraki, from Schedule 14.1.	

Evaluation

208. The submitters are the owners and residents of the First House at 20 Northboro Road and their submission opposes PC 82 as it relates to the First House. They sought that First House be removed from Schedule 14.1. The key reasons given for its removal were that the place had undergone considerable change, with substantial additions made to the exterior on both ends of the house which have led to the loss of heritage values.

209. The Council's expert (Mr Hastings) has undertaken a review of the house having undertaken a site inspection. The review was included as Attachment 8 to the section 42A report.

210. In his memorandum, Mr Hastings agreed with the submitter that the house had been subject to significant modifications and additions, with large extensions to the north and

south of the original structure. Mr Hastings considers that the original form of the house is only just discernible and no longer reflects the 'openness' to which much of the architectural vision of the Group Architects was based.

211. It was Mr Hastings' opinion that the changes to the place, in addition to the interior not being identified in the scheduling (and also modified) mean the historic heritage values of the place do not warrant its continued scheduling. We agree.

Decision on Submissions

212. That submission **2.1** be **accepted**

SUBMISSIONS ON ID 01104 ST MICHAEL AND ALL ANGELS CHURCH (FORMER)

213. PC 82 proposes the following amendments to ID 01104 St Michael and All Angel's Church (former):
- add the word 'former' to the name of the place,
 - remove reference to the road reserve from the legal description,
 - change the Category from A* to B,
 - identify the front boundary fence in the Exclusions column.
214. PC 82 also proposes to amend the extent of place of the church so that it does not apply to the entirety of 159 Bayswater Avenue. The extent of place proposed in PC 82 is shown below by the purple cross hatched area.



215. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
6.1	Danny Te Rakai Watson	Approve the plan change with the amendments as set out in the submission.	
6.2	Danny Te Rakai Watson	Amend the historic heritage evaluation to make several changes and corrections as outlined in the submission.	
6.3	Danny Te Rakai Watson	Amend Schedule 14.1 to identify the place is of Māori interest or significance.	
6.4	Danny Te Rakai Watson	Amend [the Historic Heritage Overlay Extent of Place] to make a change to the proposed historical boundary around the church as shown in the map included in the submission.	

Evaluation

216. Submission 6 is from Danny Te Rakai Watson, on behalf of the Takamatua Kaitaiki Trust Limited, the owner of the property.

217. The submission supports the plan change in part but seeks to have some changes made to the review report and Schedule 14.1 as follows (submission 6.2):

- Social significance: the historic heritage review of St Michael and All Angels Church (former) states that for nearly 150 years (1865-2011) the site of St Michael and All Angels was a place of worship for the Anglican faith. This is not correct and should be corrected to reflect the following:

“There has not been continued worship at the site at 189 Bayswater Avenue. Worship began in 1910 with the re-positioning of the Sunday School building from Holy Trinity Church, 20 Church Street in Devonport. There may be some confusion with the Church that used to stand at O’Neil’s Point and we have included photos of that church. If the Council wishes, we can show them exactly where that church stood. It was in the centre of the urupa/graveyard at O’Neil’s Point.”

- Mana Whenua significance: the review states that the former church has no known Mana Whenua values. The submission says that to state that there is no known Mana Whenua value is disappointing and disrespectful. The submission further states:

“There may be some misconceptions and or misunderstandings concerning the Mana Whenua of this area. Several Hapu have undertaken a Settlement with The Crown by way of the Waitangi settlement process. As such they have a legislated and recognised “legal” mana whenua, however the confederation of Hapu, known as Ngā Puhī, even though conversations are under way, have not settled with the crown. (In no way are we saying that those hapu that have settled do not share Mana Whenua). That does not take away or diminish their Mana Whenua over this

Rohe. In fact, with the internment of our Tupuna Patuone in the Urupa at the foot of what is now known as Mt Victoria that claim to Mana Whenua is inextinguishable.

Add to that the fact that we hold much of the korero concerning the histories of this place; 159 Bayswater Avenue is known to us as He Manu Hopukia and it sits as a sentinel to the gardens that covered this peninsula from Takapuna to Devonport. The Pa nearby was known as Pua Wananga and the gardens Ouriri.

If this limited amount of information, information you will not find in your history books as it is held tightly within the purakau of Ngā Puhī, will now give you a better understanding of the Mana Whenua interests in both the site at 159 Bayswater Avenue and sites throughout the peninsula.

We would like to suggest that large parts of those gardens were worked by market gardeners that came out in the late 1800s from China. Some of the prominent Chinese families in Auckland today have their names held in our korero.”

218. Following on from the above, submission 6.3 sought an amendment to the review report and to Schedule 14.1 to identify that the former church be identified as a place of “Māori Interest or Significance”.
219. Council’s expert, Dr Bade, considered the submission and supported an amendment to the A* review report to incorporate the information provided in the submission about the early Māori association with 159 Bayswater Avenue. However, he did not consider the information provided was specific enough to amend Schedule 14.1 to add (c) Mana Whenua values to the Heritage Values column. For the same reasons, Dr Bade did not support the former church being identified as a Place of Māori Interest or Significance in Schedule 14.1. We discuss this further below.
220. Submission 6.4 sought that the extent of place for the former church be amended so that it does not encroach onto the building to the rear of the church and so that the area in front of the church is not subject to the historic heritage overlay as the area may be used for planting and a car park in the future. The submission requests a one metre historical boundary (extent of place) be placed around the church.
221. Again, Dr Bade did not support any amendment to the extent of place in front of the church building, as this area is important and relevant to the understanding of the Historical, Social, Physical Attributes and Aesthetic values of the place. We note that this part of the place is already managed by the extent of place prior to the notification of PC 82. The church was relocated to the property as a landmark to be seen from the road and the main entrance of the church is located at the front.
222. Dr Bade did support the amendment of the extent of place at the rear of the church to ensure that it did not apply to the modern buildings that have been developed to the rear. On this basis Dr Bade supported an amendment to the extent of place. We accept Dr Bade’s recommendations in regard to the extent of place.

223. Mr Watson filed evidence late (dated 23 August 2023) and sought a waiver for it be accepted. The IHP granted that waiver (for the reasons set out in the IHP's direction)⁵². As the submitter was not able to attend the re-convened hearing on the 26 September the evidence was tabled.
224. Mr Watson described his evidence as Rangatira/Kaumatua evidence supported and authorised by elders and colleagues of his many affiliated hapū within Ngāti Whatua ki Taitokerau, and Ngāpuhi nui tonu. Mr Watson objected to Council's recommendation not to amend the schedule to include the site as having Mana Whenua values. He reiterated that the location of the church is held in very high regard by their people, highlighting the support provided by his whanau in its journey to that location, the fact that the site is back in hapū ownership as well as the whanau's commitment and undertakings to restore and preserve the building.
225. Mr Watson repeated the significant historical association of the site and wider area with the important Tūpuna and Rāngatira Patuone and Tamati Waka Nene, who oversaw the community including an area of extensive māra or gardens known as Pua Wananga that extended over the site. He outlined how, in accordance with tikanga, and as ahi kā, important ritenga/rituals have been enacted to revive traditional cultural associations with the site and the surrounding area.
226. At the reconvened hearing on 26th September, Ms Rush provided evidence in reply to Mr Watson's tabled evidence. She did not support St Michaels and All Angels Church being identified as a place of Māori interest or significance in Schedule 14.1. She outlined how the separate "Place of Māori Interest or Significance" (PAUP) column in the Schedule arose during the Proposed Auckland Unitary Plan 2013 hearings where it was introduced as a 'placeholder' in advance of a more thorough examination of the Mana Whenua values of places on the Schedule.⁵³
227. Ms Rush noted that St Michael and All Angels Church was not identified in Schedule 14.1 of the PAUP as a Place of Māori Interest or Significance because it does not contain archaeological sites of Māori origin and the church was not known to have significance in Māori history. She confirmed that this further work on criterion C "Mana Whenua values" in Policy B5.2.2 of the RPS had commenced but not been finalised since the AUP (OP) was made operative in part and so far emphasis has been on working in partnership with Mana Whenua to recognise places through their inclusion in Schedule 12: Sites and Places of Significance to Mana Whenua in the AUP (OP). We observed that this process has to date been very slow, as has the scheduling of a very limited number of further sites through Schedule 12.
228. Ms Rush identified the potential implications of the site being listed as a Place of Māori Interest or Significance in Schedule 14.1, namely, that a future resource consent application on the site may trigger a requirement for iwi engagement. We did not view this as a valid

⁵² Direction dated 25 August 2023

⁵³ Paragraph 6.4

reason not to grant Mr Watson's relief and further note that iwi engagement would be unlikely to be an obstacle for the Takamatua Kaitaiki Trust.

229. Ms Rush explained that the AUP (OP) does not set out a process or methodology for how to identify whether a scheduled historic heritage place is of Māori interest or significance. As the column identifying Māori interest or significance in Schedule 14.1 is an intermediary to identification under the RPS, in her view, guidance should currently be taken from the RPS criteria for identifying and evaluating historic heritage value, specifically criterion C:

(c) *Mana Whenua: the place has a strong or special association with, or is held in high esteem by, Mana Whenua for its symbolic, spiritual, commemorative, traditional or other cultural value.*

230. Ms Rush inferred from Mr Watson's evidence that all whenua in Tāmaki Makaurau Auckland is of Māori interest or significance which meant there was insufficient information that would meet criteria (c) in this instance. She suggested that other tools in the AUP (OP) such as the Mana Whenua Overlay (Schedule 12) in Chapter D21 which enables Mana Whenua to nominate sites of significance to Mana Whenua including those with intangible cultural values and those supported by sensitive information. In her opinion this would be a more appropriate vehicle for the recognition being sought by Mr Watson for the land at 159 Bayswater Avenue.

231. We do not agree with Ms Rush for the following reasons. In his submission and tabled evidence Mr Watson has established his whakapapa connections to the site and surrounds and provided historic and traditional korero about the early Māori association with 159 Bayswater Avenue which Dr Bade agreed to incorporate into the Schedule. We consider the information provided, coupled with the fact the contemporary Papakainga/Marae known as *He Manu Hopukia* which has been established at the site is sufficient in our view to establish a strong and special association (both historically and present day) to the location which is clearly held in high esteem by Mana Whenua.

232. We had no cultural expert evidence to the contrary and note there were also no further submissions in relation to Mr Watson's submission. Further, while Schedule 12 may provide a mechanism for Mana Whenua to have sites of Māori interest or significance such as this one recognised and managed under the AUP (OP), we accept Mr Watson's request is in scope of PC 82.

Decision on Submissions

233. That submissions **6.1, 6.2, 6.3** and **6.4** be **accepted in part**.

SUBMISSIONS ON ID 01118 ST PAUL’S PRESBYTERIAN CHURCH AND GRAVEYARD

234. PC 82 proposes the following amendments to ID 01118 St Paul’s Presbyterian Church and graveyard, at 100A and 100B Victoria Road, Devonport:

- amend the name of the place to reflect the fact that the church is no longer consecrated and to add the cemetery to the name,
- correct the legal description,
- amend the Category from A* to B,
- amend the Heritage Values to remove E (technology) and add F (physical attributes), and
- identify that the place is subject to Additional Rules for Archaeological Sites or Features.

235. PC 82 also proposes to amend the plan maps to remove the extent of place from the footpath, as shown by the purple cross-hatched area below.



236. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
3.1	Paul Blair	Approve the plan change with amendments as set out in the points noted in the submission.	FS04 Devonport Heritage

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
3.2	Paul Blair	Approve the designation of 100B Victoria Road, Devonport as Category B.	FS04 Devonport Heritage
3.3	Paul Blair	There are key points in the submission that should be on file for the property (as outlined in the submission).	FS04 Devonport Heritage
3.4	Paul Blair	Remove the 'Yes' for Archaeological sites or features in Schedule 14.1 for 100B Victoria Road, Devonport as it does not contain graves.	FS04 Devonport Heritage
22.3	Devonport Heritage	Amend the plan change so that St Paul's Church at 100 Victoria Road, Devonport has a Historic Heritage A classification.	

237. Submission 3 is from Mr Blair, the former owner of St Paul's Presbyterian Church and graveyard⁵⁴. The submission seeks that the plan change be accepted subject to some amendments.

238. Submission 3.1 seeks the plan change be approved subject to amendments set out in the submission and submission 3.2 seeks the Category B designation be approved.

239. Submission 3.3 seeks that key points set out in the submission should be on file for the property, as follows:

- The review states the church is available for rent for weddings and that the hall is listed on Air BnB, but neither of these activities continue, as the church requires earthquake strengthening. The only use of the property currently is as a residence (in the hall).
- A conservation plan prepared by Dave Pearson states the hall has limited architectural merit and that the church is the 'gem'. Earthquake strengthening the church will likely cost in excess of \$500,000 and any adaptive re-use of the church would likely include rebuilding or removal of the hall.
- The review states that the church organ is "little changed since 1966". However, the organ pipes were damaged in the past and pipes and organ were removed by previous owners, as detailed in the Pearson report.

240. As set out in the section 42A report. Council's expert (Dr Bade) accepted that some of the facts in the A* review report were not correct or up to date (in relation to the use of the place and the organ). Dr Bade updated the report to reflect the correct information. No changes are required to PC 82 in relation to this change.

⁵⁴ Mr Blair owned the property at the time the submission was lodged but the property was sold in November 2022

241. Submission 3.4 asked whether there is a way to clarify whether the property is subject to the additional rules for archaeological sites or features (identified by the 'Yes' in the corresponding column in Schedule 14.1). The submission stated there are no graves on 100B Victoria Road, which was demonstrated by two extensive ground surveys undertaken before the church was sold to a previous owner, Murray Chandler. The submission indicates that it is known that graves are present on 100A Victoria Road but that the lack of graves on 100B Victoria Road needs to be clearly identified in Schedule 14.1.
242. The submission did not attach evidence or information about the ground surveys and this information is not available in the Council files for the church. Moreover, Mr Blair did not file any additional evidence or information, nor attend the hearing. As a result, Dr Bade did not support the removal of 100B Victoria Road from being identified in Schedule 14.1 as subject to additional archaeological controls under the Historic Heritage Overlay. We agree.
243. Submission 22.3, from Devonport Heritage, sought that PC 82 be amended to give the St Paul's Church at 100 Victoria Road a category A classification. This submission has been addressed earlier in this decision report; accepting Devonport Heritage's submission.

Decision on Submissions

244. That submission **22.3** be **accepted**,
245. That submission **3.1**, **3.2** and **3.3** be **accepted in part**.
246. That submissions **3.4** be **rejected**.

SUBMISSIONS ON ID 01164 TAKAPUNA SPRING SITE (R11/3312)

247. PC 82 proposes the following amendments to ID 01164 Takapuna spring site (R11/3321):
- amend the name of the place,
 - amend the verified location and legal description so that it applies to 62 King Edward Parade,
 - amend the category from A* to A,
 - amend the primary feature to read 'Escarpment and covered spring cavity at the rear of 62 King Edward Parade',
 - amend the heritage values to add D (Knowledge) and H (Context), and
 - add the following to the Exclusions column 'Post-1900 buildings and structures'.

248. PC 82 also proposes to amend the plan maps to add an extent of place for the springs site, as in the AUP (OP) as operative, the place is identified by a dot only. The proposed extent of place is shown by the purple cross-hatched area below.



249. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
31.1	Andrew Nock	Reject the proposed amendment to Verified Location and Legal Description as it is incorrect. The site has been incorrectly identified for a number of years then has been moved across to our title (62 King Edward Parade, Devonport) based on research of historical paper records and no real site investigation.	FS01 Andy Nock FS06 New Zealand Defence Force
31.2	Andrew Nock	Reject the amendment of the Historic Heritage Overlay Extent of Place (the area where the historic heritage overlay applies).	FS01 Andy Nock
31.3	Andrew Nock	Reject the amendment of the location or legal address until due diligence has been carried out and further investigations made to clearly identify the site of the Takapuna Springs.	FS01 Andy Nock

Evaluation

250. Submission 31 is from Mr Nock, the owner of 62 King Edward Parade, Devonport. Mr Nock opposes the following changes to ID 01164 Te Puna Springs Site (R11/3312) (springs site) proposed in PC 82⁵⁵:

- the amendment of the address and legal description, and
- the amendment of the extent of place.

251. Mr Nock sought that as the springs site is not verified at the proposed location or the legal address it should not be scheduled until due diligence has been carried out and further investigations have been undertaken to clearly identify the site.

252. He provided the following reasons in his submission (and addressed this further in his evidence):

“We have no objection to Takapuna Spring, if it is genuinely identified as being on our property, indeed we would be honoured and privileged to be guardians of such a feature. Our issue is the site has been incorrectly identified for a number of years and then is suddenly moved across to our title based on research of historical paper records with no real site investigation. We offered to co-fund with Auckland Council a sonar search which would resolve the location once and for all but was told no funding was available, yet it would have been decisive and presumably worthwhile for such an important culturally historical feature? The cost in researching historical records and trying to interpret these has probably been at a greater cost. In the meantime, we have identified two locations which are more likely the actual Takapuna Spring, one on our property but in a very different location to the one Auckland Council have stated and one on a neighbouring property.

The details of both will be forwarded for due consideration and were sent to Auckland Council without response several months ago.”

253. The New Zealand Defence Force (NZDF) is a further submitter (FS06), opposing in part submission 31.1. The NZDF operates the Navy Museum at 64 King Edward Parade, being the site that the springs site is identified on in the AUP (OP). FS06 states:

“While NZDF supports the need to protect identified historic heritage, the Te Puna Spring site has been incorrectly identified in Schedule 14 of the Unitary Plan as being on NZDF land. NZDF therefore supports the deletion of the Te Puna Spring site from its Navy Museum facility at Torpedo Bay and the identification of a heritage overlay extent of place for Takapuna Spring over the adjacent property including 62 King Edward Parade (subject to the points raised in submission 31.3 regarding the correct location of the spring site).”

⁵⁵ Mr Nock is also a further submitter (FS01), supporting his own submission.

254. Council's expert (Mr Robert Brassey) prepared the review report for the springs site and it provides detailed information about the Takapuna spring in Māori tradition, subsequent Māori history of the spring and its setting, European settlement of Torpedo Bay, later settlement of the Takapuna spring (including the construction of the house at 64 King Edward Parade) and the archaeology of the locality. The report provides a physical description of the place, based on a site visit undertaken in October 2020. It concludes that the springs site is of outstanding historic heritage value and it recommends it be identified as a category A place. In line with that report, PC 82 proposes the site be amended to Category A place due to its outstanding Historical, Social, Knowledge and Context values.
255. As set out in the section 42A report, while it is detailed, it makes certain assumptions and inferences and uses terms like 'probable well'⁵⁶. The report also states that confirmation that a concrete slab structure on the property is the pre-1900 well that is thought to be associated with the springs site would require more detailed, invasive investigation⁵⁷.
256. We acknowledge the submitter's concerns that the site has not been clearly identified. It is possible that due to modifications of the landform and drainage piping, the precise location of the spring may never be located without intrusive ground disturbance, if at all.
257. We note that the review report for the springs ascribes no value in relation to the Physical Attributes or Aesthetic values of the springs site, as follows:

Physical attributes

"This criterion, as defined, is not relevant as the spring was primarily a natural feature with only minimal modification to facilitate water collection. The site of the Takapuna spring has no known value in relation to its physical attributes."

Aesthetic

"The Takapuna spring no longer visibly flows. The escarpment from which is originally emerged is at the rear of a developed property and not readily viewed from the public realm. It has no identified aesthetic value."

258. The outstanding historic heritage values identified for the place in the report include its Knowledge value, for its potential to provide knowledge of the human history and natural environments of the locality and region through archaeological investigation. While these values are acknowledged, we accept that there are other methods that can manage archaeological values, including where the archaeological site is unrecorded.
259. Archaeological sites are protected through the Heritage New Zealand Pouhere Taonga Act 2014, which protects sites from modification and destruction unless an authority to do so is granted under that Act.
260. There are other methods in the AUP (OP) that help protect archaeological sites. An Accidental Discovery Rule is included in the Auckland-wide rules section of the AUP (OP) in

⁵⁶ A* review report for Te Puna Springs site – ID 01164, pages 29 and 31

⁵⁷ A* review report for Te Puna Springs site – ID 01164, page 27

order to protect and manage the accidental discovery of sensitive material, including human remains and kōiwi, archaeological sites and Māori cultural artefacts/taonga tuturu⁵⁸.

261. The outstanding historic heritage values identified for the springs site also include Historical and Social values, for the relationship of the place with the arrival of founding waka and prominent Māori tupuna and the traditional, symbolic, spiritual and cultural value to Māori.
262. There are other methods in the AUP (OP) that manage sites and places of significance to Mana Whenua, namely the Sites and Places of Significance to Mana Whenua Overlay. The purpose of this overlay is as follows:

“Sites and places of significance to Mana Whenua have tangible and intangible cultural values in association with historic events, occupation and cultural activities. Mana Whenua values are not necessarily associated with archaeology, particularly within the highly modified urban landscape where the tangible values may have been destroyed or significantly modified.”⁵⁹

263. Sites and places of significance to Mana Whenua are included in Schedule 12 of the AUP (OP). The AUP (OP) states that it is intended, through future plan changes, to add additional sites and places nominated by Mana Whenua to Schedule 12. We were informed by the Council officers that the springs site has not been nominated to date.
264. PC 82 proposes that the extent of place for the springs site applies to the full extent of 62 King Edward Parade and a large area of road reserve in front of the property. The primary feature that is proposed is ‘Escarpment and covered spring cavity at rear of 62 King Edward Parade’. ‘Post-1900 buildings’ are identified as exclusions in Schedule 14.1 for the spring site. The residence on 62 King Edward Parade is separately scheduled⁶⁰, with its extent of place extending over nearly all of the property. As such, the property is already subject to the provisions of the Historic Heritage Overlay, albeit for different historic heritage values.
265. Including a historic heritage place in Schedule 14.1 results in the provisions of the AUP (OP) Historic Heritage Overlay applying to the place. These provisions focus on the management of activities that are likely to affect the scheduled place, including maintenance and repair, use and development, modifications, new buildings, relocation and demolition and destruction. For scheduled places that are also archaeological sites, activities including land disturbance and archaeological investigation are also managed.
266. The Historic Heritage Overlay rules are stringent. We find that, for the reasons set out above, the overlay is not appropriate as a ‘precautionary approach’ to manage archaeological values and as noted above, there are provisions in the AUP (OP) and other legislation that may also manage these values.

⁵⁸ AUP (OP) Chapter E11 Land disturbance – Regional E11.6.1 Accidental discovery rule and Chapter E12 Land disturbance – District E12.6.1 Accidental discovery rule

⁵⁹ AUP (OP), D21.1 Background

⁶⁰ AUP (OP) Schedule 14.1 ID 01110 Residence

267. Mr Nock offered to co-fund with Auckland Council a sonar search in the hope that it would resolve the location of the springs site. We were informed by the council officers that funding was not available at the time.
268. We, as does Mr Nock, acknowledge that the springs site has significant Historical, Social, Knowledge and Context values and may also have value to Mana Whenua. However, due to the reasons outlined above, we do not support the Historic Heritage Overlay as the method of managing those values. We have therefore determined that the springs site be deleted from Schedule 14.1 and the plan maps.

Decisions on submissions

269. That submissions **31.1**, **31.2** and **31.3** be **accepted in part**.

SUBMISSIONS ON ID 01246 ROTHERHAM HOUSE

270. PC 82 proposes the following amendments to ID 01246 Rotherham House at 27A Rutland Road, Stanley Point:
- amend the Category from A* to A,
 - amend the heritage values to add D (Knowledge), E (Technology), G (Aesthetic) and H (Context), and
 - amend the Exclusions to remove 'Interior of building(s)' and add 'Post-1978 interiors'.
271. PC 82 also proposes to amend the extent of place to remove it from the driveway, as shown by the purple cross-hatched area below.



272. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
5.1	Julia Gatley and Jeremy Rotherham	Amend the wording of the exclusion from "Post 1978 interiors" to "Post 1968 interiors", for clarity that all additions and alterations carried out after 1968, by Marie Fetzer and subsequent owners, are excluded from the scheduling.	
23.57	Heritage NZ Pouhere Taonga	Approve the plan change, including the Category A classification.	

Evaluation

273. Submission 5.1 from Dr Gatley and Mr Rotherham (the owners and occupiers of the place) supports the amendments proposed for Rotherham House, except the amendment to the Exclusions column. The submitter seeks that the Exclusions column be amended to state 'Post-1968 interiors'. The reasons set out in the submission (and the evidence of Dr Gatley) are:

- *The wording proposed in PC82 for the Exclusions column is open to debate.*
- *The house was built in 1961 and changed hands in 1968 and the new owner, Marie Fetzer, made additions and alterations in 1978.*
- *The wording 'Post-1978 interiors' does not make it clear if the interiors of the 1978 additions and alterations are included or excluded.*
- *We are willing to accept the scheduling of the original 1951 parts of the interior, but not the interiors of the 1978 additions and alterations, which are not recognised as significant to the same extent that the original house is.*
- *Correspondence from Council dated 3 June 2021 makes it clear that it was Council's intention to exclude the interiors of the 1978 additions and alterations from the scheduling, but the wording needs to be amended in order to ensure there is no room for debate on this matter in the future.*

274. The Council's expert (Ms Walker) agreed that the wording of the exclusion should be amended as sought by the submitter. This is because the date of 1968 is clearly the time at which the house was sold by its original owner and up until that date the house had not been altered. Ms Walker's recommendations were set out in her memo in Attachment 8 to the section 42A report.

275. Submission 23.57 from Heritage NZ, seeks the plan change be approved, including the category A classification. We have accepted this in part but subject to the proposed amendment arising from the acceptance of submission 5.1.

Decision on submissions

276. That submission **5.1** be **accepted**

277. That submission **23.57** be **accepted in part**.

SUBMISSIONS ON ID 02501 MUNRO HOMESTEAD AND STABLES⁶¹

278. PC 82 proposes the following amendments to ID 02510 Munro homestead and stables:

- minor amendments to the name of the place,

⁶¹ Commissioner Knott did not take part in the decision on this place/building due to his previous involvement with this site.

- amendments to correct the legal description, and
- identify the primary feature as 'Residence Stables'.

279. The plan change also proposes to amend the extent of place to remove it from the subdivision that has been created in front of the homestead and stables. The extent of place proposed by PC 82 is shown in the map below by the purple cross-hatched area.



280. The table below summarises the submissions received on this place.

Sub. No.	Name of Submitter	Summary of the Relief Sought	Further Submissions
23.1	Heritage NZ	Approve the amendments to ID 02510 Munro homestead and stables, including the category B status and updates to information in Schedule 14.1 and planning maps for this place.	FS05 Patrick Faigan and Maryanne Savage
30.1	Munro Homestead Trust	Approve the re-naming of the Munro Stables.	
30.2	Munro Homestead Trust	Amend the plan change to rename the listed trees that are misnamed.	
30.3	Munro Homestead Trust	Amend the plan change to exclude the driveway and the paddock to the south of the homestead at 120 Monument Road, Clevedon from the EOP (see map attached to the submission).	

Evaluation

281. Submission 23.1 from Heritage NZ supports the amendments proposed for Munro homestead and stables in PC 82. **Submission 30.1**, from Munro Homestead Trust, supports the renaming of the place.

Trees

282. Submission 30.2 requests that the two trees that are incorrectly identified in the trees schedule be amended to correct their names, as they are Kaikawaka not Rimu trees.
283. The Schedule 14.1 entry for Munro Homestead, including stables does not include any trees, either in the Place name and/or Description column or in the Primary Feature column. The AUP (OP) Schedule 10 Notable Trees Schedule includes an entry for 120 Monument Road which identifies 29 trees of varying species including three Rimu trees⁶².
284. On this basis we accept we have no scope to make the amendments as requested.

Extent of place

285. Submission 30.3, from Munro Homestead Trust, seeks the plan change be amended to exclude the driveway and the paddock to the south of the homestead at 120 Monument Road (DP Lot 1 DP 512932) from the extent of place, because these areas have no heritage values.
286. The submitter noted in their submission that the Monument Road frontage of the original Munro property is now urban-zoned land which has been subdivided and they support the proposed removal of this area from the extent of place as proposed in PC 82. The submitter also seeks the driveway, which runs through that subdivision, to also be removed from the extent of place because it has lost its heritage character due to the removal of the mature oak trees which once lined it. The submitter also requests the paddock to the south of the homestead, which they state has no heritage character and has recently been used as the wastewater field for the adjacent subdivision, be removed from the extent of place.

⁶² AUP (OP) Schedule 10, ID 1588

287. The submission includes the following map, showing the preferred reduced area (in yellow) and the location of the two Kaikawaka trees.



288. In respect of the request to amend the extent of place, Ms Walker, the Council's expert agreed it was appropriate that the extent of place should be amended to reduce it further, but not the extent sought by the submitter.
289. Ms Walker's advice, which was set out in her memorandum (Attachment 8 to the section 42A report), was that changes around the homestead mean that the land to the south no longer contains the historic heritage values of the place and could be removed from the extent of place. However, Ms Walker remains of the view that the remainder of the property, including the driveway and area in front of the homestead and between it and the stables, should remain within the extent of place.
290. Ms Elworthy-Jones (the owner of the property) and Mr John Brown (a heritage expert) presented evidence to us in support of the relief sought in the submission. Ms Elworthy-Jones outlined the history of the property, its 'heritage value' to them and the community and their desire to maintain the heritage significance of the site (that part which they consider has heritage significance) notwithstanding that much of the land around them has been zoned for urban purposes.
291. Mr Brown provided detailed expert evidence on the heritage significance of the place. He set out, among other things, a review of the section 42A report (and supporting documentation) and his expert opinion on the application of the extent of place. While Mr Brown agreed with the identification of the Munro Homestead and the Munro Stables as primary features (based on his knowledge of the place and the information provided in the

Council's (consultants) 2011 heritage evaluation), he did not agree with the extent of the EOP recommended by the Council experts.

292. He accepted that the heritage values of the place are represented principally by the primary features of the Munro Homestead and the Stables. However, it was his view that the area identified was "...potentially arbitrary and selected as a matter of spatial convenience, as opposed to actual merit"⁶³.

293. He addressed the ETUD Limited's heritage evaluation and set out a historical boundary analysis. Having set this out he stated⁶⁴:

The sequence of images clearly shows the long-standing arrangement of trees and fence lines depicting the 'home paddock' recommended by the ETUD evaluation. The fence lines described be seen to relate to the historical layout of the homestead and its surrounds.

294. We agree with Mr Brown. The EOP should be reduced further from that in PC 82 to reflect the original ETUD evaluation and the historical aspect of the site, as set out in his evidence.

295. With respect to the driveway Mr Brown set out⁶⁵:

I agree with Ms Walker on the location of the driveway as being historically apparent. Having visited the site and having walked across the site in the past, I do not consider the driveway itself as it exists now and being essentially modern gravelled track, as having sufficient value to warrant protection under Section 6f of the RMA. I have not included the English Oak, on the basis that it has a more relevant level of protection through the Notable Trees overlay.

Having said that, I am not averse to the overlay extending as far as that part of the driveway which includes the oak, as a compromise position.

296. The Hearing Panel finds that it is appropriate to accept Mr Brown's "compromise position"; that the driveway is included as far as the oak tree i.e. as far as the east boundary of the new subdivision. Both Mr Brown's and the Council's updated EoP appears to have reduced the extent of place to the south versus the original assessment undertaken by ETUD in 2011 (where the EoP extended further south to include a tree). This appears to us to better reflect the land used by the homestead in the 1944 Aerial photo (attachment 3 to the Council heritage memo).

Decisions on submissions

297. That submission **30.1** be **accepted**

298. That submission **23.1 and 30.3** be **accepted in part**.

⁶³ Paragraph 3.4 of Mr Brown's evidence

⁶⁴ Paragraph 5.7 of Mr Brown's evidence

⁶⁵ Paragraphs 7.5 and 7.6 of Mr Brown's evidence

299. That submission **30.2** be **rejected**.

SUBMISSIONS CONSIDERED OUT OF SCOPE OF PC 82 BY THE COUNCIL - BUT IN SCOPE BY THE HEARING PANEL

300. The table below summarises the submissions received that we have determined meet the first limb of the case law on scope, with three that we have confirmed as also meeting the second limb. We have no further evidence on the balance of those submitters listed (other than their submissions). We address all the submissions in the table below.

#	Name	Summary of the relief sought by the submitter	Further submissions
12.1	Ideation Building Group Ltd	Amend the Historic Heritage Extent of Place at 229A Ponsonby Road, Freemans Bay, to reflect the extent of the St John's Methodist Church grounds and exclude the area of recent residential development.	
15.2	Jeremy Bartlett	Alternatively, if the proposed zoning for 120A Vauxhall Road, 124 Vauxhall Road, 126A Vauxhall Road and 142 Vauxhall Road, Devonport is retained, then delete the Category B Heritage Extent of Place listing for 126 Vauxhall Road, Devonport.	FS04 Devonport Heritage
18.1	University of Auckland	Amend the planning maps to exclude Building 312B from the Historic Heritage Overlay Extent of Place (ID 1927) Student Union Building.	
19.1	Edinburgh Trustees Ltd	Amend the Historic Heritage Extent of Place Overlay (ID 2739) Karangahape Road Historic Heritage Area to align with the extent of the Karangahape Road Precinct.	
21.1	The Kilns Ltd	Amend the extent of place for ID 569 Combes Daldy Lime Works in Schedule 14 as shown in the submission.	
24.1	Kāinga Ora – Homes and Communities	Amend the extent of place shown as extending into Lot 1 DP 512416 in the planning maps. (Refer to map in appendix 1 to the submission).	
24.2	Kāinga Ora – Homes and Communities	Amend the northern boundary of the extent of place as shown in the planning maps to better reflect the extent of the existing heritage building(s). Kainga Ora seeks the extent of place should not extend north of the building beyond 1m from the façade. (Refer to map in appendix 2 to the submission).	

#	Name	Summary of the relief sought by the submitter	Further submissions
24.3	Kāinga Ora – Homes and Communities	Amend the plan change to correct the existing verified legal description to 'Lot 2 Deposited Plan 512416', which appears out of date.	
29.1	Smeeth Girish	Delete the listing of 2 Nikau Street, New Lynn, as a Historic Heritage Place. <i>Noting that the submitter withdrew their submission based on the Council's characterisation of the submission as 'out of scope'. The submitter has not sought to lodge any evidence or be heard at the re-convened hearing.</i>	
34.1	David Lu	Remove the qualifying matter - Historic Heritage Extent of Place - Overlay from 11 Lippiatt Road, Otahuhu.	
35.1	Accommodation Investment Trust	Remove the historic heritage extent of place overlay from 187 Gillies Avenue, Epsom	
36.1	Wyborn Capital Limited	Amend the extent of the Historic Heritage Extent of Place Overlay, to align with the property and road boundary, and to be removed from the small north-western corner of 2 Princes Street property, where the overlay has currently been applied.	
37.1	Maggie Blake and Jeff Scholes	Reduce the extent of the historic heritage overlay at 331 Great North Road, 333 Great North Road and 335A Great North Road, Grey Lynn to be across the existing scheduled bakery building (ID1673) only [refer to Figure 2 in the submission].	

Evaluation

Ideation Building Group Ltd (12.1) - 229A Ponsonby Road, Freemans Bay

301. The submitter sought the amendment of the Historic Heritage Extent of Place at 229A Ponsonby Road, Freemans Bay, to reflect the extent of the St John's Church (ID 1808) and exclude the area of recent residential development.
302. The reasons for this request were:
- 229A Ponsonby Road has a split zoning between Business – Town Centre zone and Residential – Terrace Housing and Apartment zone (THAB).

- The site is within a walkable catchment and has frontages to Ponsonby Road and Arthur Street.

303. The Addendum section 42A report evaluated this request at section 6 of that report. Ms Francesco reviewed the request to amend the extent of place to remove it from a portion of the site, but did not support it. It was her view that the amendment of the extent of place to remove it from the area of recent residential development would:

- enable future development that has the potential to adversely affect the landmark value of the church by obscuring the church and its spire, and
- fail to manage the interface between the church and the recent residential development, which is within a structure that is physically attached to the church.

304. However, it was recommended that amendments be made to Schedule 14.1 for St John’s Church to reflect the recent subdivision. In this regard it was proposed that the address and legal description columns in Schedule 14.1 be amended to ensure these details are correct.

305. Overall, the recommendation on the submission was that it be rejected. While no change was recommended to the extent of place for St John’s Church, it is recommended that amendments are made to Schedule 14.1. Those changes are ‘technical’ in nature and set out below.

306. Ms Findlay, Ideation Building Group Ltd’s planner, informed the IHP by email dated 14 August that “Ideation Build Group Ltd wish to notify the IHP that it will not be pursuing its submission and will not be presenting evidence at the hearing scheduled for the 26th of September.”

307. In the absence of any contrary evidence, we have accepted the recommendation of the Council’s experts.

ID	Place Name and/or Description	Verified Location	Verified Legal Description	Category	Primary Features	Heritage Values	Extent of Place	Exclusions	Additional Rules for Archaeological Sites or Features	Place of Maori Interest or Significance
01808	St John’s Church	229A Ponsonby Road and 32 Arthur Street, Freemans Bay	<u>Lot 1 DP 80035 Lot 1 DP 588770;</u> <u>Lot 2 DP 588770</u>	B	Church	A,B,F,G	Refer to planning maps	<u>Hall;</u> <u>additions</u> <u>Post -</u> <u>1977</u> <u>additions</u>		

Jeremy Bartlett (15.2) – 126 Vauxhall Road, Devonport.

308. Mr Bartlett sought to delete the Category B Heritage Extent of Place listing for the residence at 126 Vauxhall Road, Devonport (ID 1261). He presented on the 26 September 2023 at the re-convened hearing. PC 82 did not propose any amendments to the Category B Heritage Extent of Place listing for 126 Vauxhall Road, Devonport (ID 01261 Residence).
309. The reasons given in Mr Bartlett's submission for removing the residence at 126 Vauxhall Road from the historic heritage schedule were:
- The proposed zoning of surrounding sites would enable greater height (three-stories) and density and would undermine any remaining heritage value or amenity at 126 Vauxhall Road.
 - The residence at 126 Vauxhall Road does not warrant its Category B historic heritage status. The Category B listing dates from pre-amalgamation times and no proper, comprehensive review of the status has been conducted. The residence does not have any architectural features sufficient to justify its Category B status when compared with many other Category B listed buildings.
 - The residence is on a rear site with limited visibility from the road/footpath. The intensification of adjacent properties will result in no relationship between the scheduled residence and the street (Vauxhall Road).
 - Council permitted subdivision of the property in the 1960s or 1970s which resulted in 126 Vauxhall Road being deprived of its original site and land and new "sausage" flats were built on the adjacent subdivided land.
 - Changes have been made to the scheduled residence in the 1970s which are inconsistent with the architectural style of the building. The residence is in a poor, dilapidated condition and this is not reflected in any assessment of the heritage values of the building by Council.
 - The residence is not within an area assessed by Council as having or warranting special character value.
 - The Council's current plan change (PC 82) contemplates the re-categorisation and deletion of Category A, A* and B listings for both business premises and residential houses.
310. Mr Bartlett presented both legal submissions and evidence at the hearing. This was supported by the evidence from his heritage specialist, Dr McEwan.
311. In his legal submissions Mr Bartlett opined that the Council should accept that the listing of the building was rolled over into the AUP (OP) without appropriate vigilance and that the listing was marginal. He addressed the Addendum section 42A Report, Council's Legal Submissions for the reconvened hearing, provided a precis of the role/process of the Hearing Panel in assessing expert evidence, and addressed the Council's and Devonport Heritage's rebuttal evidence.
312. In his evidence Mr Bartlett addressed the Council's 'various changes' of position on the heritage listing of the property (in so much as the Council previously considered the building to be significant for both its physical attributes/architectural style and its historical associations, now no longer considers that the historic associations are important but

instead promotes the Aesthetic value of the property as a reason to support the scheduling), He commented on the Physical Attributes, Aesthetic values and historic associations of the property. He also addressed the impact of the scheduling on the potential sale value of the property.

313. Dr McEwan provided the findings of her research of the history of the house. It was her opinion that the house is a representative rather than exemplary instance of middle class housing from the period; that the Historical value of the home was “little”; that the Physical Attributes value of the building as a Queen Anne Revival building and its importance as an example of the Architects work has been overstated; and that the value given to the Aesthetic criterion was ‘double dipping’ values already assessed under Physical Attributes and inflate the purported heritage value of the house. Her research showed that the house did not meet the threshold of significance to justify its scheduling.
314. Devonport Heritage lodged a further submission (FS04) opposing the request to remove the residence from Schedule 14.1 because:
- The property is a highly original 1904 Edwardian house built by the Cousins family, and
 - The house warrants its B classification because of its significant architectural features and provenance and its intact original condition.
315. Ms McRae presented evidence in relation to Devonport Heritage’s further submission at the original hearing. She said that Devonport Heritage disagreed with Mr Bartlett’s claim about the value of the house stating⁶⁶ - “*has no worthwhile architectural features, is not clearly visible from the road and so is not worthy of a B listing. Although empty and unkempt, this does not affect its very authentic and original features. Nor does its proximity to the road affect its heritage value*”.
316. She went on to state⁶⁷:
- That so much of the original interior features are intact does have an important bearing on the heritage value of the house. It makes the home far more attractive to enthusiastic restorers who are keen to buy properties with so much original fabric.*
- We submit that 126 Vauxhall Road is architecturally significant, is a locally important Edwardian cliff-top mansion with a known history and provenance and has extensive original features. Therefore it should continue to be scheduled as a B Historic Heritage Place.*
317. Ms McRae along with Ms Deans provided rebuttal evidence on behalf of Devonport Heritage at the reconvened hearing. In the rebuttal evidence Ms McRae and Ms Deans disputed many of the matters raised by Mr Bartlett and confirmed that they supported the recommendation from Auckland Council to retain 126 Vauxhall Road as a B scheduled place in the Heritage Schedule.

⁶⁶ Paragraph 12 of Ms McRae’s evidence

⁶⁷ Paragraphs 13 and 15 of Ms McRae’s evidence

318. The addendum Section 42A (section 5) addressed Mr Bartlett's request. In summary the Council's expert's opinion was that for the reasons outlined in the addendum report that the submission be rejected, but that amendments be made to Schedule 14.1, and the planning maps.
319. The amendments related to removing some of the modifications made to the house (the most significant being the carport and shed attached to the residence and the verandah over the western entrance), which do not contribute to the historic heritage values of the place. What this means is that these features, if identified as exclusions, may be demolished or modified as a permitted activity (where the feature is freestanding) or as a controlled activity where the feature is connected to a scheduled feature.
320. As also outlined in the evaluation, the residence was once situated on a larger site, with subdivision occurring in the 1960s and a development occurring on the new sites (a block of flats to the front and a residence to the rear). The residence now does not have an immediate connection with Vauxhall Road, as outlined by the submitter. This was acknowledged in the evaluation. Notwithstanding this, Ms Francesco still considered the place retained enough historic heritage value to be scheduled as a Category B place. However, Ms Francesco's evaluation recommended that the driveway to the residence be removed from the extent of place as this area was "*too indirectly related to the values of the place to warrant retention*".
321. The Hearing Panel undertook site visits to this property and to the local surrounding area including Cheltenham Beach and North Head/Maungauika to get a better understanding of the visibility and 'landmark' values of the building. From the site visit, we all found that while the construction of the sausage block units to the front of the house has had some impact on the visibility of the house from the street, the building is still clearly seen from Vauxhall Road. It is also clearly seen in views along Cheltenham Beach and North Head / Maungauika and is, in our view, a local landmark. We also noted that the building retained significant integrity, notwithstanding the addition of the carport to the front, as it was otherwise relatively unaltered.
322. In response to our questions, Dr McEwan confirmed that she had not undertaken a site visit to the house or the local area as part of her evaluation and preparation of her evidence. We were surprised by this and questioned her on how she could, professionally, form the opinion that she had. Dr McEwan told us that she considered she was able to appropriately assess these two matters from the photographs and other information available to her, and she opined that Google Street View provided a better view than is available on site.
323. What we saw on site provided very different and more comprehensive information than we could have gained from relying on Google and the provided photographs. It is our view that a site visit is a fundamental and necessary part of the assessment of these two values, particularly the Aesthetic values of the place, which requires consideration of whether the place is notable or distinctive for its aesthetic, visual, or landmark qualities. We do not see how these matters can be appropriately assessed without a site visit.
324. In light of the above, while we have placed some weight on the findings of Dr McEwan's research into the historical significance of the building, we have given little weight to her

assessment of the Physical Attributes and Aesthetic criterion, as she had not physically been to the site, but relied on photos and Google Street View. In regards to the two criteria, we prefer the evidence of Ms Francesco. We accept her view that the building has considerable Physical Attributes value and considerable Aesthetic value, and that accordingly it meets the AUP (OP) criteria and thresholds for scheduling as a Historic Heritage Place having overall, considerable historic heritage value.

325. We find that the residence/place needs to be retained in Schedule 14.1 as a Category B place but we accept the recommendations from the Council to amend the schedule to correct the name and identify the primary feature and exclusions and to amend the maps to remove the driveway from the extent of place.

University of Auckland (18.1)

326. The University of Auckland (UoA) made a submission to PC 82 in relation to the Student Union Building Extent of Place (ID 1927) (EoP) to amend the planning maps for Building 312B from the Historic Heritage Overlay Extent of Place Student Union Building.
327. On 16 May 2023 the University presented planning and heritage conservation evidence to the Hearing Panel. Mr Stevenson presented expert heritage evidence and Mr Cook planning evidence. In brief, the position (and evidence) of the UoA was that it was seeking the amendment of the Student Union Building EoP to update it to exclude part of the Student Union Complex - B312B - which had been demolished under resource consent LUC60336361.
328. The Council and the UoA both agreed that the EoP should be amended in light of the demolition. What was not agreed was the extent of the alteration to the EoP.
329. At the hearing, and at the request of the Hearing Panel, the Council agreed to assess the merits of the relief sought by UoA on PC 82, notwithstanding its primary position in relation to scope.
330. The Council provided two memoranda (dated 18 May 2023) on the University's submission on the Student Union Building site and its extent of place. Ms Rush (dated 6 June 2023) relying on the memoranda of Ms Francesco (dated 18 May 2023) stated:

There is merit in the amendment of the EOP. The EOP supported is different to that proposed by the submitter. Refer to Attachment 4 for the EOP that is supported and Attachment 6 for a memorandum responding to the evidence of the University of Auckland.

331. It was Ms Francesco opinion, set out in her memoranda (dated 18 May 2023) that:⁶⁸

With the southern elevation of Building 312A now visible following the demolition of Building 312B, there is an important visual relationship with the space immediately next to Building 312A. To recognise the physical attributes and aesthetics of the southern side elevation of Building 321A, and how these physical attributes contribute

⁶⁸ Section 3.2 of the Memorandum

to the historic heritage values identified for the place, a small area beyond the footprint of Building 312A should remain within the extent of place.

I recommended the extent of place be reduced to five meters from the southern edge of the building to reflect the relationship described above. This is approximately 2 to 2.5 meters beyond the extent of place proposed by Mr. Stevenson from Building 312A (see figure 2).

I also consider it appropriate to reduce the extent of place adjoining Building 311A so that it aligns with the proposed southern extent of place boundary relating to Building 312A.

The detail set out in the Schedule 14.1 Extent of Place column for this place does not add clarity to understanding the extent of place, in my opinion. The extent of place can be understood clearly based on the planning maps alone. Furthermore, the proposed amendments to the extent of place (both in relation to the extent of place I propose as well as that of Mr. Stevenson), will mean the wording in the Extent of Place column will no longer be accurate. I recommend deleting the further descriptive text set and relying on the planning maps in relation to the extent of place, as opposed to further adding to the description of the extent of place. This aligns with the approach applied for most places in Schedule 14.1.

332. Mr Stevenson and Mr Cook did not agree with Ms Francesco's opinion with respect to the proposed EoP. As set out in the submitter's response (memorandum dated 26 June 2023) Mr Cook stated:

The boundary recommended in the Council memorandum is not considered appropriate or necessary for the following principal reasons:

- (a) The proposed 5m offset dimension from the southern face of Building B312A does not relate to any particular historic heritage feature and is arbitrary;*
- (b) The southern elevation of the now demolished Building 312B was a key feature of that building, including its visibility and relationship to the adjoining plaza, but the extent of place aligned with that façade; and*
- (c) An offset of the nature and dimension proposed in the Council memorandum is inconsistent with the approach taken in the AUP in similar situations where visible side elevations adjoin a plaza or open space [with a number of UoA examples given being Alfred Nathan House, 24 Princes Street (AUP reference 02011), Residences (former), 14 Symonds Street (AUP references 02059-02560), Old Biology Building, 3A Symonds Street (AUP reference 02740)].*

333. Mr Cook further set out⁶⁹:

For the reasons in the evidence of Karl Cook and Tim Stevenson presented on 16 May 2023, the position for the extent of place in Figure 1 in Mr Stevenson's

⁶⁹ Paragraph 2.2

evidence⁷⁰ relates to a particular historic heritage feature (to be reinstated Building 311 stair), is consistent with the approach taken in the AUP in similar situations where visible side elevations adjoin a plaza or open space and is therefore considered the most appropriate.

334. It is our finding, having heard and reviewed the evidence, that we agree with the submitter's case, and accept the amendments to the EoP sought by the UoA, for the reasons set out in the experts' evidence.
335. We agree with Ms Francesco where she states "*I recommend deleting the further descriptive text set and relying on the planning maps in relation to the extent of place, as opposed to further adding to the description of the extent of place. This aligns with the approach applied for most places in Schedule 14.1*"⁷¹. Accordingly, we have deleted all of the text in the Extent of Place column other than "*Refer to planning maps*".

Edinburgh Trustees Ltd (19.1)

336. The submitter sought to amend the Historic Heritage Extent of Place Overlay (ID 2739) Karangahape Road Historic Heritage Area to align with the extent of the Karangahape Road Precinct.
337. The submitter did not respond to the Hearing Panel with respect to the 'out-of-scope' submission. Accordingly, we do not have any further information or evidence, and the submitter did not attend the re-convened hearing. On this basis we are unable to make an informed decision on the submission, and therefore have rejected it.

The Kilns Ltd (12.1)

338. The IHP granted The Kilns Ltd an extension of time to file its evidence in relation to its submission 12.1⁷².
339. Mr Erceg, The Kilns planner wrote to the IHP⁷³ saying they "*will pursue the argument through other processes and will not be presenting evidence*". On this basis, as we had no further information or evidence, we are unable make an informed decision on the submission, and therefore have rejected it.

⁷⁰ Aligning the southern boundary line of the extent of place with the southern exterior edge of the (to-be) reinstated B311A Stair Tower

⁷¹ See paragraph 331 for the full quote in context.

⁷² Direction dated 4 May 2023

⁷³ Dated 5 May 2023

Kāinga Ora – Homes and Communities (24.1 – 3)

340. Kāinga Ora sought the following:

ID 101 Carnarvon Hospital

- Amend the extent of place shown as extending into Lot 1 DP 512416 in the planning maps. (Refer to map in appendix 1 to the submission). (24.1);
- Amend the plan change to correct the existing verified legal description to 'Lot 2 Deposited Plan 512416', which appears out of date. ((24.2))

ID 210, Oag's Buildings,

- Amend the northern boundary of the extent of place as shown in the planning maps to better reflect the extent of the existing heritage building(s). Kainga Ora seeks the extent of place should not extend north of the building beyond 1m from the façade. (24.2)

341. At the hearing for PC 82 (on 16 May 2023) at the request of the hearing panel, the Council agreed to assess the merits of the relief sought by Kāinga Ora on PC 82, notwithstanding its primary position in relation to scope.

342. In relation to the above the Council filed three memoranda:

- Memo from Emma Rush dated 6 June 2023 re: 'Analysis of submissions identified as out of scope';
- Memo from Cara Francesco to Ms Rush dated 18 May 2023 re: 'Carnarvon Hospital, 20 Lincoln Road, Henderson, UID 00101'; and
- Memo from Ms Francesco to Ms Rush dated 18 May 2023 re: 'Oag's Buildings, 20 and 22 Totara Avenue, New Lynn, UID 00210.

343. As was explained to us at the hearing, the Kāinga Ora submission sought amendments to the planning maps and to the Verified Legal Description for Carnarvon Hospital and Oag's Buildings as we address below⁷⁴.

Carnarvon Hospital

- (a) amend the extent of place for Carnarvon Hospital to reflect that it is wholly contained within Lot 2 Deposited Plan 512416;
- (b) correct the existing Verified Legal Description of Carnarvon Hospital so it refers to 'Lot 2 Deposited Plan 512416'

⁷⁴ This was set out in the Legal Submissions on behalf of Kāinga Ora – Homes and Communities for PC 82 dated 11 May 2023 submission points 24.1 to 24.3

Oag's Buildings

- (c) amend the extent of place for Oag's Buildings to reduce the northern boundary so it better reflects the extent of the existing heritage building.
344. In legal submissions and corporate evidence, Kāinga Ora additionally sought that the Verified Legal Description in Schedule 14.1 for Oag's Buildings be updated to refer to 'Lot 2 Deposited Plan 530043; road reserve'.
345. Ms Caldwell, Kāinga Ora's counsel submitted that the request did not give rise to any scope issue because the corrections sought by Kāinga Ora are the types of errors and updates that PC 82 sought to capture and that the Council was content to make these changes using the Schedule 1 process. We agree with Ms Caldwell's legal submissions on this point.
346. With respect to the Council experts' assessment, Ms Rush accepted the amendments to the planning maps for Carnarvon Hospital and Oag's Buildings. Attachment 2, Rows 6 and 7 of her memo recommend that:
- (a) the extent of place for Carnarvon Hospital is amended so it is wholly contained within 'Lot 2 Deposited Plan 512416' and;
- (b) the extent of place for Oag's Buildings is amended so it does not extend north of the building beyond one metre from the façade.
347. Attachment 4 to her memo provided a visual representation of the amendments to the extent of place for Carnarvon Hospital and Oag's Buildings.
348. Ms Caldwell, in her legal memorandum Dated: 15 June 2023 (responding to the Council experts' memos stated that Kāinga Ora supported the amendments being included in Schedule 14. We agree and find accordingly.

Amendments to Verified Legal Description

349. In terms of Oag's Buildings, in the memo dated 6 June 2023, Ms Rush accepted the amendment to the Verified Legal Description for Oag's Buildings and Attachment 3 recommends an update of the Verified Legal Description in Schedule 14.1 so that it reads: "Lot 2 DP 530043; road reserve." Ms Caldwell stated that Kāinga Ora supports these amendments. We agree and find accordingly.
350. With respect to Carnarvon Hospital, Ms Rush, in her memo dated 6 June 2023, indicated in Attachment 2 Row 84 that the amendment to the Verified Legal Description for Carnarvon Hospital is supported by Auckland Council on the basis that it corrects outdated information. However, Attachment 3 to her memo (updates to Schedule 14.1) does not include any amendments to the Verified Legal Description for Carnarvon Hospital, and it continues to incorrectly refer to "PT LOT 5 DP 16989."
351. Ms Caldwell, in her legal memorandum dated: 15 June 2023 set out that Kāinga Ora seeks to ensure that the Verified Legal Description for Carnarvon Hospital is amended so that it

refers to: "Lot 2 Deposited Plan 512416". As set out in evidence, the existing Verified Legal Description is out-of-date and refers to the historic title plan DP 16989 that was superseded when the property was resurveyed and subdivided in 2022.

352. We accept Kāinga Ora's request that the Carnarvon Hospital legal description is amended to: "Lot 2 Deposited Plan 512416".

David Lu (submission 34.1)

353. Mr Lu's submission sought to remove the qualifying matter - Historic Heritage Extent of Place - Overlay from 11 Lippiatt Road, Otahuhu.
354. Mr Lu did not respond to the Hearing Panel with respect to the 'out-of-scope' submission. Accordingly, we do not have any further information or evidence, and he did not attend the re-convened hearing. On this basis we are unable to make an informed decision on the submission, and therefore have rejected it.

Accommodation Investment Trust (35.1)

355. The submitter sought to remove the historic heritage extent of place overlay from 187 Gillies Avenue, Epsom.
356. The submitter did not respond to the Hearing Panel with respect to the 'out-of-scope' submission. Accordingly, we do not have any further information or evidence, and the submitter did not attend the re-convened hearing. On this basis we are unable to make an informed decision on the submission, and therefore have rejected it.

Wyborn Capital Limited (36.1)

357. The submitter sought to amend the extent of the Historic Heritage Extent of Place Overlay, to align with the property and road boundary, and to be removed from the small north-western corner of 2 Princes Street property, where the overlay has currently been applied.
358. The submitter did not respond to the Hearing Panel with respect to the 'out-of-scope' submission. Accordingly, we do not have any further information or evidence, and the submitter did not attend the re-convened hearing. This submission was addressed in the Memo from Ms Rush (dated 15 June 2023), which advised that this matter has been resolved through a clause 20a amendment to the Unitary Plan as it was minor in nature.
359. On this basis, while technically not having to address it, have accepted the submission.

Maggie Blake and Jeff Scholes (37.1) - 331, 333 and 335A Great North Road, Grey Lynn

358. Maggie Blake and Jeff Scholes (Submitter) sought to amend the extent of place for the Elgin Street Historic Heritage Area (Elgin St HHA)⁷⁵ so that it no longer applied to the properties at 331 – 335 Great North Road, Grey Lynn (the Properties or Site).

⁷⁵ Item identified in Schedule 14.1 Historic Heritage Schedule

359. In addition to legal submissions (Ms Alex Devine), expert evidence was prepared and presented by:
- Mr Lloyd Macomber, heritage architect; and
 - Mr Jono Payne – planner (we note that the written evidence was prepared by Ms Ila Daniels⁷⁶).
360. The Council opposed the relief sought by the Submitter. In support of this position, and in addition to legal submissions (Ms Felicity Wach), expert evidence was prepared by:
- Ms Cara Francesco, senior heritage specialist; and
 - Ms Emma Rush, planner (Addendum section 42A report).
361. For context, there are three buildings on the Site:
- The Bakery – a brick masonry building which is individually scheduled as a Category B item (ID 01673) located at 1A Elgin Street (formerly 335A Great North Rd).
 - The Villa – a late nineteenth/early twentieth century villa with a 1920s masonry parapet shopfront modification (333-335 Great North Rd).
 - The Masonry Building – a 1920's two storey masonry shop and flat building (331 Great North Rd).
362. The Villa and the Masonry Building are joined.
363. The relief sought by the Submitter was the deletion of the HHA Extent of Place over the buildings at 331 – 335 Great North Rd – and not the Bakery (part of 331-335A Great North Road but also known as 1A Elgin Street).
364. As an overview, the property is zoned Terrace Housing and Apartment Building (THAB). It is located within a corridor of THAB zoning either side of Great North Road and at the periphery of the Single House zone (to the north). The THAB zoning along the Great North Road corridor changes to Mixed Use one block to the east (eastern side of Grosvenor Street).
365. The Elgin St HHA is included in Schedule 14 Historic Heritage Schedule, Statements and Maps, with the extent of the HHA shown in Schedule 14.2 Historic Heritage Areas – Maps and Statements of Significance (in the AUP (OP)),⁷⁷ and the planning maps. All sites within the Elgin Street HHA are identified as contributing sites. The subject site at 331-335A Great North Road is within the HHA, being the only property with a frontage onto Great North Road within the HHA.

⁷⁶ Ms Daniels, consultant planner, prepared the evidence but was not able to make the hearing. The evidence was presented by Mr Payne, who had filed a statement which outlined his qualifications and experience, his familiarity with the site, issues in contention and relevant planning framework, and confirmed that Ms Daniels' evidence accurately reflected his professional views and that he was available to answer any question on it.

⁷⁷ AUP (OP) Schedule 14.2, Map 14.2.4.1

366. The scheduled former Bakery (1A Elgin Street), is located towards the rear of the property facing onto Elgin Street. The former Bakery is a scheduled Category B historic heritage place in the AUP (OP)⁷⁸.
367. The HHA is scheduled in the AUP (OP) for Historical (a), Social (b), Physical attributes (f) and Context (h) values. The whole of 331-335A Great North Road is identified as a contributing site on Map 14.2.1.4 of the AUP (OP), including the former bakery and the commercial building.
368. Each HHA in the AUP (OP) has a Statement of Significance which summarises the heritage values of each HHA and the relative importance of those values⁷⁹.
369. There was not a consensus decision on this submission. Accordingly, we set out the majority decision and minority view below.

Majority Decision

370. The majority of the Hearing Panel (Ms Kurzeja, Dr Mead and Ms Chetham) prefer the expert evidence of the Council which opposes the Submitter's relief to reduce the extent of the HHA as it applies to 331-335A Great North Road, to only include the rear portion of the property, being the scheduled former bakery. The reason for the Submitter's request is that the location of the site is within a walkable catchment and adjacent to a rapid transit public transport route which the Submitter considers supports the efficient use of a portion of the site⁸⁰.
371. Ms Francesco undertook a re-evaluation of the extent of the HHA in response to the submission and recommended that the whole site be retained within the Elgin Street HHA. She provided the following physical description of the property:

"331-335A Great North Road is situated on the southern end of the HHA. The HHA covers both sides of Elgin Street between Great North Road and Williamson Avenue (except the properties fronting Williamson Avenue) and includes the subject site fronting Great North Road (Figure 1). This is in recognition of the contribution the buildings on the site make to the values of the HHA. (Underlining is our emphasis added)

The commercial building located on 331-335A Great North Road that fronts Great North Road comprises of two connected portions, being a late nineteenth/early twentieth villa, with a shop in the front, interconnected with a mid-1920s masonry building, including shops. The front facade of the villa has been significantly modified. It was likely remodelled when the mid-1920s portion of the building was constructed to present an overall streamlined and updated building, as seen now from its frontage on Great North Road. The mid-1920s portion of the building follows a Stripped Classical style. The style became popular in the 1920s and is known for its stripping

⁷⁸ AUP (OP) Schedule 14,1 ID 01673

⁷⁹ AUP (OP) Chapter D17 Historic Heritage, D17.1 Background.

⁸⁰ Submission from Maggie Blake and Jeff Scholes, PC 82 Sub #37, page 3

back of ornamentation to reveal building form and architectural elements with simplified, clean lines.

As a corner site, the front (southern) and side (western) elevations of the building are highly visible from the streetscape⁸¹.”

372. The statement of significance for the Elgin Street HHA advises this street of uninterrupted Victorian and Edwardian housing was subdivided in 1884. It further notes that at the time Elgin Street was subdivided, the economy was depressed and house building would have proceeded slowly. Accordingly, the houses were built over a period of about twenty years, and so range from four-square Victorian cottages and villas of the late 1880s, to mass-produced Edwardian bay villas constructed in the 1900s when the economy had quickened⁸².
373. The second paragraph of the statement describes the commercial buildings on the Submitter’s land:
- “The historic heritage area includes a fine brick warehouse and period shop at the Great North Road end, adding value to the historic ambience of the street. The scale of the warehouse, though larger, is quite compatible with the domestic scale of the street and acts as an important portal for the street to and from the south. Its exterior surface and detailing are essentially intact and should be conserved”⁸³.*
374. The Submitter’s request if granted, would result in the removal of the late nineteenth/early twentieth century villa at the Great North Road end of Elgin Street, as well as the removal of the only period shop from this HHA.
375. Of note, as highlighted above, is that the subject site at 331-335A Great North Road is a corner site with frontage to both Elgin Street and Great North Road. The scheduled former bakery towards the rear of the property faces onto Elgin Street and the Historic Heritage Overlay Extent of Place for the former bakery covers the footprint of the bakery building and extends out to the Elgin Street road reserve forward of the site; whereas, the late nineteenth/early twentieth villa and its attached period shop front onto Great North Road.
376. The statement of significance further notes:
- “The street has a strong slope and the southern section has a curve in it. The gradient and curve allow the character of the housing to be appreciated more fully than in a straight level street, such that each building plays an increased role in the visual composition of the streetscape.”⁸⁴*
377. The Hearing Panel members observed the above when viewing the HHA during recent and separate site visits. In particular, when viewing Elgin Street looking up the slope (in a southwards direction), towards Great North Road, the late nineteenth/early twentieth

⁸¹ Ms Francesco’s Memo on Elgin Street Historic Heritage Area, ID 02517, 331-335A Great North Road, Grey Lynn dated 31 July 2023, pages 1-2.

⁸² Schedule 14.2.4 Elgin Street Historic Heritage Area (Schedule 14.1 ID 02517)

⁸³ Ibid.

⁸⁴ Schedule 14.2.4 Elgin Street Historic Heritage Area (Schedule 14.1 ID 02517)

century villa on the corner site reads as a continuation of the uninterrupted line of Victorian and Edwardian housing in Elgin Street. We further observed that the period shop adds interest and variety to the streetscape.

378. The statement of significance also notes the form, scale, height and materials of the villas are important attributes⁸⁵ noting the houses are all single storied, with weatherboard cladding, sash windows and pitched roofs of corrugated iron. Brick chimneys are prominent, some of them ornamented⁸⁶. The Submitter's property has no exception to these traits. Ms Francesco described the buildings on the Submitter's land in detail in her memorandum. She advised the villa portion of the building is single storied, with weatherboard cladding and it features two pitched or hip roofs of corrugated metal as seen from the rear (along Elgin Street). The brick chimney is also prominent with corbel detailing.⁸⁷
379. The side elevation of the building, facing onto Elgin Street is of the one-storey timber villa with a rear lean-to, clad in vertical bevel-back timber weatherboards. Windows are positioned in three locations on the western elevation, comprising a Chicago timber double-hung sash window, a single double-hung sash timber window and a small later timber framed window on the side of the rear lean-to. Ms Francesco noted the lean-to also has a timber door⁸⁸.
380. Ms Francesco described the frontage of the building as including a masonry-rendered facade with a later verandah canopy extending along the entire southern frontage of the site. She noted the centre and eastern shop fronts retain some traditional 1920s features, including lead lights within the top light windows. The eastern tenancy, forming part of the 1920s portion of the building, includes a recessed entry, which was a feature popular for shop frontages during this period.⁸⁹
381. Ms Francesco concluded⁹⁰:

“Overall, the building, being a ‘period shop’, retains a high degree of its design, form and materiality and remains externally physically legible to its two periods of significance.”

382. Ms Francesco also provided the following historical summary in her memo⁹¹:

“A previous wooden shops and stables were situated on 331-335A Great North Road, presumably where the current two-storey masonry portion of the building is. The original buildings were associated with the brick bakery building which remains onsite. The subject site and wider HHA forms part of the Surrey Hills Estate subdivision. It is

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ms Francesco's Memo, page 2.

⁸⁸ Ibid, page 4

⁸⁹ Ibid, page 3

⁹⁰ Ibid, page 5

⁹¹ Ms Francesco's Memo, page 5

likely the villa portion of the building dates to the 1890s or early 1900s, as this is the time that buildings of this style were constructed.

The original wooden commercial building and stables were destroyed by fire on 23 September 1924. The building had been occupied by Mr. Edwards, who operated a fruit and vegetable shop from the site at the time. While the shop was destroyed, the adjoining residence (the subject villa) was not damaged. A new concrete building was constructed in c. 1926 attached to the villa. This has resulted in the current-day building comprising two periods of development, with the earlier villa, and the mid-1920s portion incorporated, creating the one overall building (Figure 2)."

383. Of note to the majority of the Hearing Panel, is that this site contains the only historic period shop in the HHA. We were told that this period shop was first built in the nineteenth century and is part of the history, the economy and culture of this Great North Road area. Ms Rush told us (in response to a question) there are 15 HHAs currently in the AUP (OP), and they have a great range of values which are described in various amounts of detail. A number of them are primarily residential subdivisions of the past and several of them⁹² contain a single or a grouping of period shops which demonstrate the way residential uses were combined with retail, where collectively the shops and their associated residences contribute to the heritage place.
384. It was Ms Francesco's opinion that *"while the key feature of the HHA is the uninterrupted street lined with intact Victorian and Edwardian residences, the commercial building on the corner of Elgin Street and Great North Road makes a valuable contribution to the values of the HHA alongside the street of residences."*⁹³ She further notes that the commercial building (referred to as a period shop in the statement of significance) and the former bakery (referred to as a brick warehouse) add value to the historic ambience of the street. She advised the period shop illustrates the local convenience buildings that were situated close to residential development at the time it was constructed, with these commercial buildings often on corner sites of main roads.⁹⁴
385. Ms Francesco also advised that the commercial building at 331-335A Great North Road makes a valuable architectural contribution to the identified values of the Elgin Street HHA. She stated:

"It is a good representative example of a combined residence and associated shops, stocking a range of goods to support the surrounding residences. The building provides a contribution to the historical, social, physical attributes and context values for which the area is scheduled. The commercial building and the bakery building complement one another in illustrating the historic commercial development alongside

⁹² Ardmore Road, Wanganui Avenue, Albany Road and Trinity Street HHA, Burnley Terrace and King Edward Street HHA, Elgin Street HHA, Herne Bay Road HHA, Karangahape Road HHA, Point Chevalier HHA and the Upland Village HHA.

⁹³ Ibid.

⁹⁴ Ibid, pages 5-6.

the residential development of the area, which formed part of the Surrey Hills Estate".⁹⁵

386. We note that Ms Rush supported Ms Francesco's heritage advice. Ms Rush also commented on the rationale put forward by the Submitter for reducing the extent of the HHA in the section 42A Addendum report. Ms Rush confirmed that while the property at 331-335A Great North Road is within the proposed walkable catchment of the City Centre zone (subject to PC 78) that Great North Road is not included in the definition of 'rapid transit' under the NPS-UD.⁹⁶
387. Ms Rush advised that she does not support the amendment of the extent of place for 331-335A Great North Road because it is within a walkable catchment. She noted that while walkable catchments are identified as being appropriate for increased intensification, this may be modified by the presence of a qualifying matter such as historic heritage. Ms Rush told us that historic heritage as a qualifying matter does not modify height and density and that 331-335A Great North Road is proposed in PC 78 to retain a THAB zone (i.e. it is already zoned THAB in the AUP (OP)).⁹⁷
388. Mr Macomber provided a statement of evidence that supported removing the three buildings located at 331-335 Great North Road and 1A Elgin Street Grey Lynn from the Elgin Street Grey Lynn Historic Heritage Area (HHA) schedule. This included the two shop buildings fronting on to Great North Road as well as the Scheduled Category B Bakery building fronting on to Elgin Street⁹⁸. He acknowledged that the removal of the HHA from 1A Elgin St (bakery) is outside the scope of the Submitter's relief sought, however, he advised he supported its removal from the HHA from a heritage perspective, but retention as an individually scheduled Category B building.⁹⁹
389. What was clearly apparent to the Hearing Panel was that all the experts agreed that the villa and the period shop building contribute to the heritage values of the HHA. What was in contention between the two heritage experts however was the extent to which the buildings contribute to the heritage values of the HHA. It was Ms Francesco's opinion that the commercial building (comprising the villa and the period shop) on the corner of Elgin Street and Great North Road makes a "*valuable contribution*" to the values of the HHA alongside the street of residences, whereas Mr Macomber considered the level of contribution to the values of the HHA to be "*minor*"¹⁰⁰. He added that the commercial buildings at 331-335 Great North Road offer a supporting, but not essential, role to the identified values of the Elgin Street HHA.¹⁰¹
390. It was also Mr Macomber's opinion in his statement of evidence that the buildings' contribution is not material or essential to the more sharply focused heritage values inherit

⁹⁵ Ms Francesco's Memo, page 6

⁹⁶ Section 42A Addendum Report, paragraph 7.5

⁹⁷ Ibid, paragraph 7.6

⁹⁸ Paragraph 3.1 of Mr Macomber's Evidence

⁹⁹ Ibid, paragraph 3.2

¹⁰⁰ Paragraph 4.7 of Mr Macomber's Evidence

¹⁰¹ Ibid.

in the consistent set of residential villas on both sides of Elgin Street¹⁰². We note that Mr Macomber failed to provide any assessment of the contribution of the late nineteenth/early twentieth century corner villa to the values of the HHA in his written evidence. However, upon questioning by the Hearing Panel, Mr Macomber agreed the corner villa and combined period shop have value and would add greater value to the story of the HHA had they been more fully described in the statement of significance. He suggested that additional explanation could have been provided to further detail the ‘story’ on the extension of the period shops, and indeed the entire length of Elgin Street, starting with the shops at the top of Great North Road, then the bakery which served not only Elgin but the surrounding streets, going down the street to the park at the end, in order to show the growth of Elgin Street.

391. Mr Macomber also considered that both the commercial building and the bakery building could be considered markers of historic commercial development in the Surrey Hills Estate however, it was his opinion that there is a clear distinction and independence to the more focused single-storey timber villa set of residences on Elgin Street, concluding that the overall value of the Elgin Street HHA will be maintained with the exclusion of the two buildings at 331-335 Great North Road because the buildings have no visual connection to the Elgin Street HHA set of character villas, nor any connection to these buildings as they are of commercial, and not residential use¹⁰³ (Underlining is our emphasis added). Ms Francesco has justified otherwise as set out in this decision.
392. Upon further questioning by the Hearing Panel about the integrity of the remaining HHA should this portion of the property be removed, Ms Francesco explained based on her detailed assessment that the property provides “*quite a lot of contribution*” to the heritage values of the HHA in terms of the historic development pattern meeting criteria (a) as well as criteria (f) physical attributes. She was of the opinion that the property “*adds something extra*”, a “*layering of values*” to the HHA.
393. Regardless of what the statement says (or doesn’t say), it was Ms Francesco’s opinion that the property does exhibit those values in terms of its contribution to representing the settlement pattern supporting the housing, as local convenience stores and she considers the villa portion of the building also relates to the same scale and timber materiality, noting it retains its brick chimney and has its sash and Chicago windows. It was her opinion that the property’s removal would “*diminish the values of that heritage area*” and it “*wouldn’t explore the whole layering of values that HHAs can provide for*”. The majority of the Hearing Panel were more persuaded by Ms Francesco’s expert evidence on this aspect.
394. It was Mr Macomber’s opinion that the individual commercial buildings, namely the 1920s two-storey masonry commercial building (331 Great North Road), and the corner villa (333-335 Great North Road), do not meet the required identification and evaluation criteria thresholds of the RPS to warrant heritage places identification individually under B5.2.2(1), nor do either building make a ‘considerable’ or ‘outstanding value’ to the heritage place that is the Elgin Street HHA under B5.2.2(3).¹⁰⁴ He appeared to form this opinion based upon

¹⁰² Ibid.

¹⁰³ Ibid, paragraphs 5.1.1 – 5.1.2

¹⁰⁴ Ibid, paragraph 4.6

Ms Francesco's memorandum which identified that "*the front facade of the villa has been significantly modified*" and that the other buildings were constructed in 1924 following a fire on site.

395. On this matter Ms Daniels¹⁰⁵ acknowledged that the buildings have "*some*" heritage or character value, but advised that having value is not the test. Rather she suggested one needs to consider if the values identified reflect the values identified for the HHA which they are located within and if this value is either 'considerable' or 'outstanding' and is of considerable or outstanding significance to either the locality or the greater geographic area. She added: Mr Macomber outlines why this is not the case and I agree.¹⁰⁶ She concluded that Ms Francesco's conclusions are at odds with the terminology adopted by the RPS¹⁰⁷ and that the heritage values and significance of the buildings clearly fall short of the high thresholds required by the RPS.¹⁰⁸
396. Whereas in Ms Rush's view, Mr Macomber (and Ms Daniels for that matter) had not assessed the shop buildings using the correct RPS criteria. She advised that the shop buildings are not individually scheduled, nor are they proposed to be, rather they are part of the existing Elgin Street HHA. Ms Rush further identified that there is no requirement in the RPS for sites, buildings or features within an HHA to individually be of considerable or outstanding significance, which is the test for Category A and B scheduled places. The RPS test for an HHA to be included in Schedule 14.1 is whether the area collectively meets the criteria for inclusion i.e., whether collectively the HHA has considerable or outstanding value to a locality or beyond.¹⁰⁹
397. Ms Rush further noted that there is no requirement in the RPS for HHAs to be visually connected (they do not even need to be contiguous) or for all buildings or features to exhibit the same use (e.g. residential), or to be of the same style or period. An HHA can include both "contributing and non-contributing places or features", "Category A or B" places and "notable trees".¹¹⁰
398. Ms Rush advised the test is set out in the RPS and states that a place may be included in the AUP (OP) historic heritage schedule if it has considerable or outstanding value in relation to one or more of the evaluation criteria in Policy B5.2.2(1) and considerable or outstanding overall significance to the locality or greater geographic area¹¹¹. Ms Felicity Wach further submitted:

"An HHA must collectively meet the criteria for inclusion in the Schedule as Category A or B. That means that each place may contribute a small part of the collective value of an area. The HHA may include sites that are individually scheduled but not every site within an HHA needs to individually meet the criteria for inclusion. Some sites

¹⁰⁵ We note that Ms Daniels was unable to attend the reconvened hearing and that Mr Jonathan Payne, Principal Planner, who attended in her place agreed with and supported Ms Daniels' evidence.

¹⁰⁶ Paragraph 7.9 of Ms Daniels Evidence

¹⁰⁷ Ibid, paragraph 7.12

¹⁰⁸ Paragraph 1.9 of Ms Daniels Evidence

¹⁰⁹ paragraph 5.2 of Ms Rush's Rebuttal Evidence

¹¹⁰ Ms Rush, rebuttal evidence paragraph 5.3

¹¹¹ Ibid, paragraph 5.5

*may be contributing places. Contributing places are defined as places that “have heritage value or make a contribution to the significance of the area”.*¹¹²

399. In this case, Ms Rush advised the place is the Elgin Street HHA not the individual period shop buildings on 331-35A Great North Road, which are on a contributing site within the Elgin Street HHA. She notes the evidence of Ms Francesco is that the shop buildings make a valuable contribution to the identified values of the Elgin Street HHA and that 331-335A Great North Road has sufficient value to be identified as a “contributing site” under B5.2.2(4).¹¹³
400. Ms Wach agrees that Ms Francesco’s assessment is not “*at odds*” with the terminology adopted in the RPS. She concluded the Council’s evidence shows that the period shop makes a valuable contribution to the significance of the HHA and is a good representative example of a combined residence and associated shops, stocking a range of goods to support the surrounding residences¹¹⁴. She further adds that it is not necessary, as suggested in the Submitter’s evidence, for the values of the HHA to be “*dependent*” on the inclusion of the period shop, only that the period shop contributes to the significance of the HHA.¹¹⁵
401. As Ms Daniels pointed out, s32 of the RMA requires an evaluation report to examine the extent to which a proposal is the most appropriate way to achieve the purpose of the RMA. In doing so, an assessment of the efficiency and effectiveness of the provisions in achieving the objectives of the proposal is required, including identifying and assessing both the benefits and costs associated with implementing the proposed provisions.¹¹⁶
402. In light of the above, Ms Daniels considers the retention of the HHA on the Great North Road property is not efficient or effective in retaining the values of the existing Elgin St HHA as it is not necessary to achieve that objective¹¹⁷. She further added that the retention of the HHA on the site would result in economic costs in terms of loss of development opportunity and reduced potential for employment and housing from increased GFA¹¹⁸. Ms Daniels concluded the relief sought is more appropriate in achieving the purpose of the RMA than the option of retaining the HHA across the site and the change is effective, efficient, and appropriate¹¹⁹.
403. Ms Rush acknowledged that the HHA is more restrictive than the provisions of the THAB zone. However, she advised that overlays and zones work together in the AUP (OP) and the presence of the HHA on the site does not mean it cannot be developed. Instead, she stated any development would need to occur through a resource consent, where the historic heritage values of the place can be considered in conjunction with any proposed development. Ms Rush acknowledged that the overlay imposes a cost on the landowner

¹¹² Ms Felicity Wach, Legal Submissions – Reconvened hearing, paragraph 5.7(b)(i)

¹¹³ Ms Rush, rebuttal evidence, paragraph 5.5

¹¹⁴ Ms Wach, legal submissions, paragraph 5.7(b)(ii)

¹¹⁵ *Ibid*, paragraph 5.7(c)

¹¹⁶ Ms Daniels, Statement of Evidence, paragraph 8.1

¹¹⁷ Ms Daniels, Statement of Evidence, paragraph 8.4

¹¹⁸ *Ibid*, paragraph 8.5

¹¹⁹ *Ibid*, paragraph 8.7

but it is her view that the cost is appropriate given the historic heritage values present within the site¹²⁰. The majority of the Hearing Panel agree with Ms Rush.

404. Ms Wach further submits that the economic costs in terms of loss of development opportunity and reduced potential for employment and housing should not be overstated. The additional intensification proposed by PC 78 (including an increase in height from 16m to 21m) will apply even if the site has heritage protection and is subject to a Qualifying Matter. She added, there is potential for the site to be developed provided the proposal is appropriate in light of the historic heritage values of the HHA.¹²¹
405. A final consideration for the majority of the Hearing Panel is that the Elgin Street HHA is an existing scheduled heritage place in the AUP (OP). We further note that in achieving the purpose of the RMA, in relation to managing the use, development, and protection of natural and physical resources, we are required to recognise and provide for matters of national importance; this includes the protection of historic heritage from inappropriate subdivision, use, and development under s6(f).¹²²
406. Ms Wach submitted that we should always take s6(f) on board when considering the removal of any heritage protection on a place that is already scheduled. She pointed out that the RPS states that Auckland's distinctive historic heritage is integral to the region's identity and important for economic, social and cultural wellbeing. It was her submission that this should be the starting point. The majority of the Hearing Panel consider if we granted the Submitter's relief to remove the commercial building comprising the late nineteenth/early twentieth century villa and its attached period shop at 331-335A Great North Road from the Elgin Street HHA, we would be failing in our duty under s6(f) and in doing so, would not be achieving the purpose of the Act.
407. The period shop and corner villa are an intact physical link between the past, the present and the future. Removal of this portion of the property from the scheduled historic heritage place as sought by the Submitter puts the long-term retention of the period shop at risk from removal and in doing so, its contribution to the values of this HHA could be lost. The Elgin Street HHA has been subject to a re-evaluation and there is sufficient evidence provided by the Council about the valuable contribution that this period shop and the late nineteenth/early twentieth century villa make to the identified values of this historic heritage place. We find that the management of the Elgin Street HHA is appropriate to its particular heritage values and it continues to meet the RPS criteria and thresholds for scheduling, and that the period shop should be retained within the Elgin Street HHA as it is relevant to an understanding of the function, meaning and relationships of the historic heritage values¹²³.

¹²⁰ Ms Rush, rebuttal evidence paragraph 5.8

¹²¹ Ms Wach, legal submissions, paragraph 5.7(d)

¹²² RMA, Section 6(f)

¹²³ RPS Policy B5.2.2(2).

Minority view

408. Mr Hill and Mr Knott support the Submitter's relief. Our reasons for this are set out below.

409. The recommendation of the Council's experts (and Council's position set out in its legal submissions) was that the property be retained within the Elgin St HHA on the basis that in the experts' opinion that the property has historic heritage value which is associated with and contributes to the Elgin St HHA¹²⁴.

410. The Council's evidence concluded that the commercial building makes a "*valuable architectural contribution*" to the identified values of the Elgin Rd HHA; that it is a "*good representative example of a combined residence and associated shops*"¹²⁵; that it provides a contribution to the identified values of the area; and that, together with the Bakery, it illustrates historic commercial development alongside the residential development¹²⁶.

411. As submitted by Ms Wach, the heritage protection for the Period Shop should be retained, including for the following reason¹²⁷:

Ms Francesco concludes that the Period Shop makes a valuable contribution to the significance of the HHA, adds value to the historic ambience of the street and adds valuable architectural contribution to the identified values of the HHA, as well as contributing to the social, historical, physical attributes and context value of the area

412. While we do not necessarily disagree with the Council's evidence - that it has a level of historic value in this regard, it is our view that this is not the historic value as particularised in the Statement of Significance - which we address in more detail below.

413. In relation to the Elgin St HHA, we note Mr Macomber makes the following observations¹²⁸:

(a) *Accepts that the Elgin St HHA is tightly defined¹²⁹. As Macomber points out, the "start" of the HHA is strikingly obvious with character villa housing orientated to the street. Other than at the Site, properties not orientated to Elgin St (e.g.: where Elgin St meets Williamson Ave) have been excluded.*

(b) *There are a number of factors which distinguish the buildings on the Site to the balance of buildings within Elgin St HHA. For example, they are of a different era, a different use, different architectural style, different construction materials, different physical form, different size, different scale, and they are orientated in a different direction – all which confirm a clear distinction and independence to the more focused single-storey timber villa dwellings.*

¹²⁴ Addendum to Hearing Report for PC 82, dated 7 August 2023 at paragraph 7.7.

¹²⁵ Section 4.0 -Extent of Place of the Addendum section 42A report

¹²⁶ 42A Addendum, Attachment 7 (Heritage Memorandum) at page 6.

¹²⁷ Paragraph 5.7 of Ms Wach's legal submissions

¹²⁸ Paragraph 4.5 of Ms Devine's legal submissions

¹²⁹ Paragraph 4.5 of Mr Macomber's evidence-in-chief

414. Ms Daniels' conclusion, having considered Mr Macomber's evidence in the context of the RPS framework, is that retention of the properties within the Elgin St HHA is not warranted¹³⁰. We agree, and address this in more detail below.
415. Overall, it was the Submitters heritage evidence (in summary) that the while the buildings have some historic heritage value that contribute to the HHA, that value (of the properties) is not sufficiently associated with Elgin St HHA and provides only a minor contribution to it. Importantly, Mr Macomber, concludes that the overall value of the Elgin St HHA will not be adversely affected or its integrity compromised if the buildings are excluded.
416. Significantly (to us) Ms Francesco, while having a different opinion to Mr Macomber on the value of the buildings' contribution to the HHA, also agreed (in response to a question) that the integrity of the HHA would not be compromised if the buildings were excluded. We agree with both expert witnesses in this regard.
417. Given the differing opinions of the heritage experts in relation to the values of the buildings to the HHA, and those of the planners for the Submitters and the Council, it is necessary to determine those 'values' of the HHA. These are set out in the Statement of Significance in the AUP (OP). We then need to consider the relevant RPS objectives and policies. This is to provide a basis on which to decide whether or not to retain the two buildings within the HHA.
418. In this regard we agree with Ms Devine's legal submissions where she states¹³¹:

It is submitted that, reading the RPS objectives and policies together in the context of HHAs, the following principles can be distilled:

- (a) *HHAs should only include properties which contain the HHA's identified historic heritage values. The first enquiry should therefore be: what are the values that have been identified for the HHA, and whether or not a site shares (or contributes to) those particular values.*
- (d) *Given places can collectively meet the criteria for inclusion, a relevant consideration in determining whether or not to include a site within an HHA is whether the HHA will still collectively meet the threshold for scheduling.*
- (e) *While places can collectively meet the criteria for inclusion, the assessment as to an individual place's contribution must be made in the context of the threshold for scheduling set out in Objective (1) and Policy (3) and in the context of that particular place's relationship to (including location) to the wider HHA. (Underlining is our emphasis)*

¹³⁰ Paragraph 7.9 -7.12 of Ms Daniels' evidence-in-chief

¹³¹ Paragraph 3.2 of Ms Devine's legal submissions

419. The statement of significance for the Elgin Street HAA Area¹³² clearly has a focus on the Victorian and Edwardian housing in Elgin Street, and not the buildings sought to be removed from the HHA. The first paragraph states:

This street of uninterrupted Victorian and Edwardian housing was subdivided in 1884. By this time, subdivision standards had increased significantly. The street is 20 metres wide and the lots are typically of 480m² with a width of 12 metres. There is therefore a sense of spaciousness not apparent in earlier streets.

420. The second paragraph of the statement of significance is the only place where the buildings on Great North Road are mentioned, and the focus of the 'site' is clearly the Bakery building. It states:

The historic heritage area includes a fine brick warehouse and period shop at the Great North Road end, adding value to the historic ambience of the street. The scale of the warehouse, though larger, is quite compatible with the domestic scale of the street and acts as an important portal for the street to and from the south. Its exterior surface and detailing are essentially intact and should be conserved. (underlining is our emphasis)

421. The statement of significance refers to “*historical ambience*” being provided by the “*fine brick warehouse and period shop*”, and expands upon the values of the brick warehouse but does not discuss the period shops (i.e.: Villa and Masonry building) any further. The balance of the statement otherwise focuses on the “*uninterrupted Victorian and Edwardian housing*” and the period of development, use, architectural style, materiality, physical form, size, scale and orientation in a manner that is specific to the residential villas.
422. We agree with Ms Devine, that it is important in understanding the values or significance of the elements that make up the Elgin St HHA by comparing and contrasting that statement of significance with the one for the Ardmore Rd, Wanganui Ave, Albany Rd and Trinity St HHA (“Ardmore Rd HHA”) in Herne Bay. The reason for this that HHA also encompasses commercial development in addition to the residential dwellings.
423. Unlike the statement for the Elgin Rd HHA, the statement of significance for the Ardmore Rd HHA very clearly outlines how and why the commercial buildings included in the latter HHA adds value, and their level of contribution to the identified values. Similarly, the statement of significance for the Ardmore Rd HHA articulates how, why and what value this adds to the HHA¹³³. It states (in part):

A number of Edwardian commercial buildings at the Jervois Road entries are important historic portals to the historic heritage area and are included as an integral part of it. (Underlining is our emphasis).

¹³² AUP Schedule 14.2 Historic Heritage Areas – Maps and statements of significance; Schedule 14.2.4 Elgin Street Historic Heritage Area (Schedule 14.1 ID 02517) Statement of significance.

¹³³ Schedule 14.2.5 Herne Bay Road Historic Heritage Area: “*This sense of stylistic evolution lends character to this part of the road, and its inclusion in the historic heritage area is important in maintaining the quality of the road’s “portal” at Jervois Road. The portal is completed by a finely proportioned Victorian shop and residence on the east corner (now used as a restaurant), which is historically integral to Herne Bay Road.*”

424. We note the Elgin Street HHA also uses the concept of a “portal” – stating (as part of paragraph 2):

The scale of the warehouse, though larger, is quite compatible with the domestic scale of the street and acts as an important portal for the street to and from the south.
(Underlining is our emphasis)

425. It is our view that the brick bakery forms the ‘portal’ to the Elgin Street HHA and the “*uninterrupted Victorian and Edwardian housing*”. While we accept that the buildings on Great North Road (in combination with the brick bakery) add value re “historic ambience”, we agree with the opinion of Mr Macomber about its ‘relative’ value vis-à-vis the statement of significance; but again, rely on both heritage experts’ opinions that the integrity of the Elgin Street HHA would not be affected if the shop buildings were removed.
426. In section 32 terms, we do not find retaining the buildings in the HHA is the most efficient and effective planning provisions. Ms Daniels’ in her written evidence summarised the relevant AUP (OP) framework for assessing additions, deletions or alterations to historic heritage places¹³⁴. Of particular relevance is Objective B5.2.1(1) of RPS Chapter B5 Historic Heritage and Special Character, which creates a threshold for identification – namely that historic heritage places must be “significant” in order to be identified and protected under the Unitary Plan.
427. We accept that each building or site does not need to be “significant” of itself to warrant its inclusion in an HHA, but it needs to contribute to it in some meaningful way given the constraints the HHA impose. It is our view based on our findings above, that the two buildings within the context of the HHA do not sufficiently contribute to satisfy the objective.
428. Given this conclusion (that retention is not warranted from a heritage perspective), we agree with Ms Daniels’/Mr Payne’s evidence and the section 32AA evaluation in relation to the removal of the properties from the Elgin St HHA¹³⁵. The 32AA evaluation concluded that the change sought by the Submitter is more appropriate in achieving the purpose of the RMA (and the National Policy Statement for Urban Development (NPS-UD)) than retaining the Elgin St HHA over the site.
429. While we accept it is not relevant to the assessment of whether or not the site/buildings have heritage values that warrant protection, the policies of the RPS concerning urban growth and form (B5) and the objectives and policies of the NPS-UD are relevant to any section 32AA analysis for including or excluding the properties. Collectively, these support intensification of land close to (relevantly) centres, public transport, employment and other amenities such as open space. In this regard we accept the section 32AA evaluation attached to Ms Daniels’ evidence.

¹³⁴ EIC, Ila Daniels (Planning) at paragraphs 7.1 – 7.5

¹³⁵ EIC, Ila Daniels (Planning) at section 8 and Attachment 4

430. Finally, we agree with the reasons set out in Ms Devine's legal submissions¹³⁶:
- (a) *Granting the relief sought in the submission will still ensure the heritage values of the Elgin St HHA are protected. Retention of the Elgin St HHA over the Properties is therefore not efficient or effective in retaining the values of the Elgin St HHA because it is not necessary to achieve the objective of protecting significant heritage values;*
 - (b) *There are economic and social benefits from additional development potential being provided in a location with excellent public transport that is receiving significant investment in walking and cycling accessibility, within walking distance of the CBD and in an area of known housing need. Retention of the HHA over the Site would result in economic costs in terms of loss of development opportunity and reduce potential for employment and housing.*
 - (c) *Overall, the evidence concludes that the purpose and principles of the RMA, as well as the objectives and policies of the RPS and NPSUD are best served by amending PC 82 to include an amendment to exclude the Villa and Masonry Building from the Elgin St HHA.*

431. For the reasons set out above, it is our view that the retention of the two buildings in the HHA is not justified in terms of section 32 of the RMA – i.e. retaining them is not the most efficient and effective outcome. While acknowledging the buildings contribute to the HHA, the level of contribute is insufficient to retain them in the HHA and support the section 32AA evaluation attached to Ms Daniels' evidence. On this basis we do not find that removing the buildings from the HHA would fail to recognise and provide for the matters set out in s6(f) of the RMA, and would not be contrary to the relevant provisions of the RPS in the AUP (OP).

Decisions

432. That submission **12.1** from **Ideation Building Group Ltd** be **rejected** (but noting amendments are to made to the schedule to reflect the correct legal description) as set out in the text where we have discussed the submission.
433. That submission **15.2** from **Jeremy Bartlett** be **rejected** (but noting amendments are to made to the schedule as set out in the text where we have discussed the submission).
434. That submission **18.1** from the **University of Auckland** be **accepted**.
435. That submission **19.1** from **Edinburgh Trustees Ltd** be **rejected**.
436. That submission **21.1** from **The Kilns Ltd** be **rejected**.
437. That submissions **24.1**, **24.2** and **24.3** from **Kāinga Ora – Homes and Communities** be **accepted**.

¹³⁶ Legal Submissions – paragraph 4.9 – a-c

438. That submission **34.1** from **David Lu** be **rejected**.
439. That submission **35.1** from **Accommodation Investment Trust** be **rejected**.
440. That submission **36.1** from **Wyborn Capital Limited** be **rejected**.
441. That submission **37.1** from **Maggie Blake and Jeff Scholes** (37.1) be **rejected** (by a majority of the Hearing Panel).

SUBMISSIONS OUT OF SCOPE OF THE PLAN CHANGE

442. The Council's section 42A report recorded that a number of the submissions received were out of scope of PC 82. The list of submitters that we have found to be out of scope is set out below.

#	Name	Summary of the relief sought by the submitter	Further submissions
1.1	Tony Watkins	Reject intensification because of issues caused by density relating to transport, carbon emissions, noise, waste and housing. (See supporting density report).	
15.1	Jeremy Bartlett	Delete the Mixed Housing Urban zone for 120A Vauxhall Road, 124 Vauxhall Road, 126A Vauxhall Road and 142 Vauxhall Road, Devonport.	
20.11	Katherine Anne Mason	Amend Special Character Areas to protect the Devonport historic commercial buildings and surrounding residential areas.	
20.12	Katherine Anne Mason	Amend the plan change to identify Victoria Road as an Historic Heritage Area.	
22.1	Devonport Heritage	Amend the plan change to make the Devonport commercial area from Windsor Reserve to the top of the Victoria Road business area a Historic Heritage Area [proposal attached to submission].	FS08 Avril Franceine Cowie

Evaluation

443. We find these submissions are out of scope. The reasons for this have been addressed in the "Scope" section of this decision.

Decisions on submissions

444. That submissions **1.1, 15.1, 20.11, 20.12, 22.1, and 34.1** be **rejected**.

SUBMISSIONS TO BE HEARD AS PART OF PC 78

#	Name	Summary of the relief sought by the submitter	Further submissions
28.1	Charles Levin	Amend the plan change to expand the qualities protected for the Renall Street Sites [ID 001829 Renall Street Houses] to include B (Social) and D (Knowledge).	FS02 Freemans Bay Residents Association FS03 Andrew Kent Robertson FS09 Maureen Harris FS10 Michelle Elizabeth Goldfinch
28.2	Charles Levin	Amend the plan change to extend the footprint of the EOP which is associated with the historic heritage protection of the Renall Street Sites to cover the area bounded by College Hill, Margaret Street, Russell Street, Costley Street and Georgina Street as shown in the plan attached to the submission.	FS02 Freemans Bay Residents Association FS03 Andrew Kent Robertson FS09 Maureen Harris FS10 Michelle Elizabeth Goldfinch
33.1	The Roseanne Trust	Remove 27 Glanville Terrace, Parnell from Schedule 14.1 of the AUP.	
33.2	The Roseanne Trust	As an alternative to removing 27 Glanville Terrace, Parnell from Schedule 14.1, amend the existing scheduling by identifying only the buildings shown on the plan attached as Annexure F as 'Primary Features'; those buildings being the principal two-storey H shaped plan school building and the long, narrow, single-storey timber building connected to the rear of the main school building.	
33.3	The Roseanne Trust	As an alternative to removing 27 Glanville Terrace, Parnell from Schedule 14.1, identify the rest of the extent of place, including the interior, as either 'Exclusions' or 'Neither'.	

445. We were informed by legal counsel for these submitters that they intend to pursue these submissions at the hearings to PC 78. We have agreed to this and accordingly have not addressed these submissions further in this decision.

OVERALL DECISION

446. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Plan Change 82 to the Auckland Unitary Plan (Operative in Part) is approved subject to the modifications as set out in this decision - amendments to the text and plan maps of the Unitary Plan as set out in **Attachment A**, **Attachment B** and **Attachment C** to this report.
447. Submissions on the plan change are accepted, accepted in part, or rejected in accordance with this decision. The reasons for the decision of this Plan Change are those addressed above in the body of the Decision report.
448. Overall, the adoption of PC 82, with the amendments we have made is:
- consistent with the Auckland Unitary Plan (Operative in part) Regional Policy Statement; and
 - the most appropriate way to achieve the overall purpose of the Resource Management Act 1991.



Greg Hill

Chairperson

Date: 18 January 2024

Attachment 3: A list of persons to be served with a copy of this notice

N/A – no other persons made a submission on the provision or matter to which the appeal relates