

Date: 29 January 2019 at 4:55:23 PM NZDT

To: Nathan Geard <Nathan.Geard@huttcity.govt.nz>

Subject: Proposed Plan Change 52: Further Submission

Proposed Plan Change 52: Alignment of District Plan with New Zealand Heritage List". HPW can not gain any advantage from this further submission. This further submission relates to 14F Heritage Buildings and Structures, Introduction, page 15, Paragraph (c) of Proposed Plan Change 52 Document.

HPW's further submission is:

- 1 HPW opposes the submission of Neil McGrath (DPC 52/4) and the "further submission" of Max Shierlaw.
2. There is no proposal to include any building in Appendix Heritage 2 at this time and therefore the suggestion by Mr McGrath relating to the conditions upon which any such future addition should be made is not relevant to the present consultation and should not be considered at this time.
3. Max Shierlaw's "further submission" should be disregarded as one from a private individual without special interest who did not make any initial submission. It is thereby also outside the agreed consultation ambit.
4. In general, the Council statement referred to by Mr McGrath of 10 July 2012 is not legally binding on present Council nor is it policy required to be taken account of in Council decisions. It has no effect except as an expression of the situation pertaining at the time it was made.
5. In any event, the 10 July 2012 statement, included an important exception for properties listed by Heritage New Zealand (HNZ). The existence of that point is entirely missed in Mr Shierlaw's further submission (paras 5 & 6) which appears to support a general statement about requiring the consent of property owners even for HNZ listed properties.
6. Mr McGrath's specific proposal to add a clause to Introduction Paragraph (c) of Chapter 14F Heritage Buildings and Structure on page 15 of the Proposed District Plan Change 52 document is a significant proposal on which consultation itself is appropriate. It would be inappropriate to bind present and future Council by randomly including that statement in the current Proposed Plan Change.
7. Furthermore in substance, HPW takes the view that the Resource Management Act (RMA) specifically requires Councils to identify heritage values in their area and provide appropriate protection and process around weighing heritage values in decision making about permitting activity by property owners. It is not possible to contract out of that requirement either by Council decision or property owner. The effect of listing a heritage property on Appendix Heritage 2 is to ensure a sensible, cautious evaluation of heritage values in deciding to allow or disallow activity to proceed. Property owners are not exempt from these RMA requirements as implemented by Hutt City. There is no absolute property right to conduct activity. To include the statement proposed would be to unduly fetter decisions to add buildings to Appendix Heritage 2, thus providing property owners with a veto over Council decisions, more properly made on a case by case basis.
8. HPW seeks the following decision: to reject the proposal to amend the conditions upon which Council may decide to list a specific building in Appendix Heritage 2. That is reject the proposal be Mr McGrath and to retain the conditions as currently expressed.

9. Yes HPW does wish to be heard.

Many thanks
Felicity Wong
Chair
HPW