

BEFORE THE CHRISTCHURCH CITY COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

RMA/2023/2046 An application for
Resource Consent by Carol & Peter
Johns

**STATEMENT OF EVIDENCE OF MONA LENA NEUMANN
PLANNING**

Dated: 7 March 2024

INTRODUCTION

- 1 My full name is Mona Lena Neumann. I am a Planner practising with Novo Group Limited in Christchurch. Novo Group is a resource management planning and traffic engineering consulting company that provides resource management related advice to local authorities and private clients.
- 2 I hold the qualifications of a Bachelor of Arts (Political Science) from Dresden University of Technology, attained in 2018, and Master of Planning from Lincoln University, attained in 2021. I am an intermediate member of the New Zealand Planning Institute.
- 3 I have 3 years of experience as a resource management planner, split between working at Christchurch City Council in a consenting role, and as a consultant since October 2022.
- 4 I have processed a range of resource consent applications during my time at Christchurch City Council, including a new building in the Cashmere Character Area. As a Consultant Planner I have been involved in providing advice and preparing resource consent applications for a range of projects, including subdivisions, residential and commercial/industrial developments.
- 5 By way of disclosure, I note that I live in Lyttelton. I consider this enhances my understanding of the character of the locality and does not constitute a conflict of interest or a matter that influences my objective assessment of the application.

CODE OF CONDUCT

- 6 Although this is a Council hearing, I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence.
- 7 Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

SCOPE OF EVIDENCE

- 8 My evidence is presented on behalf of Carol & Peter Johns (**'the Johns'**), the Applicant in these proceedings. I prepared the Assessment of Environmental Effects (**'AEE'**) submitted with the application dated 4th July 2023 and which forms part of my evidence for this hearing.
- 9 I confirm that I have visited 33 Dublin Street (**'the site'**) and I am familiar with the area.
- 10 In preparing my evidence, I have reviewed:
- (a) The s42A report of Mr Andrew Long (**'s42A Report'** or **'Officer's Report'**) including the s95 Report dated 16 November 2023 prepared by Ms Ruth Markham-Short.
 - (b) The reports of other Council experts: Mr Gareth Wright and Mr David Hattam which informed the S42A Report.
 - (c) The following submissions made by:
 - (i) Ms Paula Weir of 2/73 Radley Street dated 27 December 2023;
 - (ii) Mr James Allan Kay of 318 Withells Road dated 24 January 2024;
 - (iii) Mr Alison Ross of 63 Jacksons Road dated 27 January 2024; and
 - (iv) Mr Clifford Paul Mason of 21 Voelas Road dated 29 January 2024.
 - (d) The evidence of Edward Hill (Batchelar McDougall Consulting), Structural Engineering prepared on behalf of the Applicant;
- 11 Where appropriate and relevant my evidence refers to and relies on the evidence of those experts whose opinions I agree with.
- 12 I note that the relevant statutory documents have been identified and outlined within the s42A Report and I agree with the identification of those matters.

- 13 Having reviewed the s42A Report, I generally support and adopt the recommendations and conclusions by Mr Long except where I have stated otherwise in my evidence below. My evidence will focus on any points of difference of opinion between myself and Mr Long.
- 14 My evidence addresses the following:
- (a) Planning context and activity status, including Plan Change 13 ('**PC13**') and 14 ('**PC14**');
 - (b) Actual and potential effects on the environment;
 - (c) Assessment against the objectives and policies of the District Plan;
 - (d) Response to issues raised by submitters; and
 - (e) Recommended conditions.

SUMMARY

- 15 The requirement to demolish the building is based on the fact that repairing the earthquake-damaged building exceeds the costs associated with the construction of a new building and the significant risks related to the repair works.
- 16 Generally, I concur with the Planning Officer's recommendation that consent should be approved. However, bringing together the below evidence and that contained within the AEE and the two letters addressed to the Council, I consider the following matters to be the relevant key points and conclusions.
- (a) The key consenting matters relate to the effects of the demolition on the Lyttleton Character Area and the proposed Residential Heritage Area, accounting for the relevant matters of discretion. Limited weight should be afforded to the proposed provisions in PC13 and PC14 (for Residential Heritage Areas) given that hearings and decisions on submissions are yet to be concluded and there is considerable uncertainty as to their final form.
 - (b) The assessment matters for Character Areas in the District Plan are not of great clarity or assistance when assessing the

demolition of an earthquake-damaged building that is considered to be of “high character value”, noting their focus on the character values rather than the necessity for demolition. Therefore, I consider an assessment of the objectives in the Strategic Directions Chapter appropriate and necessary.

- (c) While the proposal is inconsistent with some of the outcomes sought in Chapter 14, it is consistent with the relevant objectives in Chapter 3, notably those in Objectives 3.3.1 and 3.3.2 that have primacy over the other strategic objectives. I also consider the proposal to be consistent with the purpose of the Act in regard to the applicant’s wellbeing and health and safety.
- 17 When assessed in the round, I consider the proposal to be acceptable and appropriate, accounting for the effects (both positive and adverse) on the wider area, the District Plan framework, and the sustainable management purpose of Part 2 for the following reasons:
- (a) After careful consideration by EQC and the Applicant, a rebuild strategy has been decided to best facilitate the recovery of the earthquake-affected site.
 - (b) Due to the cost and risks of the required repair, demolition is the most appropriate management strategy.
 - (c) Taking into account the large number of intact buildings that make a “primary” contribution to the character area in Lyttelton, the demolition of the building is not considered to undermine the collective character values of the township.
 - (d) The proposal will not be inconsistent with the relevant provisions of the District Plan in an overall sense, particularly when viewed in the context of the strategic objectives in Chapter 3.

APPLICATION SITE AND LOCALITY DESCRIPTION

- 18 The application site is described in detail in the AEE in paragraphs 4 to 9, noting that any references to the new building at 28A Jacksons Road are not relevant to this application as this component of the original application has already been granted consent. In terms of

attributes of the site and locality that I wish to emphasise, I note the limited visibility of the site, its narrow width and its enclosure by adjacent sites/buildings. I elaborate on this in my evidence below.

PROJECT DESCRIPTION

- 19 The proposal is set out in the consent application (paragraphs 13 and 14) and summarised again in the s95 Report (Appendix 6 to the s42A Report). In short, demolition of the dwelling is proposed due to earthquake damage and the costs of repair exceeding the costs of replacement.

PLANNING CONTEXT AND ACTIVITY STATUS

- 20 The Planning Officer addresses the relevant Christchurch District Plan rule non-compliances in paragraph 11 of the s42A Report. I concur with the listed non-compliances and the conclusion that the proposal is a restricted discretionary activity. In summary, consent is required under the operative Plan for demolition of a building in a Character Area and under the provisions of PC13 that have immediate effect concerning the demolition of buildings in a Residential Heritage Area.

SUBMISSIONS

- 21 As noted in the s42A Report (paragraph 14) four submissions were received in response to the public notification of the proposal. I will respond to the submission points raised in further detail below. Notably, Heritage New Zealand Pouhere Taonga did not submit on this application.

RESPONSE TO S42A REPORT

- 22 Generally, I agree with the conclusions and overall recommendation of Mr Long. Therefore, my evidence below focuses on specific matters where I hold a different opinion or consider further evaluation may be of assistance.

Relevant matters of discretion

- 23 I agree with the Officer's Report that as a restricted discretionary activity, the assessment of effects of the proposal is limited to the

matters contained in Rule 14.15.23 (operative Plan) and proposed Rules 9.3.6.5 (PC13¹) and 14.15.27 (PC14²).

- 24 As described in the Officer's Report, proposed Rule 14.15.27 is a re-numbered and amended version of operative Rule 14.15.23. However, I note that the amendments have been introduced as part of PC14 and therefore, unlike the proposed provisions of PC13, do not have immediate legal effect.

Positive effects

- 25 Adopting the assessment provided in the S95 Report, the Officer's Report focuses on the positive effects and addresses the question of unreasonable repair costs in paragraphs 23 to 30. Accounting for the advice of Mr Hurley that the demolition and re-build option is more cost-effective than the required repair, I concur with the Officer's conclusion that the avoidance of unreasonable repair costs is a positive effect of this proposal. I further note that this is a potentially significant positive effect in this context, given that the proposal seeks to enable the Applicant to provide for their social, economic, and cultural wellbeing and for their health and safety, consistent with the purpose of the Act.
- 26 The Officer's Report addresses the related question of whether a positive effect would arise from the demolition of the building in terms of enabling improved housing stock. Whilst a good standard of living can often be achieved without compromising heritage values, in this case, the alternative to demolition (when repair costs are prohibitive) is to let the building deteriorate. Although permitted, this would not be consistent with the outcomes sought in the District Plan of increasing housing supply and providing a high level of amenity (Objectives 14.2.1 and 14.2.4), nor Part 2 of the Act.

¹ PC13 provisions are proposed rather than operative but have immediate effect. As submissions are yet to be heard and determined, these provisions require a weighting exercise.

² PC14 provisions are proposed rather than operative and do not have immediate effect. As submissions are yet to be heard and determined, these provisions require a weighting exercise.

Effects on the Character Area

- 27 In terms of the effects on the character of the area, the Planning Officer relies on the advice of Mr Hattam.
- 28 I accept Mr Hattam's assessment that the building, classified as 'primary' in the investigation undertaken by Boffa Miskell as part of PC14 dated 26 July 2022, possesses the distinct qualities and character of the Lyttleton Character Area, although noting that the building has undergone multiple modifications and additions over the decades.
- 29 While I am not an urban design or heritage expert, I hold a different opinion with regard to the significance of the effects of the building's demolition on the Character Area as a whole, and reiterate my views that the limited visibility minimises the proposal's adverse effects on the collective heritage values of the area³. I consider that this assessment is also applicable to the character area in that the effects of the demolition must be considered in the broader context of the area as a whole.
- 30 I accept Mr Hattam's view that the effects of the proposed demolition will be greater than if it was a stand-alone building surrounded by neutral or intrusive sites. However, in this case the loss of continuity and coherence is offset by the fact that the buildings are located on top of a high retaining wall and the interaction with the street is therefore limited. Moreover, when considering the large extent of the Lyttelton Character Area and the number of intact/'primary' buildings, I consider the effects on the collective values of the area as whole are acceptable and minor.
- 31 Taking into account the location of the building above a high retaining wall, the narrow width of the site and the topography of the area, I do not agree that the building is 'prominent'. 33 Dublin Street is hardly visible when approaching the site from the south as it is sandwiched between 31 and 35 Dublin Street. When viewed from Winchester and Exeter Street in the east, it is largely screened by other residential buildings given its low profile. The site is narrow

³ See paragraphs 70 to 73 in the AEE and paragraphs 6, 7 and 11 in the letter dated 6 November 2023.

(around 10m) and the adjoining houses are located close to the site, meaning that a gap between 31 and 35 Dublin Street resulting from the proposed demolition would not be particularly noticeable, even when viewed from a distance (Reserve Terrace, for instance, which is located at least 500m from the site). Based on the limited views of the application site I conclude that the demolition of this building would not significantly detract from the coherence and integrity of the wider character area and any effects will be minor and acceptable.

Cumulative effects

- 32 In terms of cumulative effects which Mr Hattam raised in his assessment, I acknowledge that the question of when several demolitions start having a detrimental effect on the character or heritage area is not entirely clear cut. In any case, I do not consider that the removal of this particular building will be the final straw that irreversibly damages the character or heritage value of the wider area, given the many other intact 'primary' buildings in the area and in the vicinity of the site despite the recent demolition of the building on 29 Dublin Street⁴.
- 33 Notwithstanding the different views about the significance of the building to the character area, the Planning Officer considers the effects to be acceptable which I agree with. I also consider that this conclusion is reinforced when taking into account the objectives and policies of the District Plan which my evidence addresses below.
- 34 In summary, while I have a different view from Mr Hattam and Mr Long when it comes to the effects on the character area overall, I concur with Mr Long's conclusion that, on balance, the application and its effects are acceptable.

Relevant objectives, policies and other provisions of the Plan

- 35 I generally concur with the Planning Officer's assessment in paragraphs 37 to 42 that Objective 14.2.4 and Policy 14.2.4.7 do not assist in determining under which circumstances the demolition of a building of high character value may be appropriate. As Mr Long pointed out, the District Plan contemplates the demolition of

⁴ 29 Dublin Street had a consent for renovations, but not for the demolition.

buildings in the Lyttelton Character Area, otherwise the activity would have been prohibited or non-complying. It is therefore appropriate to seek guidance from the Strategic Directions Chapter in the District Plan and other higher-order documents.

- 36 I agree with Mr Long that Objective 3.3.7⁵ is relevant for the reasons set out in the S42A report. I add that Objectives 3.3.1 and 3.3.2 are also relevant to this application. These take precedence over the other objectives in Chapter 3, including Objective 3.3.7. The objectives and policies in all other chapters of the District Plan must be expressed and achieved in a manner consistent with the objectives in Chapter 3.

Objective 3.3.1

- 37 Objective 3.3.1 seeks the expedited recovery of Christchurch in a manner that:

- (a) *"Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport and social and cultural wellbeing*
- (b) *Fosters investment certainty, and*
- (c) *Sustains the important qualities and values of the natural environment."*

- 38 The building has sustained significant earthquake-related damage due to shaking and settlement as outlined in detail in the Structural Assessment Report prepared by BMC as attached to the RFI response dated 12 September 2023 and summarised in Mr Hill's evidence. The proposal seeks to 'expedite recovery' from this damage in a manner consistent with Objective 3.3.1.

- 39 The demolition and subsequent re-build on the adjoining site contribute to the community's (of which the Johns are part of) ability to meet their needs for safe and dry housing, more so than the repair of the existing building which is cost prohibitive and entails significant risks.

⁵ This Objective is proposed to be re-numbered to 3.3.8 under PC14.

- 40 In addition, paragraph 5 and Appendix 1 in the letter in response to Council's RFI (dated 12 September 2023) outlines the settlement deed with EQC in more detail which requires the Johns to demolish the building. Covenants were registered on the titles of the two properties to this effect. Refusal of this application would substantially undermine the John's investment certainty.
- 41 Therefore, I consider that the demolition is strongly consistent with Objective 3.3.1, notwithstanding its strategic focus.

Objective 3.3.2

- 42 Objective 3.3.2 seeks that through the interpretation and implementation of the District Plan, costs are minimised, innovation and choice are encouraged and intended outcomes are clearly stated in the objectives and policies.
- 43 Considering the higher cost associated with a repair strategy, the demolition is consistent with this Objective. The opportunity to rebuild also provides a freedom of choice where adverse effects on the environment are acceptable. The objectives and policies in relation to demolitions in Character Areas are not clear.

Objective 3.3.7

- 44 I concur with Mr Long's interpretation of Objective 3.3.7 a.ii. that appropriate management of special character and amenity values logically includes demolition where the deteriorated state of the building warrants it and the cost to repair exceeds that of a rebuild (and such activity is a restricted discretionary activity).
- 45 In addition, I consider that the level of risk should also be taken into account when determining the appropriateness of the proposal. As Mr Hill has assessed in detail in his evidence, there are significant risks when it comes to repairing the existing dwelling which not only result in uncertainties about the overall cost of the repair but also adds significant stress to the applicant. In the interest of minimising cost and providing certainty (Objective 3.3.2) and expediting the recovery process (Objective 3.3.1), I agree with Mr Long that a high-risk repair strategy with uncertain outcomes does not appear to be the most appropriate management strategy.

- 46 In addition to Sub-clause ii., Sub-clauses i. and vii. are also applicable. Although it is difficult to determine what residents and visitors broadly find attractive, I acknowledge that the special character of Lyttelton is considered worth protecting based on the submissions received. I would add that most residents would presumably not find a slowly deteriorating cottage attractive.
- 47 The urban environment should also promote the re-use and re-development of buildings and land (Sub-clause vii.). As described in the AEE and the further information submitted subsequently, given the state of the existing building and the processes and policies of the OnSold programme, an “as is where is” sale is not a feasible alternative which necessitates the re-development of the site. I therefore consider that the proposal is consistent with this Objective.

Chapter 14 objectives and policies

- 48 In my view, the lack of guidance in Chapter 14 (specifically Objective 14.2.4 and Policy 14.2.4.7) as to when demolition of an earthquake-damaged building of “high character value” and a re-development of the site might be appropriate is not consistent with these strategic objectives as they do not factor in the cost and earthquake damage.

Summary

- 49 Overall, while the proposal cannot be assessed as being consistent with the objectives and policies in Chapter 14, their limited relevance to the demolition of a building in a Character Area means that it is appropriate and necessary to take guidance from the Strategic Directions Chapter (and the purpose of the Act). Such a ‘top-down’ approach is more appropriate than a ‘bottom-up’ approach which places an emphasis on the narrowly framed assessment matters. Following the assessment above, I consider that the proposal is generally consistent with the relevant matters in Objectives 3.3.1, 3.3.2 and 3.3.7, and therefore conclude that, on balance, the proposal is not inconsistent with the objectives and policies in the District Plan.

RESPONSE TO ISSUES RAISED BY SUBMITTERS

50 Submitters have raised a number of issues, most of which I have covered in my assessment above. For completeness, I additionally comment as follows:

- (a) *Precedent* – As a restricted discretionary activity, precedent is not an issue. Regardless, any other proposal to demolish buildings in a Character or Residential Heritage Area would require resource consent and assessment on a case by case basis on its individual merits. As no two cases are likely to be exactly alike, I do not consider this application presents risks of precedent or diminished plan integrity.
- (b) *Effects on coherence of Dublin Street* – The cumulative effects (in particular in view of the recent demolition of the building at 29 Dublin Street) have been addressed above where I have concluded that they will be acceptable.
- (c) *Heritage values* – The effects on the overall integrity and coherence of the proposed Residential Heritage Area have been addressed in detail in the letters to the Council dated 12 September and 6 November 2023. In summary, the limited visibility of the site from viewpoints across the town minimises the adverse effects on the heritage value of the area. In any case, as the outcome of PC13 is still uncertain, limited weight should be afforded to the proposed provisions.
- (d) *The need for repair* – Mr Hill addresses the extent of damage and required repair works.
- (e) *Future dwelling* – A replacement dwelling is not proposed at this stage. However, any new building in a Character Area (and Proposed Heritage Area) will require resource consent as a restricted discretionary activity at which point the area context, the site character and street interface, built character, the views and the character of Lyttelton will be assessed. I consider that these matters of discretion ensure that any new building will be sympathetic to the distinct character of Lyttelton. As a result, I do not consider prescriptive conditions for the form,

scale, materials and amount of glass of the replacement building are necessary at this time.

CONDITIONS

- 51 The Officer's Report recommends conditions be imposed should consent be granted. I generally concur with those conditions but recommend that Condition 11 be deleted as there is no vehicular access to the site. The challenges of accessing and working on the site are described in more detail in paragraphs 24 to 28 of Mr Hill's evidence. I recommend that the Applicant submits a Traffic Management Plan prior to works commencing instead to ensure that the effects on pedestrians and traffic are managed appropriately.

CONCLUSION

- 52 In conclusion, the proposal is consistent with the purpose and principles of the Resource Management Act 1991 in that it enables people to provide for their economic and social wellbeing, whilst maintaining (to an acceptable standard) the quality and amenity of the local environment and avoiding significant adverse effects.
- 53 In terms of section 104, I consider that the proposal will not be inconsistent with the relevant provisions of the District Plan in an overall sense, particularly when viewed in the context of the strategic objectives in Chapter 3. The proposal will have actual or potential effects on the environment which are acceptable.
- 54 Accordingly, I conclude that consent should be granted to the activity in accordance with sections 104, 104C and Part 2 of the Act, subject to the recommended conditions in accordance with section 108.

Dated: 7 March 2024



Mona Neumann