

**Before the Independent Hearings Panel  
At Wellington City Council**

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

**In the matter of** Hearing submissions and further submissions on the  
Proposed Wellington City District Plan

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**Statement of supplementary planning evidence of Mitch Lewandowski on  
behalf of Wellington City Council**

**Date: 23 March 2023**

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## **INTRODUCTION:**

1 My full name is Mitch Lewandowski. I am a Resource Management Consultant and Director of Building Block Planning Limited, a Wellington based planning and resource management consultancy.

2 I have read the respective evidence of:

### **Claire Nolan et al ID 275**

- a. Michael Kelly for Claire Nolan et al

### **Heritage New Zealand Pouhere Taonga ID 70 and FS9**

- a. Dean Raymond for Heritage New Zealand Pouhere Taonga
- b. James Raymond for Heritage New Zealand Pouhere Taonga

### **Waka Kotahi ID 370 and FS103**

- a. Alastair Cribbens for Waka Kotahi
- b. Michael Scott for Waka Kotahi

### **Wellington Heritage Professionals ID 412**

- a. Amanda Mulligan and Chessa Stevens for Wellington Heritage Professionals

### **Kāinga Ora ID 391 and FS81**

- a. Brendon Liggett for Kāinga Ora
- b. Matt Heale for Kāinga Ora
- c. Mike Cullen for Kāinga Ora
- d. Victoria Woodbridge for Kāinga Ora
- e. Nick Rae for Kāinga Ora

3 I have prepared this statement of evidence in response to expert evidence submitted by the people listed above to support the submissions and further submissions on the Proposed Wellington City District Plan (the Plan / PDP).

4 Specifically, this statement of evidence relates to the matters of [Hearing Stream 2 – Section 42A Report – Part 4 – Character Precincts and Design Guides](#).

5 My supplementary statement does not provide detail on every point where there is disagreement with the recommendations in my section 42A report. In addition, I have not addressed points where the submitter has agreed with the recommendations in my section 42A report. Where submitter evidence speaks to matters already addressed in my section 42A report, I rely on my section 42A report recommendations and reasoning, make references to these and provide additional assessment where necessary.

#### **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

6 [My section 42A report](#) sets out my qualifications and experience as an expert in planning.

7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

#### **SCOPE OF EVIDENCE**

8 My statement of evidence:

- a. Addresses the expert evidence of those submitters listed above.

#### **RESPONSES TO EXPERT EVIDENCE**

Michael Kelly

9 At paragraph 16 of this evidence, Mr Kelly comments on a number of specific streets in Newtown in support of their inclusion as a Character Precinct.

10 I have addressed the methodology for determining Character Precincts at sections 10 of the section 42A report, including with reference to specific suggestions from submitters at section 11 of the section 42A report. I do not consider that any further changes are necessary from the amended areas recommended through the section 42A report.

**Heritage New Zealand Pouhere Taonga ID 70 and FS9**

Dean Raymond

11 While Mr Raymond's evidence is largely in agreement with my recommendations contained in the section 42A report for this topic, at paragraphs 33-37 he discusses the need to rezone properties that are currently zoned High Density Residential Zone (HRZ) to a Medium Density Residential Zone (MRZ) zoning if the areas are to be added to a Character Precinct. Mr Raymond notes at paragraph 33 of this evidence that this matter has not been addressed in the section 42A report.

12 I note that my recommendation HS2-P4-Rec5 at paragraph 104 of the section 42A report addresses this point. I agree with Mr Raymond on his underlying logic for the need for the recommended zoning change.

**Waka Kotahi ID 370 and FS103**

Michael Scott

13 Mr Scott, at paragraph 5.2, suggests that Objective 1 of the National Policy Statement on Urban Development (NPS-UD) is an overarching objective for the NPS-UD. I disagree. There is nothing in the NPS-UD or its structure to suggest that Objective 1 is overarching, that it should be given primacy, or that other objectives are subservient to it.

14 At paragraph 5.4 Mr Scott says that the goal of the NPS-UD is to "transition to a low emissions future and a more sustainable, productive

and inclusive economy”. While that ‘goal’ is absent from the NPS-UD itself, I agree that the NPS-UD does seek to achieve a reduction in greenhouse gas emissions<sup>1</sup>, and contains objectives and policies that would contribute to the other aspects of the goal Mr Scott identifies.

15 I agree that the NPS-UD directs that the PDP enables increased densities and heights than are currently enabled by the ODP. It also provides for exceptions to this direction, in the form of qualifying matters. In this respect I disagree with Mr Scott’s statement at paragraph 5.9 where he suggests that a departure from the intensification directive (i.e. a qualifying matter) needs to address a “highly significant matter”. There is nothing in section 77I(j) that speaks to high significance.

16 Section 77I(j) provides for “any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied.” There is no mention here of high significance, and Mr Scott himself describes section 77I(j) as applying to ‘miscellaneous other matters’ at his paragraph 5.12 (emphasis added). Rather, the evaluation of a qualifying matter must demonstrate why it is appropriate in light of the objectives of the NPS-UD.

17 Mr Scott queries at his paragraph 5.15 what characteristic the PDP is seeking to address through its use of Character Precincts as a qualifying matter. I refer to paragraphs 43 and 44 of the section 42A report that refers to the “concentrations of consistent and coherent character” and at section 9.1 of the section 32 evaluation which references the inherent character and resultant amenity as a defining characteristic of Character Precincts.

18 In respect of section 77L(b), the appropriateness of limiting development capacity stems from the fundamental goal of restricting demolition of the existing housing stock, from which the character value is derived. In turn, this makes the Character Precincts incompatible with the

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<sup>1</sup> Objective 8 and Policy 1(e) of the NPS-UD.

permitted level of development anticipated by the MDRS and Policy 3(c) of the NPS-UD which provides for 6 storey building heights.

19 New development is not prevented, but rather it is to be assessed through a resource consent process that considers the effects of new development with reference to the character values of the precinct.

20 Mr Scott then discusses the matters contained in section 77L(c). I note that the proposed approach identifies the site(s) to which the Character Precinct approach applies and has assessed the character values of each site on an individual basis. In respect of section 77L(c)(iii), I note that the Character Precincts fundamentally adopt the bulk and location standards of the MDRS. A greater density of development options was not considered appropriate as those are fundamentally at odds with the established character that is sought to be maintained.

21 Contrary to the conclusion of Mr Scott, I consider that the proposed Character Precincts do meet the statutory requirements for inclusion as a qualifying matter. I do not consider that any changes are required in response to the evidence of Mr Scott in this regard.

22 Mr Scott then considers the PDP provisions at section 6 of his evidence. At paragraph 6.4(3) of his evidence, he considers that the intensification enabled by MRZ-O1 and MRZ-O2 is precluded by MRZ-PREC01-O1 and supporting policies, "P3 notwithstanding" (emphasis added).

23 P3 appears to be a reference to MRZ-PREC01-P3 which states:

**MRZ-PREC01-P3 Intensification**

Enable residential intensification within Character Precincts provided that it does not detract from the character and amenity of the Precinct in which it is located.

24 MRZ-PREC01-O1, which Mr Scott considers precludes intensification in Character Precincts, seeks that Character Precincts are managed to:

...

2. Provide for their ongoing use and development that maintains or enhances their character.

...

25 I do not agree with Mr Scott's conclusions and they are not in my view supported by the PDP policy approach. MRZ-PREC01-O1 does not undermine MRZ-O1 and MRZ-O2, rather it seeks that ongoing development is provided for in a way that responds to the character of the Character Precincts. Policy MRZ-PREC01-P3 similarly seeks to enable intensification with reference to character considerations. These provisions do not seek to "maintain the existing amenity" as Mr Scott notes at paragraph 6.4(3) of his evidence.

26 I note by way of example, that one of the more recent, notable and award winning multi-unit developments in Mt Victoria is 'Zavos Corner' which occurred within the existing Mt Victoria character area. This is an example of intensification occurring within a character area in a way that is appropriately considered through a resource consent process. It highlights that the proposed Character Precinct provisions, as a continuation of an existing approach, do not seek to preclude intensification and new development. Rather, their purpose is to ensure that new development is responsive to the character values of these areas.

27 At paragraph 6.7 of his evidence, Mr Scott discusses amenity and how that might change as a result of allowing greater development in these areas. I do not dispute his discussion of amenity generally, but note that he misses the more fundamental point that the character and resultant amenity of the areas stems from the concentration of existing dwellings that maintain a fundamentally pre-1930 character.

28 At paragraph 6.10, Mr Scott outlines a discussion on the impacts of the Character Precincts limiting development capacity in areas that he considers would benefit from greater intensity of development due to their location, proximity to other services, employment opportunities and amenities.

- 29 I agree that these areas are generally well located with reference to their accessibility. However, I also note that the PDP seeks to substantially reduce the area over which Character Precincts would apply, upzone areas where character protection is removed, align proposed Character Precincts with MDRS bulk and location standards, and encourage appropriate intensification within them.
- 30 Where existing character areas are removed, they are intensified in line with the MDRS and Policy 3 of the NPS-UD. This is the balance that the PDP seeks to strike in giving effect to the NPS-UD while providing for some character protection as a qualifying matter. The assessment of development capacity enabled by the PDP shows that the capacity enabled comfortably exceeds expected demand. I remain confident that the Character Precincts serve an appropriate resource management purpose while striking an appropriate balance with the requirements of the MDRS and Policy 3 of the NPS-UD.
- 31 Having considered the evidence of Mr Scott, as informed by the evidence of Mr Cribbens, I do not recommend any further changes to my section 42A report.

**Wellington Heritage Professionals ID 412**

Amanda Mulligan and Chessa Stevens

- 32 Ms Mulligan and Ms Stevens at paragraph 28 of their evidence suggest that the Pre-1930 Character Area Review is flawed as it overly elevates the value of architectural integrity, over pre-1930 character, in classifying buildings as being either primary, contributory, neutral or detractive.
- 33 I have addressed this matter at paragraph 62 of the section 42A report and I remain of the opinion that the approach adopted is appropriate. The methodology adopted for the review did not seek to omit properties that had been modified, but rather that the degree of modification was reflected in the classification of a property.



- 34 It does not follow, as suggested by Ms Mulligan and Ms Stevens at their paragraph 29, that an example of a garage added to a villa would result in it being considered as a 'compromised' building. 'Compromised' is not a term adopted by the Pre-1930 Character Area Review. It may be that the hypothetical building is classified as a contributory building rather than a primary building for example. I consider that to be appropriate with reference to the adopted methodology. It also does not follow that based purely on a garage addition, that such a building would not be included within a proposed Character Precinct. There are other additional factors that ultimately impact on the final boundaries proposed for Character Precincts. The building classification is one part of this calculus.
- 35 Ms Mulligan and Ms Stevens suggest that based on their view that the Pre-1930 Character Area Review is flawed, that the existing Character Areas from the ODP should be retained.
- 36 I do not agree. There is sufficient variability in the assessed character contribution of the existing character areas that in my view could not justify their inclusion as Character Precincts. This is particularly so with reference to the need to satisfy qualifying matter requirements and give effect to the NPS-UD. I note that Ms Mulligan and Ms Stevens do not provide any further assessment of the development capacity impacts of their suggestion, nor any wider assessment of how their suggested approach responds to the NPS-UD.
- 37 Lastly, Ms Mulligan and Ms Stevens express their view that the Character Precincts should be included as heritage areas. I have addressed this issue at paragraphs 188-190 of my section 42A report. Further clarification on the application of Policy 21 of the Regional Policy Statement which establishes criteria for the identification of historic heritage, and how the Council applied it in preparing the PDP, will be provided through Hearing Stream 3.
- 38 Having considered the evidence of Ms Mulligan and Ms Stevens, I do not propose any changes to the recommendations of my section 42A report.

**Kāinga Ora ID 391 and FS81**

Brendon Liggett

39 Mr Liggett, at paragraph 8.13 of his evidence, summarises Kāinga Ora’s concerns with the Council’s approach to Character Precincts. Ms Woodbridge also addresses equivalent concerns in her evidence. I address these points with reference to the evidence of both Mr Liggett and Ms Woodbridge below.

40 The starting point for the use of Character Precincts is their identification as a qualifying matter. Section 77I(j) is the relevant section and provides for:

“any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied.”

41 Before turning to section 77L, I note that section 77J specifies particular requirements in relation to an evaluation report. Section 77J(3) requires:

(3) The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter, -

(a) demonstrate why the territorial authority considers –

(i) that the area is subject to a qualifying matter; and

(ii) that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 for that area; and

(b) assess the impact that limiting development capacity, building height or density (as relevant) will have on the provision of development capacity; and

- (c) assess the costs and broader impacts of imposing those limits.

42 In respect of section 77J(3)(a), the section 32 evaluation for this topic made the following comment<sup>2</sup>:

*“The Boffa Miskell assessment and subsequent evaluation of that work has shown that the areas assessed contain significant concentrations of pre-1930 buildings. The assessment has further shown that these areas maintain a resultant character that is defining of these areas.*

*Incorporation of the MDRS provisions, and the requirements of Policy 3 of the NPS-UD could result in an erosion of that character by removing demolition controls and enabling development that may be incompatible with the character of these areas. Resultingly, maintaining the character of these areas is considered to be a qualifying matter and that providing for the requirements of the MDRS and Policy 3 is incompatible with these areas.”*

43 In respect of the Mt Victoria North Townscape Precinct, I note that this area is also largely covered by a Character Precinct. The section 32 evaluation addressed the Mt Victoria North Townscape Precinct as follows:

*“The Mt Victoria North Townscape Precinct is concerned with protecting the visual impacts of development on an iconic Wellington townscape overlooking the city. The basis for proposing the precinct has been reviewed by an assessment of the precinct provided in support of this evaluation.”*

44 Both precincts were identified as a qualifying matter with reference to their particular qualities. For Character Precincts this relates to the

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<sup>2</sup> Section 32 Evaluation Report, Part 2: Character Precincts and Mt Victoria North Townscape Precinct, p 44.

concentration of pre-1930 character that is defining of these areas. For the Mt Victoria North Townscape Precinct, this quality relates to its location as a defining townscape element in Wellington.

45 The level of development that would be enabled by the MDRS or Policy 3 is incompatible with these areas given the potential impacts of that development on their defining features. Of particular concern is the permitted level of development that would be enabled without the ability to consider design matters and impacts on character or townscape values, and in respect of Character Precincts, the ability to restrict demolition.

46 In respect of sections 77J(3)(b), section 9.3 of the section 32 evaluation made the following comment<sup>3</sup>:

*“At date of publication the Council is awaiting a detailed assessment that meets and goes beyond the requirements of 77K and 77Q of the RMA to demonstrate the net effect of each qualifying matter on the provision of development capacity, including those new scheduled items that are not currently scheduled in the operative district plan.*

*This report will be published approximately August 2022 and made publicly available to support this section 32 report.”*

47 This refers to the Property Economics assessments that were subsequently prepared, made available, and discussed as part of Hearing Stream 1.

48 And in respect of 77J(3)(c) I consider that the evaluation undertaken at section 11 of the section 32 evaluation for this topic addressed the broader costs and benefits of the preferred approach.

49 Section 77J(4)(b) also requires that:

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<sup>3</sup> I note that reference to sections 77K and 77Q appear to have been made in error and should have been to sections 77J and 77L.

(4) The evaluation report must include, in relation to the provisions implementing the MDRS, -

...

(b) a description of how modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters and, in particular, how they apply to any spatial layers relating to overlays, precincts, specific controls, and development areas, including –

(i) any operative district plan spatial layers; and

(ii) any new spatial layers proposed for the district plan.

50 The section 32 evaluation for this topic, at section 11, discussed the modifications made to the provisions of the MDRS relevant to these topic areas. I note that the baseline standards mirror those of the MDRS, with two modifications for fences along the front boundary (relating to streetscape effects) and the height of accessory buildings within Character Precincts. There were no changes to MDRS standards for the Mt Victoria Townscape Precinct.

51 In addition, there are controls on the demolition of existing pre-1930 buildings and the construction of new buildings within Character Precincts, and controls over the construction of new buildings within the Mt Victoria North Townscape Precinct. These controls are relevant to achieving the objectives of both precincts.

52 Section 77L then specifies further requirements in relation to a qualifying matter under section 77I(j), and states:

A matter is not a qualifying matter under section 77I(j) in relation to an area unless the evaluation report referred to in section 32 also –

(a) identifies the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule

3A or as provided for by policy 3) inappropriate in the area;  
and

- (b) justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and
- (c) includes a site-specific analysis that –
  - (i) identifies the site to which the matter relates; and
  - (ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and
  - (iii) evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 while managing the specific characteristics.

53 In my view, the evaluation has met the requirements of section 77L(a) by identifying the specific characteristic of the precincts, informed by an evaluation for both the Character Precincts, and Mt Victoria North Townscape Precinct, that makes the level of development provided for by the MDRS or Policy 3 inappropriate in that area. I understand that as part of Hearing Stream 1, there was discussion about whether the assessment required for the purpose of section 77J(c)(iii) could be undertaken as a grouped approach rather than a property specific level for reasons of practicality. I understand that there was general agreement that such an approach was acceptable.

54 I note that it is not additional development in the precincts per se that is of concern. It is the permitted level of development in the absence of the precincts that is sought to be managed, and ensuring that the parameters for additional development being commensurate with the outcomes sought for these precincts. In respect of the latter point, it was

considered that the MRZ provisions would better achieve a commensurate level of development than the provisions of the HRZ. I also note that the height limits of the MDRS could be exceeded through a resource consent process with acceptable effects, provided character outcomes are achieved. The relevant resource consent would be for a restricted discretionary activity.

55 In respect of section 77L(c)(i) the PDP is supported by a site-specific assessment that identifies the application the precincts, and also evaluates the specific characteristic on a site specific basis, thereby satisfying section 77L(c)(ii).

56 In respect of section 77L(c)(iii), the section 32 evaluation considered three options being (a) the proposed provisions; (b) the retention of the status quo; or (c) removing character protections entirely (and thereby upzoning in line with the MDRS and Policy 3).

57 Ms Woodridge considers, at her paragraph 4.22, that a further evaluation of the appropriateness of a High Density Residential Zone, or whether alternative options for managing character existed, should have been undertaken.

58 The purpose of the Character Precincts is to manage the character that stems from their pre-1930 built form and pattern of development. Use of a high density residential zoning, and resultant development form, would be at odds with that character. The PDP approach has been to adopt the bulk and location standards of the MDRS in order to align with those provisions and ensure consistency across the MRZ.

59 In terms of alternative options, I consider the precinct approach to be the most appropriate option to achieve the outcomes sought. The section 32 evaluation, at section 4.5.4, considered the use of precincts and overlays. With reference to the purpose of the provisions, a precinct approach was considered to be the most appropriate method. I also note that the advantage of a precinct approach is that it reduces plan complexity by including the relevant provisions within the same chapter. If an overlay approach were to be used, this would result in a

disaggregation of provisions across the PDP so that zone and overlay provisions would need need to be read together from separate locations.

60 One option that was considered through the section 32 evaluation was the removal of character protection, and the Mt Victoria townscape provisions entirely. It follows that in the absence of the precinct approach, upzoning in line with the MDRS and Policy 3 would occur. It was addressed in the section 32 evaluation as such.

61 Relatedly, I note that the Property Economics assessment of development capacity impacts noted the following<sup>4</sup>:

*“However, Council have identified that in the absence of the Character Zone overlay, then the underlying zone would be High Density Residential Zone. The location of the Character Areas in relation to the NPS-UD Policy 3c Areas (Walkable Catchments) are shown on Figure 1. In addition, some character precincts outside of NPS-UD Policy 3c areas would otherwise have a greater height limit in the medium density residential zone.”*

62 The impacts on development capacity from the proposed precincts have therefore been assessed, and reported to the Hearing Panel, based on an underlying HRZ zoning where this would otherwise apply in the absence of the precincts.

63 In respect of section 77L(b), the section 32 evaluation recognises and acknowledges the requirements of the MDRS and NPS-UD. That recognition results in the recommended reduction of the existing Character Areas by 56%, informed by the Pre-1930 Character Area Review. In turn, the areas where existing character protection is removed are upzoned in line with the requirements of the MDRS and Policy 3 in a manner consistent with the broader PDP approach.

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<sup>4</sup> Wellington City Qualifying Matters Capacity Assessment, Property Economics, November 2022, p5.



- 64 With reference to the evaluation of development capacity impacts resulting from the qualifying matters, I consider that the approach adopted strikes an appropriate balance in responding to the identified qualities of these areas, and the intensification requirements of the NPS-UD and MDRS. I again note that the assessment of development capacity impacts is based on an HRZ zoning where it would otherwise have been applied in the absence of the precincts.
- 65 By not limiting the development outcomes sought by the NPS-UD and MDRS, resultant development outcomes either will, or have the potential to, erode the characteristics which are sought to be managed.
- 66 The resulting development capacity enabled by the PDP exceeds the predicted demand as detailed in my section 42A report. The provision for additional development capacity includes areas where existing character protections are removed, and includes areas with good accessibility to centres, amenities, services and employment opportunities.
- 67 The recommended precincts are significantly reduced from their current extent in order to better balance the NPS-UD and MDRS requirements against the purpose of the precincts. I also note that the provisions of both precincts do not seek to prevent future development and intensification. I have referenced at paragraph 26 the Zavos Corner development by way of an example where intensification outcomes are achieved in a character area environment.
- 68 Rather, the precincts seek to manage development outcomes to achieve the purpose of each precinct. In my view it is appropriate to do so with reference to the provisions of the MDRS which would result in a development form that is commensurate with existing built form in these areas, rather than the built form contemplated by the HRZ.
- 69 For the above reasons, I consider that the proposed precincts are an appropriate qualifying matter, satisfy the relevant statutory considerations, and are justified within the broader PDP approach to giving effect to the NPS-UD.

Victoria Woodbridge

- 70 Ms Woodbridge provides her assessment of the application of qualifying matters at section 4 of her evidence. I have addressed this matter under the evidence of Mr Liggett above.
- 71 At section 6 of her evidence, Ms Woodbridge considers alternatives for managing character. Kāinga Ora provided a Character Area Overlay chapter with its submission as an alternative approach to managing character. Ms Woodbridge noted that she recommended some further amendments to that chapter in Appendix B of her evidence.
- 72 I note that in reviewing Ms Woodbridge's evidence, Appendix B was not provided. Through the Hearing Administrator, I was unable to obtain a copy of Appendix B in the time available to finalise this statement. I therefore have not been able to comment on these suggested amendments.
- 73 At section 7 of her evidence, Ms Woodbridge considers options for the management of the values associated with the proposed Mt Victoria North Townscape Precinct. Ms Woodbridge notes that the PDP identifies that the precinct is not proposed as a heritage protection measure, but then considers that its purpose appears to relate to the protection of heritage values associated with St Gerard's Monastery and its surrounds.
- 74 Ms Woodbridge states that she supports the purpose of the precinct, but considers that it may be more appropriately managed through heritage provisions. I disagree. While the St Gerard's Monastery is clearly a heritage feature, and is recognised as such, the surrounding area is valued and managed for its townscape values. This is recognised by proposed Objective MRZ-PREC02-O1.
- 75 Any further consideration on the use of a heritage area for this area would need to occur through Hearing Stream 3.
- 76 I do not recommend any changes to my section 42A report as a result of the evidence from Ms Woodbridge.

**Date: 23 March 2023**

**Name: Mitch Lewandowski**

**Position: Consultant Planner**

**Wellington City Council**

