

## **Application for Resource Consent LU 5331**

Being an application for land use consent for additions and alterations of All Saints Church, including: the demolition of the existing baptistery; the addition of a new lobby and reception area; new entrances; an office space; and a new roof.

338 Church Street, Palmerston North City

## **Notice of Decision by Independent Hearings Panel**

27 April 2021

## CONTENTS

---

1.0	Introduction.....	2
2.0	Hearing sequence .....	7
3.0	Statutory & planning policy considerations .....	12
4.0	Evaluation .....	17
	Overview and summary.....	17
	Preliminary matters .....	17
	Assessment of environmental effects .....	22
	Other effects.....	36
	Objectives and Policies .....	37
	Other matters (s104(1)(c), RMA).....	43
	Part 2 .....	45
5.0	Decision .....	47

## INTERPRETATION

This notice of decision uses the following abbreviations and acronyms.

<b>TERM</b>	<b>MEANS</b>
the Act	Resource Management Act 1991
AEE	The assessment of environmental effects appended to the application
Applicant	The Wellington Diocesan Board of Trustees
CBAB	Church Building Advisory Board
Council	Palmerston North City Council
EiC	Evidence in Chief
HNZ	Heritage New Zealand Pouhere Taonga
ICOMOS	International Council of Monuments and Sites
NPS-UD	National Policy Statement on Urban Development 2020
NZIA	New Zealand Institute of Architects
NZLA	New Zealand Law Association
NZPI	New Zealand Planning Institute
Plan	Operative Palmerston North City District Plan
RMA	Resource Management Act 1991
RPS	Regional Policy Statement, set out in Part 1 of the Manawatu-Wanganui Regional Council 'One Plan'
Site	The property to which the application relates as described in the application

**Palmerston North City Council  
Decision of Independent Hearings Panel  
Application for Land Use Consent LU 5331**

---

**Proposal Description:**

To undertake modifications of All Saints Church, including the demolition of the existing baptistery; additions and alterations including a new lobby and reception area, new entrances; an office space and a new roof.

**Applicant:**

The Wellington Diocesan Board of Trustees

**Site Details:**

338 Church Street, Palmerston North – legally described as Pt Section 838 TN of Palmerston North (held in Record of Title WN497/137).

**Zoning:**

Inner Business Zone

**Overlays & map notations:**

Category 1 building (Heritage Reference No.1); Identified Pedestrian Street (Table 20.6.1.5; Figure 20A.4)

**Activity Status:**

Discretionary

**Date of Hearing:**

Wednesday 20 January 2021 – Friday 22 January 2021 (closed 9 April 2021)

**Independent Hearings Panel:**

Commissioner Jane Black, Commissioner Heike Lutz, Commissioner David McMahon

**Summary of Decision:**

Having considered all relevant matters under s104 of the RMA, and based on the evidence and submissions presented at the hearing we find that:

- Aspects of the proposal would result in positive social, spiritual and cultural effects, and in particular strengthening of the building would result in positive effects on historic heritage and resilience to natural hazards; and
- the proposed demolition of the baptistery will result in significant and irreversible adverse effects on historic heritage, and the scale, position and design of the proposed additions will result in adverse effects on historic heritage and the quality of the streetscape in this part of the City Centre;
- evidence suggests that alternatives could be adopted that would achieve the applicant's express aims whilst having a lesser adverse environmental impact;
- the proposal is poorly-aligned with the relevant District Plan objectives and policies when a fair appraisal of the provisions is applied as a whole.

Accordingly, and for the reasons we expand upon below, consent is declined.

## 1.0 Introduction

### Purpose, requirements & outline of Notice of Decision

- 1.1 The purpose of this notice of decision is to outline our decision on the publicly notified resource consent application from the Wellington Diocesan Board of Trustees to carry out partial demolition, additions and alterations to All Saints Church in central Palmerston North.
- 1.2 Of particular relevance, the RMA<sup>1</sup> requires that decisions on notified applications state:
  - a. the reasons for the decision;
  - b. the relevant statutory provisions considered;
  - c. the relevant national, regional and district planning policy documents considered;
  - d. the principal issues in contention;
  - e. a summary of evidence heard; and
  - f. the main findings on principal issues in contention.
- 1.3 The RMA also enables us to cross-refer to or adopt parts of the AEE and the s42A Reports so as to avoid repeating material.<sup>2</sup> We have done so at several junctures below for the sake of brevity.
- 1.4 This notice of decision is organised as follows:

#### Section 1: Introduction

This section provides a factual basis for the decision, including a brief description of the site and existing environment, the proposal, submissions received and our role.

#### Section 2: Account of the pre-hearing/hearing proceedings

Section 2 provides a brief factual summary of the hearing proceedings, including the process directed by the Panel and embarked on by various parties in the pre-hearing sequence.

#### Section 3: Outline of statutory considerations and relevant planning policy

This part of the notice of decision sets out a short summary of the proposal's compliance against the relevant provisions of the Plan, and includes a factual description of the provisions of the RMA that frame our decision-making and of the relevant national, regional and district planning policy framework we have considered.

#### Section 4: Evaluation

Section 4 summarises our evaluation of the relevant statutory and planning policy considerations, including the key issues in contention, the evidence presented by the parties and our findings on the key issues.

#### Section 5: Decision

The final brief section of the notice of decision formally records our decision.

---

<sup>1</sup> s113(1), RMA

<sup>2</sup> s113(3), RMA

## Site and existing environment

- 1.5 The site is located in the heart of the Palmerston North Central Business District on the south-eastern side of Church Street.
- 1.6 The site and existing environment are comprehensively described in Section 2.2 of the AEE<sup>3</sup> and in the Heritage Impact Assessment attached as Appendix G to the AEE<sup>4</sup>. We adopt those descriptions and highlight the following salient aspects of the site and existing environment for contextual purposes:
- a. the flat site comprises 6,308m<sup>2</sup>, and is located within the Inner Business Zone;
  - b. the site contains a variety of buildings and structures, including the Victorian mixed Gothic-style redbrick All Saints Church and a Church Hall constructed in 2010 which is connected to the rear of the Church via a small linkway;
  - c. to the rear of the site is a carparking area and along the western portion of the site fronting to Church Street is a landscaped lawn/garden area and children's playground;
  - d. the site is relatively prominent, being visible from Church Street, and from 'The Square' to the northeast; and
  - e. in the site's immediate vicinity are a mixture of low-rise buildings used for a range of activities, some of which are also listed heritage buildings.
- 1.7 As has been done in the AEE and the s42A Reports, we describe the main elevation to Church Street as the Church's northern elevation, with the southern elevation oppositely orientated towards the Church Hall. The eastern elevation adjoins the vehicle accessway linking Church Street to the rear carpark, and the western elevation adjoins the Church garden.

## The Applicant's proposal

- 1.8 The proposal is also well described in the AEE<sup>5</sup>. We adopt that description, and summarise the key elements as including:
- a. partial demolition of a portion of the existing church building, including the removal of the existing baptistery facing Church Street;
  - b. addition of a new lobby and reception area with a curved canopy and glazed frontage to Church Street – the overall area of additions comprises 396m<sup>2</sup>, a portion of which occupies legal road;
  - c. seismic upgrade and repair to the existing building;
  - d. new accessible entrance into the church from Church Street;
  - e. construction of a new roof;
  - f. construction of new entrances to the 'West' Porch and 'South Aisle' of the building;
  - g. construction of a new covered walkway along the 'South Aisle' edge of the church, serving a new office space on the western boundary of the site; and
  - h. new landscaping to integrate the overall design to the streetscape and public realm, including works within legal road.

---

<sup>3</sup> AEE, p.1-2

<sup>4</sup> At pages 14-42

<sup>5</sup> AEE, p.4-5

- 1.9 We were told by several of the parties appearing at the hearing as to how the proposal evolved over time. In summary:
- a. options for the Church's future commenced after the Council advised in 2011 that the church was 3% of the relevant National Building Standard for seismic resilience;<sup>6</sup>
  - b. an initial concept was conceived of in 2012 and ultimately developed in 2015;<sup>7</sup>
  - c. the 2015 concept was 'toned down' into the version of the proposal described in the application, with factors contributing to those modifications including:
    - i. output of the options analysis led by the CBAB, which included a preferred engineering design solution from Structural Concepts in 2014 to strengthen the Church and a consultative exercise with the Church congregation;<sup>8</sup>
    - ii. adoption of the preferred strengthening option by the vestry in 2015;<sup>9</sup>
    - iii. approval of the proposed 'glass atrium' extension design by CBAB in 2016;<sup>10</sup>
    - iv. consultation with the Council and HNZ on the concept design in 2017;
    - v. advice from BSM Group commissioned by the Applicant in 2017, focussed on refinements to the 2015 concept to make it realistic, buildable and appropriate to the heritage context;<sup>11</sup> and
    - vi. further consultation with the congregation, Council and the public on the proposed design;<sup>12</sup>
- 1.10 Our understanding of the physical aspects of the proposal has been greatly assisted by the architectural and structural concept drawings, and streetscape design plans attached to the AEE<sup>13</sup>. The perspective at **Figure 1** below – an extract from the perspectives – usefully indicates the proposed final form of the development when viewed from across Church Street.



**FIGURE 1** – Church Street perspective of proposed development (*from AEE Appendix D*)

<sup>6</sup> Neall EIC, para 28

<sup>7</sup> Soong EIC, para 5-8

<sup>8</sup> Neall EIC, para 32-36

<sup>9</sup> Ibid, para 38

<sup>10</sup> Ibid, para 39

<sup>11</sup> Cogan EIC, para 15

<sup>12</sup> Neall EIC, para 42-43

<sup>13</sup> Refer AEE Appendix C and Appendix D

- 1.11 The Applicant also provided a computer-generated 3D model of the proposal, which we have referred to regularly to aid our understanding<sup>14</sup>.
- 1.12 The Applicant advised of one further refinement to the proposal during the hearing in response to the evidence from the Council's expert witnesses. That entailed the Applicant verbally withdrawing the proposed 'tree' canopies in the road reserve from the proposal.

### **Notification and submissions**

- 1.13 The proposal was publicly notified on 15 July 2020.
- 1.14 One-hundred submissions were received by the closing date of 12 August. An additional submission was received one day after the closing date, and the Council issued a waiver under s37 of the RMA to accept the late submission. Ninety-five of the submissions were in support of the proposal<sup>15</sup>, 3 were opposed and 3 were neutral or did not express a position.
- 1.15 A summary of the key issues raised in all submissions was attached to the Council's s42A Reports<sup>16</sup>, which we adopt.
- 1.16 In summary, some of the reasons expressed for support included that the:
- a. proposed changes to the entrance and lobby area will make the building more open and inviting to passers-by;
  - b. proposed changes will enhance the church and make it available for use by other community groups;
  - c. baptistery is not used for its intended purpose in its current location and the relocation to a more central point in the church is supported
  - d. proposed additions will strengthen, preserve and enhance heritage values of the existing building;
  - e. proposal will give the building a new lease of life and enable it to be enjoyed and appreciated by future generations; and
  - f. proposal will enable the church building to be safely used again, replacing existing inadequate facilities that the congregation is using.
- 1.17 Reasons for opposing the proposal included:
- a. demolition of the baptistery will have significant adverse effects on heritage values of the Church – mitigated in part by reuse of the baptistery windows;
  - b. while strengthening work is essential, the proposal could be designed to have lesser impact on the heritage values;
  - c. the modern addition to the historic building will not be attractive;
  - d. external alterations to public space are incompatible with the existing streetscape/landscaping, and will disrupt pedestrian flow.

---

<sup>14</sup> During the hearing process, the model was presented by Mr Soong and available at [https://youtu.be/7NI\\_RnxiPW0](https://youtu.be/7NI_RnxiPW0)

<sup>15</sup> As recorded in Mr O'Leary's s42A report, the supportive submissions include those that did not express a position as to overall outcome, but included supportive comments about the proposal

<sup>16</sup> s42A Report of Ryan O'Leary, Appendix 3

**Role of Hearings Panel**

- 1.18 We were appointed by the Council by delegation in September 2020.
- 1.19 Several matters were provided for under the delegation, but of most relevance to our role is to consider, hear and determine the application in accordance with the RMA, including the power to require further information be provided.
- 1.20 We record that it was not our role to introduce evidence about the proposal, but to hear the submissions and evidence of others and to make a decision on the basis of that information.

## 2.0 Hearing sequence

### Pre-hearing Procedural Matters

- 2.1 Following our formal engagement, we issued a **Minute 1**<sup>17</sup> to the parties to set out some preliminary matters in preparation for the hearing. More specifically, the minute:
- a. signalled the hearing date;
  - b. set out directions for parties to indicate whether they would be calling expert evidence, and whether those experts would be available for conferencing;
  - c. outlined a process and indicative timetable for expert conferencing;
  - d. described the sequence for evidence exchange;
  - e. set out our expectations for hearing presentations; and
  - f. invited parties to suggest any particular sites or localities that we should visit to inform our understanding of the proposal and the local environment.
- 2.2 After receiving responses to Minute 1, we issued a second minute to address the substance of memoranda exchanged between counsel for the applicant and the Council. We took the opportunity in **Minute 2**<sup>18</sup> to reinforce the purpose of expert conferencing and to clarify that the main benefit for us would be for conferencing to be conducted on a peer-to-peer basis. This acknowledged that some witnesses will have expertise that may inform part of our consideration of a particular effect category or aspect of the proposal, but their participation in conferencing may not provide the greatest utility for us with experts having a different focus.
- 2.3 Based on our understanding of the matters the identified witnesses would be addressing, we identified the heritage, urban design and planning experts we believed would be able to conduct peer-to-peer conferencing and we appended a series of questions to the Minute for those parties to address. We added that all other witnesses would be able to assist us through their respective briefs of evidence and their hearing presentations.
- 2.4 We also addressed a point of contention between the applicant and Council as to the participation of Mr Ian Bowman in the proceedings. Mr Bowman is a highly experienced historian, architect and architectural conservator. He was responsible for producing the Conservation Plan for the Church in 2018, which was attached as Appendix B to the AEE. While the Applicant chose not to call Mr Bowman as a witness, the Council signalled in its response to Minute 1 that it would do so.
- 2.5 The concern expressed by the Applicant about Mr Bowman's participation principally related to the notion that he may have ongoing duties to the Applicant which may preclude his ability to provide a peer review role for the Council. We clarified in Minute 2 that it was not for us to make a determination on that matter, provided that Mr Bowman's participation (should he be called by any party) would be in accordance with the code of conduct for expert witnesses in the Environment Court's Practice Note 2014<sup>19</sup>. We left any further debate on the matter to be dealt with between counsel.
- 2.6 Joint witness conferencing was subsequently conducted on heritage and urban design matters, with joint witness statements being produced for both sessions. There was no expert planning conferencing as the Applicant's planner did not make himself available.

---

<sup>17</sup> Minute 1 dated 11 November 2020

<sup>18</sup> Minute 2 dated 24 November 2020

<sup>19</sup> See <https://www.environmentcourt.govt.nz/assets/Documents/Publications/2014-ENVC-practice-notes.pdf>

- 2.7 Our final pre-hearing correspondence to the parties was issued via **Minute 3** on 14 December 2020. This Minute set out our expectations for presentations by submitters and expert witnesses at the hearing.

### **s42A reports**

- 2.8 The Council's s42A reports were circulated on Friday 4 December 2020, and comprised:
- a. a planning report authored by Council's Consultant Planner, Mr Ryan O'Leary;
  - b. an urban design assessment authored by Council's Consultant Urban Designer, Dr Morton Gjerde;
  - c. a heritage assessment authored by Council's Consultant Conservation Architect and Heritage advisor, Ms Chessa Stevens; and
  - d. a report authored by Mr Bowman, outlining his previous involvement with the Church and the Conservation Plan, and including a review of both the Heritage Assessment attached at Appendix G to the AEE and of Ms Stevens' s42A report.
- 2.9 Attached to Mr O'Leary's report were several appendices which contained:
- a. recommended draft conditions should we be minded to grant consent;
  - b. provisions of the operative Plan Mr O'Leary deemed to be relevant for our consideration;
  - c. the summary index of submissions received that we referred to previously; and
  - d. comments from Council's Roading Manager about the portions of the development proposed to be within Council Road Reserve in Church Street.
- 2.10 As discussed in further detail in section 4 below, Dr Gjerde did not support the proposal on urban design grounds, and both Ms Stevens and Mr Bowman found that the proposal could not be supported due to the nature and scale of effects on historic heritage value.
- 2.11 Having drawn on the information and views expressed by the Council's other s42A Report authors and carried out his own assessment of the application, Mr O'Leary concluded that the proposal would result in adverse heritage and urban design related effects that are significant and unable to be mitigated. He also found the proposal to be contrary to many objectives and policies in the Plan and inconsistent with Part 2 of the RMA. For those reasons, he recommended that consent be declined.

### **Applicant's evidence**

- 2.12 The week after the s42A Report was provided, the applicant circulated its expert evidence.
- 2.13 This included statements from:
- a. Mr David Chapple, a member of the All Saints CBAB;
  - b. The Reverend Suzanne Fordyce, member of the Council of the Diocese of Wellington, Deputy Chancellor of the Diocese, Archdeacon with governance responsibilities and oversight responsibilities of parishes in the North of the Diocese, including All Saints Church;

- c. Reverend Nigel Dixon, Vicar of All Saints, Archdeacon for Parish Health and Church Planting, and Director of City to City NZ;
  - d. Mr Vincent Neall, Chairperson of the CBAB and Emeritus Professor in Earth Sciences at Massey University;
  - e. Mr Gerald Cogan, a New Zealand Registered Architect;
  - f. Mr Garry Dowse, an independent Registered Valuer;
  - g. Mr Garry Newton, a Chartered Professional Engineer, specialising in structural engineering;
  - h. Sir David Moxon, Archbishop Emeritus;
  - i. Mr John Brown, an independent Historic Heritage Consultant;
  - j. Mr Matt Soong, a property & construction consultant; and
  - k. Mr David Forrest, an independent Planning Consultant.
- 2.14 The Applicant's evidence outlined the extensive investigations carried out in support of the application, responded to matters raised in the s42A Reports and submissions, and provided useful context about the Diocese, the Church, its values and its congregation (among other matters).
- 2.15 We discuss the substance of the Applicant's evidence in greater detail in section 4 below.

### **Submitter expert evidence**

- 2.16 HNZ was the only submitter to circulate expert evidence. Dr James Jacobs, who is the Director Central Region for HNZ, addressed heritage values and significance in general before commenting on the various aspects of the proposal in his evidence.
- 2.17 The substance of Dr Jacobs' evidence and of the presentations made by all submitters is discussed further in section 4 below.

### **Hearing Proceedings**

- 2.18 The hearing convened at 9:00am on Wednesday 20 January 2021 in the Palmerston North City Council Chambers.
- 2.19 After we set out some procedural matters, the applicant opened its case. At that time, Mr Maassen sought leave to table rebuttal evidence from Mr Forrest, Mr Neall, and Mr Brown. As we made no provision for rebuttal evidence in the formal evidence exchange, we did not receive that rebuttal evidence at the time; however, we signalled to Mr Maassen that the rebuttal evidence could be attached to the Applicant's reply.
- 2.20 Mr Maassen responded by advising that the information would be attached to the reply, and as we subsequently recorded in **Minute 8**<sup>20</sup>, we received the rebuttal evidence along with additional evidence in reply from Mr Forrest and Mr Neall attached to Mr Maassen's closing legal submissions.
- 2.21 After receiving Mr Maassen's opening submissions, we then heard presentations from each of the Applicant's witnesses.

---

<sup>20</sup> Minute 8 dated 9 April 2021

- 2.22 The Applicant's case was followed by submissions in support and in opposition, including HNZ in the latter respect. We discuss the substance of those presentations in section 4 below.
- 2.23 The Council's case was led by Mr Jessen. During Mr Jessen's opening submissions, Mr Maassen expressed disquiet with the substance of Mr Jessen's submissions. He made an application to the Panel seeking an adjournment to consider his proposition that Mr Jessen's legal submissions (in part) amounted to advocacy for the s42A Report authors' positions. Mr Maassen submitted that only the Applicant and submitters have the privilege of having a legal representative to make submissions and advocate on their behalf.
- 2.24 Mr Jessen disagreed with the notion that his own submissions amounted to advocacy.
- 2.25 To assist the Panel with resolving the disagreement, Mr Maassen suggested that the hearing be adjourned to allow independent legal advice to be sought by the Panel. At that point we took a 30 minute recess in the hearing to consider the matter and on recommencing the hearing we indicated that we would, in a Minute, ask both Counsel to set out their respective positions on the specific questions we should receive legal advice on subsequently in writing.
- 2.26 With the proviso that the resolution to this procedural matter might affect the weighting we would ultimately apply to Mr Jessen's submissions, we proceeded with the hearing on the basis that we should hear Mr Jessen's submissions as scheduled and to ask questions on the substance of those submissions.
- 2.27 We then received presentations from the Council's expert witnesses.
- 2.28 The hearing was then adjourned, pending the circulation of additional material requested by us, the resolution of the independent legal review and the receipt of the Applicant's reply in writing.

### Hearing adjournment

- 2.29 On 26 January, we issued **Minute 4**, which formally recorded verbal directions we made at the hearing and set out a process for resolving the procedural matter on Mr Jessen's submissions.
- 2.30 In the latter respect, we:
- a. asked Mr Maassen and Mr Jessen to set out their respective positions on the specific questions that we should ask of the independent legal reviewer;
  - b. advised that we would liaise with the Counsel's in-house legal team to appoint a suitable independent legal advisor; and
  - c. explained that the legal advice would ultimately be provided to all parties and that an opportunity would be afforded to Mr Jessen and Mr Maassen to respond to the independent advice.
- 2.31 Following the receipt of Mr Maassen and Mr Jessen's response to our request for their views on the questions that should form the basis of the independent legal review, we issued **Minute 5** on 10 February.
- 2.32 The minute briefly summarised Mr Maassen and Mr Jessen's respective positions before setting out the key question we ultimately settled on to form the basis of the independent review, being: *Were the submissions given by legal counsel for the Reporting Officers appropriate, in the light of the process established by the Commissioners?*

- 2.33 Rather than repeat the detail set out in Minute 5, we invite readers to make reference to Minute 5 for further detail on this matter. As with all of the Minutes we issued, Minute 5 is available on the Council file.
- 2.34 On 5 March, we issued **Minute 6**, having received the independent legal advice and corresponding responses from Mr Jessen and Mr Maassen on the advice.
- 2.35 All material was made available to all parties at that time, and we set out a timetable for the Applicant to provide its written reply. We return to the substance of the legal review shortly.
- 2.36 We issued **Minute 7** on 26 March, which signalled our receipt of the Applicant's written reply and our proposed process for completing our deliberations and closing the hearing.

### **Hearing Closure**

- 2.37 Having received all of the further information sought through the post-hearing dialogue, we were satisfied that we had sufficient information to complete our deliberations and deliver a decision on the application. We accordingly closed the hearing on 9 April 2021, via **Minute 8**.

### 3.0 Statutory & planning policy considerations

#### District Plan compliance

3.1 The application and s42A Report identified the full extent of consent requirements under the Plan. Both documents concluded that the proposal falls as a **discretionary activity** when all consent requirements are bundled together, which include requirements under:

- a. **Rule 17.8.1** – for total or partial demolition of the exterior of any scheduled building or the destruction of any scheduled object;
- b. **Rule R17.2.2** – for external alterations and additions to a Category 1 Scheduled Building;
- c. **Rule R11.6.2.1** – for alterations and additions to an existing building which fails to comply with the relevant performance standards under Rule 20.4.2(b)(iii)(a);
- d. **Rule R11.6.2.2** – for the construction, external alterations and additions that do not comply with the following performance standards for permitted activities (in R11.6.1.2):
  - i. **Minimum building height** – the minimum height of the entrance canopy is 3.0 metres (8 metres is required);
  - ii. **Ground floor height** – the Church will remain single storey and will not extend along the full width of the Church Street frontage;
  - iii. **Maximum frontage width** – the ground floor tenancy (the Church) will have a maximum width of more than 10 metres; and
- e. **Rule 20.5.1** – for failure to meet the permitted activity rule for the Inner Business Zone (20.4.2(b)(iii)(a)) in relation to parking adjacent to a pedestrian street: the proposal will retain 83 carparks, whereas the Plan permits a maximum parking allowance of 23 spaces given the floor area proposed.

3.2 Notwithstanding that shared conclusion, Mr Maassen held a different interpretation about the status of the proposal and the appropriate activity classification under the Plan.

3.3 Given this matter was unresolved at the hearing, we are compelled to take some time here to step through the differing views and present our own finding on the proposal's compliance with relevant Plan provisions.

3.4 At the heart of the disagreement on this matter, Mr Maassen submitted that the proposal involves additions and alterations to a Category 1 building, but does not entail demolition, including partial demolition. The upshot of that interpretation would be that the consent requirement under Rule 17.8.1 summarised above would not be applicable.

3.5 In support of that interpretation, Mr Maassen submitted:

[7] *The Council contended that the Proposal is partial demolition and hence it is fully discretionary.*

[8] *The Council accepted that partial demolition could be a [sic] alterations and additions and the correct categorisation is a question of degree. That is not saying anything more than what is self-evident. After all, the definition of 'alter' in the dictionary is to change character or composition of something often in a comparatively small but significant way. In the context of building the definition includes structural changes. Also, the definition of demolition in the Plan expressly contemplates that alterations and additions can involve partial destruction or demolition by saying, "excludes the partial destruction of a scheduled building which is associated with an approved external*

*alteration and addition.” That Plan approach is consistent with the Plan’s promotion of adaptive use of heritage buildings to secure there [sic] continued use and maintenance.*

[9] *In addition to considering the text and definitions, the Church approaches the issue of categorisation in two ways.*

[10] *First, as a matter of practical judgement, the Church contends that the Proposal is alterations and additions in the ordinary sense in which that term is used in the building industry. It fits better than the category partial demolition as a description of the Proposal. Dr Gjerde’s proposed southwestern annex would involve the destruction of part of the southwest wall and would also be an addition or alteration as contemplated by the District Plan. There is no principled basis for saying that the outcome should be different simply because the Church’s proposal operates on the frontage as Mr Jessen seemed to imply.*

[11] *The second approach is to consider relevant factors affecting the scale of change by the alterations. The factors the Church proposes as relevant are:*

- (a) *Is the building’s footprint after destruction diminished by the alterations?*
- (b) *Do the building’s existing primary structural features and roof extent remain more or less the same by the alterations?*
- (c) *What is the relative scale of the change across the entire building?*

[12] *The Proposal’s alterations preserve the building’s original footprint, its basic structural features and are comparatively small in scale considering the total building size.*

[13] *Furthermore, as an important and additional dimension of the second approach the Church contends that the alterations and additions area package to advance the functionality of the building to pursue the original use. It is therefore a composite of additions and alterations for the same use and not simply partial demolition.<sup>21</sup>*

3.6 In Mr Jessen’s interpretation, the exception in the definition of ‘demolition’ referred to by Mr Maassen must only exclude exceedingly minor destructions from consideration as ‘demolition’ of some kind. One example he cited of such minor works was a scenario whereby several bricks are required to be removed in order to erect the proposed canopy for this proposal. He added that if one were undertaking external alterations for the purpose of improving the structural integrity of the building and similar destructions needed to take place to secure those works, this would also likely be captured in the exclusion.<sup>22</sup>

3.7 Mr Jessen added:

- 6. *In both examples the exclusion makes sense, as the Policies designed to manage demolition, specifically policies 1.3 and 1.4, would otherwise be drawn into, and unnecessarily complicate, the consideration of an application where the demolition is largely ancillary (or in the case of proposals falling directly under Policy 1.7, is designed to preserve heritage values).*
- 7. *The exception cannot be intended to capture this application, where the partial demolition is the centrepiece of, and logically antecedent to, the rest of the proposed external works. Avoidance of this outcome is the intent behind the inclusion of the condition that the external alterations and additions are ‘approved’. If this interpretation were not correct, then even the most drastic example of ‘partial demolition’ – total demolition sparing only the front façade, or worse – would be captured by this exclusion, as inevitably an ‘addition’ of a new, more structurally sound building behind it would be part of the proposal to trigger the exclusion. An applicant could bulldoze almost their entire building and could claim that what they were doing was not ‘demolition’, so Policies governing ‘demolition’ would not apply.<sup>23</sup>*

<sup>21</sup> Legal submissions and statements in reply for the applicant (22 March 2021). Para 7-13

<sup>22</sup> Appendix to legal submissions for Reporting Officers (undated). Para 5

<sup>23</sup> Ibid. Para 6-7

- 3.8 Mr Jessen concluded by inviting us not to get tied in knots on this issue. He submitted that, when considered in light of their purpose, the proper interpretation of the word ‘demolition’ and its pair, ‘partial demolition,’ should not be read as excluding proposals that have as their centrepiece major destructive works on the external fabric of scheduled heritage buildings.<sup>24</sup>
- 3.9 Ms Stevens also assisted us with this matter with her discussion of the concept of ‘reversibility’. She expressed the view that it is much more difficult to reverse the removal of building fabric than it is to reverse the addition of fabric. This, in Ms Stevens’ view, is one of the essential differences between the reversibility of the addition – albeit that it will involve the removal of some original fabric for detailing – and the baptistery wall. She added that the degree to which the demolition of the baptistery wall (and of other fabric required in the proposal) can be reversed is highly dependent on multiple factors including (but not limited to): taking an accurate record of the fabric prior to and during deconstruction; and the long-term storage of both materials and that record as well as the original drawings.<sup>25</sup>
- 3.10 We record also that Mr O’Leary<sup>26</sup> and Mr Forrest<sup>27</sup> shared the view that the proposal included demolition of the baptistery and that this aspect of the proposal would have adverse effects on historic heritage. We discuss the substance of those effects shortly.
- 3.11 Having considered the respective views expressed on this matter, we are aligned with the conclusions in the application, Mr O’Leary’s s42A Report and Mr Jessen’s submissions that the proposal includes both additions and alterations *and* demolition.
- 3.12 There appeared to be no dispute from any party that the exception under the definition of ‘demolition’ requires some exercise of judgement as to when the removal of building fabric associated with an addition or alterations ceases to be of a nature or scale that can be justified under the demolition exception. We find both interpretations presented are reasonably founded, but ultimately align our thinking more with Mr Jessen than Mr Maassen for the reasons expressed by Mr Jessen.
- 3.13 We are grateful for Mr Maassen’s efforts to assist us with some objective criteria that might shape our consideration of where this proposal falls on the demolition-addition continuum; however, the three criteria he identified are neither exhaustive nor determinative in our assessment. Nevertheless, we have considered them, and note the following in response:
- a. whereas Mr Maassen submitted that the **footprint of the building would not be changed** by the demolition of the baptistery, we find that to be factually inaccurate – the building footprint on the front façade will clearly be amended by the proposal as evidenced by the site plans attached to the application;
  - b. much of the buildings **‘structural features’ and the ‘roof form’ will be unaffected** by the proposal, but not the entirety of the structure; and
  - c. while the Applicant<sup>28</sup> quantified **the relative amount of the building’s exterior to be removed** at approximately 10% of the front elevation and 2.6% of the entire building, this is not an insignificant amount in the context of the building. Moreover, and as Ms Stevens and Dr Jacobs reminded us, it is the quality of the heritage fabric to be removed rather than the quantum that is the central consideration.

---

<sup>24</sup> Appendix to legal submissions for Reporting Officers (undated). Para 19

<sup>25</sup> Stevens addendum (22 January 21). Para 46.

<sup>26</sup> O’Leary s42A Report. Para 4-7.

<sup>27</sup> Forrest EIC. Para 32.

<sup>28</sup> Per Neall EIC. Para 11(e).

- 3.14 In any event, there is no addition or alteration proposal that has been 'approved' for the Church prior to this application such that the demolition of the baptistery meets the exemption under the definition. While it is arguable that we are in a position to approve the additions and alterations in this case, such that the exception may be applicable, we are mindful of Mr Jessen's warning that such a position could perversely be applied to justify any demolition associated with additions or alterations – no matter the nature or scale. Such a scenario also raises questions of validity for us that have not been satisfactorily overcome by Mr Maassen.
- 3.15 Accordingly, we conclude the proposal falls as a discretionary activity under Rule 17.8.1. When all other consent requirements are bundled together, the overall status of the proposal is as a discretionary activity.

### **Resource Management Act 1991**

- 3.16 Section 104 of the RMA sets out the matters we must have regard to in considering the application. Section 104B is also relevant given the classification of the activity as a discretionary activity. For completeness, the components of these statutory provisions which are relevant for this decision are as follows:

#### **104 Consideration of applications**

(1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to–*

(a) *any actual and potential effects on the environment of allowing the activity; and*

(ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*

(b) *any relevant provisions of—*

(i) *a national environmental standard:*

(ii) *other regulations:*

(iii) *a national policy statement:*

(iv) *a New Zealand coastal policy statement:*

(v) *a regional policy statement or proposed regional policy statement:*

(vi) *a plan or proposed plan; and*

(c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

(2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*

(5) *A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.*

#### **104B Determination of applications for discretionary or non-complying activities**

*After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—*

(a) *may grant or refuse the application; and*

(b) *if it grants the application, may impose conditions under section 108.*

## Policy Statements and Plans

- 3.17 In considering the relevance of the various matters under RMA s104(1)(b), we record our understanding that the Plan has been the subject of a rolling review to address legacy issues with the first-generation Plan and to implement higher order statutory direction that has been established over the intervening period. Adopting the view of Mr O'Leary<sup>29</sup>, we record that
- a. no National Policy Statement nor the New Zealand Coastal Policy Statement need be specifically considered for this proposal; and
  - b. while we have considered the relevant provisions of the RPS, no specific assessment of the proposal against those provisions is necessary given that the relevant RPS provisions have been implemented by the Plan<sup>30</sup>.
- 3.18 We note there is no evidence before us to otherwise reach any alternative interpretation. Furthermore, there is no evidence before us to suggest that any national environmental standards or other regulations are relevant.
- 3.19 The balance of the matters under s104 – in particular the actual and potential effects on the environment, the proposal's fit with the relevant provisions of the Plan, other matters under s104(1)(c) and Part 2 of the RMA – are considered in detail under section 4 which we now turn to.

---

<sup>29</sup> s42A Report, O'Leary. Para 4.93 – 4.98

<sup>30</sup> We assess the relevant provisions of the Plan that implement the RPS in detail below

## 4.0 Evaluation

### Overview and summary

- 4.1 For this section of the notice of decision, we address the relevant matters as outlined above.
- 4.2 In explaining how we have arrived at our view on these matters, we have intentionally focussed our assessment on the key issues in contention – rather than provide a comprehensive account of all views expressed to us on all matters.
- 4.3 Our discussion is organised to address the following in turn:
  - a. preliminary matters in contention;
  - b. assessment of environmental effects;
  - c. assessment of relevant objectives and policies;
  - d. other matters under s104(1)(c) RMA; and
  - e. Part 2, RMA.
- 4.4 To summarise the discussion of these matters that follows, the proposal:
  - a. would result in demonstrable benefits for people’s social, cultural, and spiritual well-being;
  - b. would, through the strengthening of the building, enhance the resilience of a Category 1 Heritage Building to the significant risks of natural hazards, resulting in benefits for heritage values and in terms of people’s health and safety;
  - c. would, through demolition of the baptistery, result in the loss of built heritage fabric, with associated adverse effects on historic heritage being significant and irreversible;
  - d. entails additions and alterations that would result in adverse effects on historic heritage and the quality of the local environment that are an overall negative and unacceptable;
  - e. has not been subject to a thorough analysis of the alternative options available – including social, cultural, economic and environmental costs and benefits – sufficient to justify the proposal; and
  - f. is poorly aligned with the relevant objectives and policies in the Plan when read as a whole.
- 4.5 Before setting out our detailed discussion of the above, however, we turn briefly to three preliminary matters, being:
  - a. the procedural issue summarised previously which led to the independent legal review of Mr Jessen’s submissions; and
  - b. the relevance of Constitutional matters to our consideration of the proposal.
  - c. the impartiality of ICOMOS witnesses
- 4.6 These three issues are largely matters that Mr Maassen raised with us in his opening submissions. Whilst they have not been decisively determinative in our deliberations and evaluations, we considered it was important that we presented some transparent findings on those matters before embarking on our substantive evaluation.

## Preliminary matters

### Procedural issue: appropriateness of Mr Jessen's submissions

- 4.7 As foreshadowed above, this first preliminary matter addresses Mr Maassen's contentions that Mr Jessen's opening legal submissions amount to advocacy for the s42A Report authors' position, and that only the Applicant and submitters have the privilege of having a legal representative make legal submissions and advocate on their behalf.
- 4.8 Again, the question we sought independent advice on was whether the submissions given by Mr Jessen appropriate, in light of the hearing process established by us.
- 4.9 Mr James Winchester of Simpson Grierson was commissioned to assist us with an answer to that question. In summary, Mr Winchester's advice concluded that:

*Whether the Submissions are "appropriate" should be judged primarily against applicable legal requirements set by statute and case law, but can also be assessed by reference to the Environment Court's code of conduct for expert witnesses (Code) and other good practice guidance.*

*Provided the Panel complies with the requirements of natural justice and procedural fairness, the Submissions do not breach any legal standards or requirements. There is no legal barrier to the Council seeking legal assistance as part of its s 42A reporting function, and nor is there any statutory or common law barrier preventing the Panel receiving and considering such Submissions. Even if the content of Submissions was considered to be "inappropriate", case law is clear that this would not invalidate the Panel's decision-making process or negate its ability to make a valid decision on the application.*

*Because there is no legal barrier preventing the Submissions being given or received, in our view an assessment of appropriateness involves matters of weight or reliability rather than a threshold legal issue as to "admissibility".*

*In that respect, while they are advocacy rather than evidence and therefore not strictly subject to the Code, the Submissions appear to be consistent with the Code's intentions and do not otherwise raise any material issues in terms of other good practice guidance.*

*Based on our review of the Submissions, they appear to address relevant legal issues and were stated to be provided to assist the Panel on the determination of those key issues. It is now a matter for the Panel to decide how much weight it should give to the Submissions after having considered all of the material before it. Indeed, the Submissions openly acknowledge that this is the Panel's role.*

*In order to satisfy fairness or natural justice considerations, the Panel should make provision for the Applicant and other participants in the hearing to comment on and/or reply to the Submissions.<sup>31</sup>*

- 4.10 We afforded the opportunity to Mr Jessen and Mr Maassen to respond to Mr Winchester's advice. Mr Jessen expressed no comment on the matter, but Mr Maassen provided several points in response, including:
- a. the Church and submitters in support have not received a fair hearing (in actuality or perceptually);
  - b. neither the reporting officers nor the Council may engage a lawyer to advocate against the application at the hearing;
  - c. the Church agrees with Mr Winchester's conclusions that Mr Jessen's submissions are advocacy, and underscores Mr Winchester's description of Mr Jessen's approach as 'not common'; and

---

<sup>31</sup> Legal advice from Simpson Grierson: *Appropriateness of submissions given by legal counsel for the section 42A Reporting Officers* (22 February 2021). Page 1-2

- d. the Council has no right to fairness to be able to advocate against applications before it as it has a higher function as a regulator to host those who have an interest.<sup>32</sup>
- 4.11 In addressing this matter in contention, we firstly note our adoption of the position shared by Mr Maassen and Mr Winchester that Mr Jessen's submissions include advocacy for the s42A Report Author's position.
- 4.12 That said, the submissions also refer us to case law and statute of relevance to our decision-making role, and we believe that Mr Jessen has genuinely endeavoured to assist us in these respects. Whether it is appropriate or not for Mr Jessen to advocate the report authors' position, his submissions are not entirely dedicated to that purpose.
- 4.13 Related to this, we note that in some instances, Mr Jessen specifically responded to questions from us on a range of matters – including, for example, the relevance of Part 2, RMA.
- 4.14 We ultimately adopt Mr Winchester's conclusions that there is no legal barrier to our receiving Mr Jessen's submissions for the reasons expressed by Mr Winchester.
- 4.15 We note also that the degree to which we align with Mr Jessen's submissions is a matter for us to determine on an issue-by-issue basis. That is to say that in deciding to receive Mr Jessen's submissions, we are not signalling our wholesale agreement with their substance. Where we have relied upon Mr Jessen's advice on any matter, we have clearly stated that in this notice of decision.
- 4.16 We also find that no party is prejudiced by this, nor do any matters of unfairness arise. Mr Jessen's submissions have not in any way limited any other party from having their say on matters relevant to the proposal. To the contrary, we have set down an extremely participatory process for parties to have their say on this procedural matter over and above their ability to speak to other matters of substance, context or law relevant to the proposal. This has been transparently expressed to all parties through our various minutes and through the access each party has been given to relevant information via the Council website.

#### Procedural issue: Relevance of Constitutional matters

- 4.17 Mr Maassen took some time in his opening submissions to address us on the intersection between this proposal and Constitutional matters, including the relevance of the New Zealand Bill of Rights Act 1990. At the heart of this matter, Mr Maassen submitted:

*[177]It is submitted that protecting heritage generally from inappropriate development under RMA, s6(f), Parliament did not intend local authorities to exercise unreasonable control on the alteration of ecclesial spaces. Equally, Objective 1 of the District Plan that requires appropriate protection and conservation must be read consistent with the critical constitutional value of religious expression and freedom from unreasonable controls.*

*[178]It is submitted the District Plan framework is not of itself at odds with BORA (but discretions exercised under it may be illegal) because:*

- (a) The District Plan does not of itself prevent alteration but establishes a process for the evaluation of changes that can be applied reasonably;*
- (b) In the evaluation process the reasonableness limits in ss 4, 6 and 15 of BORA can operate and be applied;*

---

<sup>32</sup> Memorandum of Counsel for the Applicant on report concerning Mr Jessen's submissions (3 March 2021). Para 1-7

(c) *The District Plan recognises the spiritual and cultural values of the existing building, and its importance to the faith community and the sustaining of these values can be given reasonable expression as an aspect of recognising the inalienable freedom of religious expression;*

(d) *The District Plan, in its explanation to Rule 17.2.2 expressly says that churches need not justify as necessary any alterations and additions and it expressly limits control on liturgical observance using the discretion the rule creates.*

[179] *Therefore, if the relevant constitutional values are kept firmly in view any discretions are appropriately applied following the District Plan. These can be both legal and reasonable.*

[180] *In this case, it is submitted that the proposed alterations cannot be refused because:*

(a) *That would be unreasonable given the District Plan's framework;*

(b) *A refusal cannot be reasonable or demonstrably justified as an appropriate limit on the freedom of religious expression by the Church in this case.*<sup>33</sup>

4.18 Mr Jessen submitted that a hearing panel convened under the RMA is not the correct forum to discuss human rights and constitutional issues. He added that the Applicant had failed to describe how a decision to decline this proposal would in any way encroach upon the Applicant's right to religious freedom.<sup>34</sup>

4.19 Like Mr Maassen, Mr Jessen highlighted the 'liturgical exemption' under the explanation to Rule 17.7.2 in the Plan. He submitted that the exemption is there because the rule is concerned only with the management of external design, appearance, and heritage effects, being considerations relevant to sustainable management – not because any tangential connection to liturgical practice should exempt an applicant from provisions in the Plan.<sup>35</sup>

4.20 Mr Jessen submitted further that the legal principles relevant to this proposal are so far from constitutional and human rights law that the two fields could be described as 'non-overlapping magisterial' and are utterly different realms of purpose.<sup>36</sup>

4.21 Mr Jessen concluded his submissions on this matter as follows:

126. *This is not to say that these fields of law are always irrelevant to resource management law. Certain rights are explicitly recognised and provided for in the RMA– for example, the rights of Māori regarding their relationship with ancestral lands, waters, sites and other taonga, along with their other culture and traditions, are matters of national importance. New Zealand's fundamental constitutional document, the Treaty of Waitangi, must be taken in to account by all persons exercising functions and powers under the RMA. In contrast, NZBORA, as an expression of rights at large, is not expressly incorporated in to the RMA.*

127. *Even so, there may be provisions in the RMA susceptible to reinterpretation in accordance with the 'principle of legality' set out by Elias CJ in Ngati Apa Ki Te Waipounamu Trust v R, but if there are, the Applicant provides no examples of them in their submissions. Nor does the applicant address the 'elephant in the room' relating to all NZBORA arguments – s4 of that Act provides that other enactments are not overridden by virtue of being inconsistent with the rights in the NZBORA (not that any such inconsistencies have been identified here). Despite the applicant's assertion at paragraph 175 that the NZBORA is "higher law" in New Zealand, the NZBORA expressly yields to other unambiguously worded enactments.*

128. *At paragraph 177 the Applicant submits that Parliament's intention in protecting heritage from inappropriate development under the RMA was not to impose*

<sup>33</sup> Legal submissions for the Anglican Diocese of Wellington (undated). Para 177-180

<sup>34</sup> Legal submissions for Reporting Officers, including corrections and additional submissions given orally (21 January 2021). Para 123

<sup>35</sup> Ibid. Para 123

<sup>36</sup> Ibid. Para 125

*unreasonable control on the alteration of ecclesial spaces. While this is correct, insofar as Parliament did not intend local authorities to impose unreasonable controls on any spaces, declining resource consent in this case would not be unreasonable.*

129. *It appears that, in the Applicant's view, any exercise of a local authority's responsibilities under the RMA in relation to ecclesial spaces would be unreasonable. However, as stated in Poutama Kaitiaki Charitable Trust v Taranaki Regional Council, "the right to enjoy one's land is necessarily subject to lawful processes which govern and limit those rights". The provisions of the Resource Management Act and the Palmerston North District Plan impose lawful, reasonable restrictions on use and development of heritage buildings, and the applicant should not seek to escape them with spurious objections. Religious freedom rights, even if they were relevant, do not give religious institutions permission to be treated as a special case in regard to planning law. Again, quoting Poutama Kaitiaki – "No NZBORA implications arise here".<sup>37</sup>*

- 4.22 We are ultimately more aligned with Mr Jessen on this matter, and we find no need to reconcile the proposal with the New Zealand Bill of Rights Act or any other Constitutional statute.
- 4.23 To the extent that any rights under other statute are relevant to the proposal – and particularly rights of religious freedom and related cultural and spiritual values – we consider there is adequate scope under the RMA and the discretionary activity status of this proposal to take account of those matters.
- 4.24 That does not extend, however, to an overriding exemption of the Applicant from compliance with the Plan on ecclesiastical grounds alone, or an automatic 'rubber stamping' of such consent requirements where non-compliance occurs.
- 4.25 Examining an additional practical example of Mr Jessen's submissions on this point, we would expect the Applicant to require a resource consent should its ecclesiastical activities contravene the Plan's noise standards, and for such an application to be assessed on its merits as to the effect it has on the environment. The benefits of such activities to the Applicant's social, cultural, economic and spiritual well-being may ultimately inform a decision on the appropriateness of such a proposal, but so too would any adverse effects. The proposal before us is no different in our view.

#### Procedural issue: Impartiality of ICOMOS witnesses

- 4.26 In his submissions<sup>38</sup>, Mr Maassen expressed concern that a membership with ICOMOS of an expert witness, or a decision maker, results in a bias that would, in his view, be disqualifying for a commissioner of the Environment Court, and he suggested that the Panel Chair should consider this matter.
- 4.27 As independent commissioners our duty is clearly set out in the RMA as described earlier in this Notice of Decision under the heading "Role of Hearings Panel". As noted, our decision is based on the evidence received, and decided as a Panel in an impartial and unbiased manner. As we have stressed earlier in this document, the commissioners' role is not to introduce evidence.
- 4.28 Ms Stevens responded to the alleged bias of ICOMOS members raised by Mr Maassen in her Addendum to Section 42A Report<sup>39</sup>. She noted that an ICOMOS member has to adhere to the ICOMOS Code of Ethics, and referred in particular to its Section 3(b)

<sup>37</sup> Legal submissions for Reporting Officers, including corrections and additional submissions given orally (21 January 2021). Para 126-129

<sup>38</sup> Legal submissions for the Anglican Diocese of Wellington (undated). Para 22,24-26

<sup>39</sup> Stevens addendum to s42A Report dated 22 January paras 6-10.

that requires: "... *unbiased and objective judgement with reference to information and professional advice given.*"<sup>40</sup>

- 4.29 We agree with Ms Stevens that there is no conflict between the ICOMOS Code of Ethics and the Code of Conduct for Expert Witnesses, nor is there a conflict for commissioners to make fair and unbiased decisions on the basis of the evidence heard. In our opinion, the ICOMOS membership has no different status to any other professional association such as NZIA, NZPI or NZLS. In our view, none of these memberships would suggest a bias on the basis of the various Institutes' Codes of Ethics.
- 4.30 With the conclusion of these three preliminary procedural matters, we now turn to our substantive assessment of effects commencing with the benefits of the proposal.

### **Assessment of environmental effects**

- 4.31 Our discussion in this section is organised by issue as follows:
- a. positive effects;
  - b. effects on historic heritage;
  - c. urban design effects; and
  - d. other effects.
- 4.32 We note that some of the identified positive effects relate to historic heritage and to urban design matters. Rather than double-count those benefits, we have considered them in the respective notice of decision sections dedicated to heritage and urban design matters – with other benefits being the focus of the positive effects section we turn to now.

#### **Positive effects**

- 4.33 It was uncontested that the proposal would give rise to a range of positive effects. Accordingly, we simply record these benefits here before moving to our evaluation of other actual and potential environmental effects.
- 4.34 For example, Sir David Moxon's evidence spoke to the importance of the Church's entrance being open and welcoming. He noted the ancient and early tradition of churches providing a large central door, which affords a clear view of the interior. This, according to Sir David, serves a practical purpose but also emphasises that large numbers of people are welcome and can be accommodated.<sup>41</sup>
- 4.35 The original decision for the All Saints entrance to adopt two small doors on either side of the baptistery was, in Sir David's view, working against those fundamental principles of the Christian tradition. In contrast, the proposal would return the Church to its original best intention and provide a more accurate expression of the earliest traditions of the Church in Sir David's view.<sup>42</sup>
- 4.36 Reverend Fordyce echoed Sir David's presentation in the above respect – noting that the building as currently configured has no gathering space at the entrance to its

---

<sup>40</sup> Stevens addendum to s42A Report dated 22 January para 7.

<sup>41</sup> Moxon EIC. Para 12

<sup>42</sup> Ibid. Para 12-13

- liturgical spaces, and therefore does not support the expression of openness, welcome or hospitality.<sup>43</sup>
- 4.37 Expanding on these points, Reverend Fordyce described this characteristic of the current church as a significant barrier to effective ministry. She added that the current design undermines the church's hospitality function – which is important for the congregation to welcome newcomers and to deepen existing relationships between church members. The current design's inward focus also fails to manifest Christian fellowship in action to the broader community in Reverend Fordyce's view.<sup>44</sup>
- 4.38 Reverend Fordyce added that in her view, the proposal provides a contemporary design that meets ongoing foreseeable needs and is the best option for maintaining the strength of the congregation.<sup>45</sup>
- 4.39 Similar themes were captured in the evidence of Reverend Dixon. He noted, for example, that the proposed design reflects the seriousness the Church takes in being an open and integral part of the City Centre.<sup>46</sup>
- 4.40 Mr Forrest's evidence spoke to the importance of the church's values in considering the overall benefits of the proposal. He drew parallels between the approach under the RMA for maintaining a high level of sensitivity and respect to cultural artefacts of tangata whenua and the current proposal and the expressions of faith communities in general. In Mr Forrest's view, the in-depth theological and liturgical rationale underpinning the proposal is easy to under-appreciate or misunderstand, yet they remain critical to understanding the social and cultural benefits of the proposal to the congregation.<sup>47</sup>
- 4.41 Mr Neall's evidence<sup>48</sup> highlighted that the proposal will make the building safe, with the preferred strengthening option achieving 100% of the New Building Standard for seismic performance. This not only has benefits for retention of existing building fabric, which we discuss later, but also for the provision of health and safety of those using the Church for whatever purpose.
- 4.42 We heard from several submitters on the proposal's positive effects as well.
- 4.43 Mr Alistair Davis is a local resident, has worshipped at All Saints since 1998 and has been a vestry member and warden for the Parish at various times over the intervening period. He told us that the building itself is not the Church – rather, it is a physical asset that can be used for furthering the mission of the Church community. In his view, the City needs the Church to invest in the building to provide a source of life and energy for this corner of The Square and prevent the building from becoming an austere monument.
- 4.44 In Mr Davis' view the proposal will enable the mission of the Church by creating an entrance that:
- a. creates a welcoming, transparent, safe entranceway for outreach and social service;
  - b. creates a flexible, practical hospitable foyer space for community-building;
  - c. includes design elements that speak to the Church's commitment to care for God's creation; and

---

<sup>43</sup> Fordyce EIC. Para 24

<sup>44</sup> Ibid. Para 25-30

<sup>45</sup> Ibid. Para 38

<sup>46</sup> Dixon EIC. Para 9

<sup>47</sup> Forrest EIC. Para 30-31

<sup>48</sup> Neall EIC. Para 11

- d. provides an effective and inspirational link between the local community in The Square and the All Saints Community in the Church building.
- 4.45 Mr Davis also highlighted the proposal's obvious benefit of enabling the church building to re-open following strengthening. In his view, if the proposal is not granted, the Church will be compelled to demolish the building in order to comply with Building Act requirements within the next 5 years.
- 4.46 Dr Jenny Boyack, the Very Reverend Robert Yule and the Reverend John Hornblow presented jointly to us.
- 4.47 Dr Boyack gave a heartfelt presentation on the Church's importance to her and others in the community. She told us that the proposal has been widely consulted on and reflects current and future practical, social and theological needs. Dr Boyack added that the proposal will fulfil the wishes and vision of the Parish, the Council, the Anglican Diocese of Wellington and wider Anglican Church. She noted the widespread support for the proposal received from Māori and the wider community.
- 4.48 The Very Reverend Yule described the proposal as entailing a small modification of the existing historic structure in return for a splendid new entrance foyer that will greatly enhance the church's usefulness and beauty. In his view, the proposal's relocation of the baptistery into the sanctuary will greatly enhance its visibility and prominence – with associated theological benefits being derived from the symbolism of baptism as the entry point to the church. The Very Reverend also noted that the proposed additions would make the church interior visible from the street, provide shelter and a welcoming space for allcomers, and provide an improved space for special occasions such as weddings and funerals.
- 4.49 Reverend Hornblow told us that he has attended All Saints for 40 years. He took the last baptism in the baptistery before the building was closed in 2013. The Reverend told us that baptism in the old font was rare and the space was a dark and unwelcoming area. In all his years at the Church he never witnessed a visitor enter into the baptistery to view it – the Reverend described the space as almost an irrelevancy, and a space that would not be missed.
- 4.50 Reverend Hornblow also expressed concern at the community being denied the opportunity to use the building due to its current closure. He described his eagerness for the building to be re-opened for worship, weddings, funerals, baptisms, concerts and other events – and he told us that a new entrance and strengthened building will enable these and an enhanced sense of welcome for all people of the city.
- 4.51 We also heard from Ms Morvan Croxon – a long standing church parishioner and former vestry member – about the proposal's benefits. In her view, the proposed alterations to the building reach out to the public and invite them to look in and feel welcome. This, in Ms Croxon's view, overcomes the perception of the existing building as forbidding and stiff, or projecting of formal and privileged behaviour. Ms Croxon underscored the importance to the building reopening to enable worship, and also the Church's community efforts, including food provision, social meetings, music and playgroups for children, counselling and other supportive activities for youth.
- 4.52 Mr Robert Gibb presented on behalf of himself, Ms Barbara Arnold and Mr Patrick Arnold. They expressed that the proposal represents a once-in-a-century opportunity and that the opportunity must result in a project that both meets All Saints present and future needs and is financially viable. They also spoke to their aspirations for the Church's future, which the proposal will facilitate.

- 4.53 Mr O’Leary also addressed positive effects in his s42A Report. He noted the evidence of Mr Neall which described the applicant’s systematic analysis of ‘values and objectives’, and acknowledged that those values and objectives are understood to be pivotal to the spiritual identity of the Church, its missional values and preferred future direction. Mr O’Leary added the proposal would derive positive effects through the realisation of those values and objectives.<sup>49</sup>
- 4.54 Mr O’Leary told us the proposal would have additional benefits in terms of spiritual, missionary, liturgical and cultural values, and in the form of a more efficiently functioning building.<sup>50</sup>
- 4.55 Distilling the above, we find that the proposal would have the following positive effects:
- a. the proposed seismic strengthening will make the building safe for the congregation and wider community – this will, in turn, enable the building to be used for innumerable and significant positive effects stemming from a range of uses and activities;
  - b. the overall proposal will make the church fit-for-purpose, and enhance its sense of welcomeness and openness to the public; and
  - c. the Church’s spiritual, liturgical, missionary, community, cultural and other values will be enhanced.
- 4.56 With those uncontested benefits recorded, we now turn to the key effects in contention.

### Historic Heritage

- 4.57 This was the most heavily contested and complex matter before us. In summary, the Applicant’s evidence was that the proposal will have only modest adverse effects on the building’s heritage values, with substantial heritage benefits being realised through the proposed strengthening work. While those latter benefits were uncontested, historic heritage expert witnesses for HNZ and the Council found the overall impact on historic heritage to be significantly adverse and irreversible.
- 4.58 The evidence on this matter is extensive and we have tried to group what we heard by logical topics as follows:
- a. overview of identified heritage values;
  - b. applicant’s assessment of values;
  - c. impact of strengthening work on values;
  - d. impact of demolition on values;
  - e. impact of additions and alterations on values; and
  - f. discussion and findings.

### *Identified heritage values*

- 4.59 In addressing this subtopic, we note firstly that we were faced with the task of considering values in two different contexts. On the one hand, there was the values system used by the three historic heritage expert witnesses for the Applicant, the Council and HNZ – and on the other hand were the heritage values as part of a wider construct of values identified by the Applicant as forming the basis for this proposal.

---

<sup>49</sup> s42A Report of Ryan O’Leary. Para 4.10

<sup>50</sup> Ibid. Para 4.82

- 4.60 Regarding the latter, Mr Maassen submitted that it is important to position the application in its spiritual context and for us to strive to understand the spiritual, cultural and historical context of the Church community. He added that the Plan aims to sustain 'cultural heritage values', a term that embraces the spiritual and cultural value of the church building as a home of the Church and the associated locus for ongoing performance of Christian liturgical, pastoral and apostolic observance.<sup>51</sup>
- 4.61 We take some time below to discuss the Applicant's assessment approach in detail, but firstly note here the summary of values the Applicant presented us with. The approach was described in the evidence of Mr Neall and Mr Forrest who advised that the values were developed in concert with the congregation<sup>52</sup>. The seven values that were identified for the purposes of informing the proposal included:
- a. Spiritual/theological/liturgical and apostolic;
  - b. Church Community;
  - c. Place-Making;
  - d. Structural Safety;
  - e. Financial Viability;
  - f. Architectural; and
  - g. Heritage.
- 4.62 Returning to the first value context noted above, those were the values identified by Mr Brown, Ms Stevens and Dr Jacobs as experts in historic heritage matters.
- 4.63 These witnesses confirmed in their joint witness statement<sup>53</sup> that the assessment of the building's heritage values summarised in Table 5 of the Heritage Impact Assessment attached to the AEE is an appropriate baseline for the assessment of effects on historic heritage. In summary, that table identifies the following broad values and associated significance ascribed to each:
- a. High significance – emotional, historical, design, cultural / community, continuation / appropriateness, representativeness / townscape and authenticity values;
  - b. Moderate significance – technological value;
  - c. Low significance – economic value;
- 4.64 The three experts clarified that while the above values have an ascribed rating, no value is considered to be more or less important than the next.<sup>54</sup> They added that, as a Category 1 listed Historic Place, the church is recognised as having outstanding national significance.<sup>55</sup>
- 4.65 There is clearly some commonality in the two value constructs summarised above – however, they are not completely aligned in their scope or methodology. In an attempt to 'cover all bases' in an efficient manner, we have taken some time below to discuss the Applicant's values construct before moving to our consideration of the strengthening, demolition and addition/alteration components of the project and their impact on historic heritage values.

---

<sup>51</sup> Legal submissions for the Anglican Diocese of Wellington (undated). Para 4 & 9

<sup>52</sup> See Neall EIC, Para 72-86 and Forrest EIC, Appendix A

<sup>53</sup> At Annexure A, first page

<sup>54</sup> At Annexure A, first page

<sup>55</sup> Ibid, second page

*Applicant's assessment of values*

- 4.66 As an initial observation on this discussion of the Applicant's systemic assessment, we note that some of the seven values identified in the evidence of Mr Neall and Mr Forrest (summarised above) do not fall within our understanding of 'historic heritage' as defined in the RMA – in particular the place-making, structural safety and financial viability values. This is not to say that these values are not important in of themselves, or that they do not have tangential relationships with relevant matters under the banner of historic heritage. It is to confirm, however, that we have endeavoured to avoid any double counting or omission of values and any associated adverse effects/benefits for those values in conducting our own assessment.
- 4.67 With that clarification made, we note that the Applicant's construct of seven values was further broken down into detailed components for the purposes of assessing the strength of the proposal. Those components comprised 25 different criteria overall.
- 4.68 Mr Forrest's evidence usefully included a comparative assessment of the proposal and two alternatives against the 25 criteria – the two alternatives being an option involving strengthening only and a 'do nothing' option. For all but two of the criteria, Mr Forrest evaluated the proposal as the top scoring (or equal top scoring) of the three options considered.
- 4.69 The two components for which the proposed option was not the optimal option were the heritage preservation component of the structural safety values, and the preservation of external building fabric component of the historic heritage values. Overall, based on a five-point scale for each of the 25 criteria where a maximum score would be +50 and a minimum score would be -50, Mr Forrest scored the proposed option +43, the strengthen-only option at +10 and the do-nothing option at -40.<sup>56</sup>
- 4.70 Mr Forrest expressed that his assessment 'overwhelmingly' shows that granting consent for the proposal would sustain the Church and its values in an absolute sense compared to the alternatives. He added the view that even if an allowance was made for greater weighting to be given to the heritage impacts of removing the baptistery, the outcome would be the same.<sup>57</sup>
- 4.71 Mr Forrest concluded that the sustaining of the Church's heritage values is best achieved by granting consent.<sup>58</sup>
- 4.72 Reverend Fordyce's evidence also spoke to the Applicant's identified values. She gave the view that the essential starting point is the understanding that buildings are not in of themselves significant artefacts from the Diocese's perspective – irrespective of whether the building is the most modest, valuable or beautiful. The value, efficacy and utility of the Diocese's buildings are measured solely by the extent to which they assist the ministry and the mission of the Church according to Reverend Fordyce.<sup>59</sup>
- 4.73 The Reverend added that preservation of any building shorn from any connection to the lived faith and community life of its members would represent a fatally misleading declaration as to the Church's values. In her view, over-attachment to the mere form of a building is a form of idolatry. The notion of preserving something as a merely aesthetically pleasing material object amounts to a violation of the Church's spiritual values, which place the spiritual and social needs of people far above any other consideration.<sup>60</sup>

---

<sup>56</sup> Forrest EIC, Appendix A

<sup>57</sup> Ibid. Para 58

<sup>58</sup> Ibid. Para 64

<sup>59</sup> Fordyce EIC. Para 14-15

<sup>60</sup> Ibid. Para 19-22

- 4.74 Reverend Fordyce also spoke to the need for financial viability to be front and centre when making any decision about the building's future. Namely, she told us that any proposal which is to be approved by the Board and the Council must represent the least financial risk for the All Saints Church congregation and have the greatest potential to maintain and enhance the vitality and strength of the congregational life of the parish. In Reverend Fordyce's view, the proposal represents the best option for maintaining the strength of the congregation, and is therefore the most financially prudent course of action.<sup>61</sup>
- 4.75 Reverend Fordyce equally dismissed any alternatives involving a side entrance to the church building. She described such proposals as contradicting every missional imperative the proposed design is intended to achieve. Namely, in the Reverend's view, welcome would be compromised, openness and visibility would be lost and hospitality made significantly more difficult.<sup>62</sup>
- 4.76 Reverend Fordyce concluded as follows:
- [43] Both the Board and the Diocesan Council have made it plain to the All Saints Parish, as it has consistently to other parishes in the Diocese, that it will not approve significant expenditure on a building that is not fit for purpose and does not align with the fundamental mission and values of the Diocese.*
- [44] I am therefore here to be clear that it is not the view of the Board or the Diocesan Council that this application represents a proposal that would be merely nice to have but that other possibilities for development, strengthening and modernization could also meet with its approval.*
- [45] At this stage, the Board and Diocesan Council will only approve the work proposed by the current application.*
- [46] There is no plan B for All Saints Parish for the heritage-listed building.*
- [47] As the owner of that building, the Board would have to consider relinquishment as the most likely alternative outcome and pursue the ministry and mission of the All Saints parish by other means.<sup>63</sup>*
- 4.77 Reverend Dixon's evidence included similar notions, including that the Church is unable to spend such a large sum of money for purely heritage reasons. He added that the Church is required by the Diocese to show that such spending will enhance community-building and the mission of the Church.<sup>64</sup>
- 4.78 Mr Neall also expressed the view that the only feasible way to preserve most of the heritage in and around All Saints Church is for consent to be granted.<sup>65</sup>
- 4.79 Based on the above, we gained a contextual understanding of the manner in which the Applicant's values have been derived and how they were applied to the various options identified by the congregation with the proposal being the preferred option. We now assess the effect of the proposal and its three constituent parts – strengthening , removal of the baptistry and the additions (new lobby, reception area and covered walkway) and alterations (construction of new entrances) – on the historic heritage values of the church.

---

<sup>61</sup> Ibid. Para 37-38

<sup>62</sup> Ibid. Para 40-41

<sup>63</sup> Ibid. Para 43-47

<sup>64</sup> Dixon. Para 8

<sup>65</sup> Neall EIC. Para 88

*Impact of strengthening works on heritage values*

- 4.80 We have already noted the benefits to public health and safety and to the ongoing use of the building for the Church's wide array of beneficial uses that the strengthening works would enable. We briefly record here the evidence about the benefits on historic heritage values realised by the strengthening works.
- 4.81 The joint witness statement of the heritage experts is our touchstone in this respect. Plainly put, the experts agreed that the seismic strengthening of the building is essential to retaining and maintaining its heritage values.<sup>66</sup>
- 4.82 Mr Bowman also gave the view in his s42A Report that the strengthening works are acceptable in terms of their effects on heritage values.<sup>67</sup>
- 4.83 We also note the view expressed by Mr Newton's that the structural method he proposed is the best practicable method available to minimise impacts on the Church building's fabric and any other solutions would present significantly more risk to the heritage fabric.<sup>68</sup>
- 4.84 There was no evidence presented by any party to contest the views of any of the experts in the above respects. We accordingly have no reason not to adopt their shared conclusion that the strengthening aspect of the proposal will generally have positive effects on historic heritage values associated with a nationally significant heritage item.

*Impact of proposed demolition of the baptistery*

- 4.85 Turning now to the evidence regarding the demolition of the baptistery, we firstly note that the Applicant's evidence adopted both quantitative and qualitative assessment methods to support its position.
- 4.86 Regarding the former, Mr Neall noted that the proposal would enable 97% of the existing exterior building fabric and 95% of the internal church elements to be retained.<sup>69</sup> That only 2.16% of the total exterior fabric is to be changed is a significant achievement in Mr Neall's view.<sup>70</sup>
- 4.87 Mr Brown echoed Mr Neall in this respect, expressing his view that the heritage values of the building would be retained by the proposal because the extent of fabric to be removed is not significant. Mr Brown looked at other churches with Category 1 status that have been subject to more substantial modifications as a benchmark, and noted that those examples have retained their heritage status despite the modifications.<sup>71</sup>
- 4.88 Mr Brown acknowledged that the demolition of the baptistery would have a negative effect on the building's heritage values, but in his view such negatives are in balance with the retention of significant heritage benefits more broadly realised by the proposal. Mr Brown clarified that he found the need to consider the proposal as an integrated whole, given the Diocese's position that the proposal cannot be broken into component parts given their unwillingness to undertake strengthening alone.<sup>72</sup>
- 4.89 Mr Brown's wholistic assessment approach was in contrast to the approach of Ms Stevens and Dr Jacobs, who assessed the proposal by its component parts. The joint

---

<sup>66</sup> Joint Witness Statement of Experts – Heritage assessment (4 December 2020). At Annexure A, third page

<sup>67</sup> Bowman s42A Report. Para 21, 37, 45

<sup>68</sup> Newton EiC. Para 8

<sup>69</sup> Neall EiC. Para 15

<sup>70</sup> Ibid. Para 71

<sup>71</sup> Joint Witness Statement of Experts – Heritage assessment (4 December 2020). At Annexure A, third page

<sup>72</sup> Joint Witness Statement of Experts – Heritage assessment (4 December 2020). At Annexure A, third page and fourth page

witness statement records this as the key reason why these three witnesses arrived at different conclusions about the extent of adverse effects.<sup>73</sup>

4.90 In considering the demolition effects in isolation, Ms Stevens echoed Mr Brown's view that the loss of the baptistery would be an adverse effect. She noted that the baptistery is not damaged, nor does it require any substantial repair – accordingly, its demolition cannot be justified on the grounds of damage or safety. As proposed, she was of the opinion that the demolition would result in removal of original fabric, the loss of a key design feature and (presumably the additions) would result the obscuration of other highly significant parts of the building, compromising the building's architectural significance and overall integrity.<sup>74</sup>

4.91 Ms Stevens took that notion further to say that the demolition would alter parts of the building that have the highest level of heritage significance, being the north and west elevations, the baptistery, and the entrances either side.<sup>75</sup>

4.92 Overall, Ms Stevens described this as a loss of significant heritage values.<sup>76</sup>

4.93 Ms Stevens also considered the proposed demolition in a broader context with the proposed addition and the need for any modifications to enable a better or economic use of the building as discussed in the evidence of Reverend Fordyce. Ms Stevens acknowledged in this respect that demolition and additions may enable better economic use of the building, and that the building may be more likely to be retained as a result.<sup>77</sup>

4.94 However, her assessment continued as follows:

68. *I certainly do not consider that partial demolition and additions are necessary to facilitate the building serving a useful purpose, economic or otherwise, either by the congregation or the public. This is evidenced by the fact that the building served a useful purpose up until its closure in 2013.*

69. *Therefore, while I accept that retention and renewal of All Saints' will be more likely if the Application is approved in full for the purposes of assessment criterion a of R17.7.2, this factor should not, in my opinion, weigh heavily on the overall assessment because I consider it remains open to the Diocese to choose to put the building to a useful purpose, including an economic use, even without the partial demolition and proposed extension.<sup>78</sup>*

4.95 Ms Stevens also addressed the Applicant's desire to achieve greater visibility between the street and the church interior as part of the motivation behind the proposed demolition of the baptistery. In her view, the images provided in the Applicant's first response to Council's further information requests clearly demonstrate that the removal of the baptistery wall and new addition do not result in a significant improvement in visibility.<sup>79</sup>

4.96 Like Ms Stevens, Dr Jacobs expressed the view that it is difficult to accept the demolition of the baptistery as necessary.<sup>80</sup>

4.97 Dr Jacobs described the baptistery as a key component of the church's outstanding architectural and aesthetic values, and a major component of the original design. He acknowledged that modern church practice is enabling of ceremonies which previously occurred in the baptistery to be held elsewhere in the building. However, he considered

---

<sup>73</sup> Ibid. Fourth pages

<sup>74</sup> Stevens s42A Report. Para 119

<sup>75</sup> Stevens s42A Report. Para 10

<sup>76</sup> Ibid. para 124

<sup>77</sup> Ibid. para 64

<sup>78</sup> Ibid. para 68-69

<sup>79</sup> Ibid. para 130

<sup>80</sup> Jacobs EIC. para 34

that the removal of such an important heritage component will have a significant and deleterious effect on the heritage values of the building.<sup>81</sup>

- 4.98 Dr Jacobs also expressed the view that the church's aims of being more welcoming and accessible could be managed without the extent of demolition proposed.<sup>82</sup>
- 4.99 Mr Bowman's evidence was largely focussed on the extent to which the proposal aligns with the Conservation Plan that he prepared for the building in 2018. We discuss that Conservation Plan subsequently in the context of s104(1)(c), but note here that Mr Bowman found the proposed demolition to be contrary to relevant policies in that plan and to result in effects that are significantly adverse.<sup>83</sup>

#### *Impact of proposed additions and alterations*

- 4.100 In the joint witness statement on heritage matters, Ms Stevens, Mr Brown and Dr Jacobs signalled their agreement that the proposed additions have a negative impact on the physical heritage values of the church – and in particular on the building's design and townscape values.<sup>84</sup>
- 4.101 Notwithstanding that shared view, Mr Brown again signalled that in applying his holistic assessment approach, he concluded that the overall impact of the proposal is acceptable given the positive impact of retaining the building, it being returned to use and being subject to an improved range of uses.<sup>85</sup>
- 4.102 Dr Jacobs gave the view that the proposed additions and alterations could be supported on heritage grounds, provided that the new structure is self-supporting, entails minimal attachment to the existing brickwork, and is realised with the highest quality materials and construction detailing. Anything less would look disappointing after a short time against the enduring design of the Church in Dr Jacobs' view.<sup>86</sup>
- 4.103 In Ms Stevens' opinion, the proposed addition is not compatible with All Saints in terms of design, form, scale, mass or materials - especially when viewed from the exterior. The addition interrupts and obscures, rather than being sensitive to and compatible with, the architectural style and character of the existing building envelope in her view.<sup>87</sup>
- 4.104 Ms Stevens elaborated on the matter of compatibility by adding that the tree-like forms of the proposed columns may be seen as a modern interpretation of some Gothic forms used within the church; however, the new columns are not seen in the context of the church interior - but in the context of the church exterior. The arrangement of the columns, and the curved form of the walls and roofline of the proposed addition are juxtaposed uncomfortably against the strong linearity of the existing Gothic form in Ms Steven's opinion.<sup>88</sup>
- 4.105 Furthermore, the use of timber and glass for the addition, where the exterior of the church is predominantly brick, is incongruous in Ms Stevens' assessment. She noted that glazed additions to historic buildings are often preferable to solid additions; however, that approach generally applies when the additions are discrete and/or when

---

<sup>81</sup> Ibid. para 35

<sup>82</sup> Jacobs EIC. para 41

<sup>83</sup> Bowman s42A Report. Para 2-3

<sup>84</sup> Joint Witness Statement of Experts – Heritage assessment (4 December 2020). At Annexure A, fourth page

<sup>85</sup> Ibid

<sup>86</sup> Jacobs EIC. Para 31-33

<sup>87</sup> Stevens s42A Report. Para 11

<sup>88</sup> Ibid. para 75

glazing is used to create a link or connection between the old and new, which is not the case with the additions being proposed for All Saints according to Ms Stevens.<sup>89</sup>

- 4.106 Ms Stevens also turned her mind to the positioning and scale of the addition in its heritage context. She found that the timber, glass and membrane roofing materials sit uncomfortably next to the brickwork of the church facades. Ms Stevens also considered the raised section of the addition that accommodates the gable of the west porch creates further incongruity and breaks up the rhythm and proportions of the front elevation.<sup>90</sup>
- 4.107 Also on the matter of positioning, Ms Stevens gave the view that wrapping the addition around the existing building on two sides – rather than being separated and/or set back from it – the addition becomes the focal point at the expense of the church. Instead of being smaller in scale and built of similar materials, Ms Stevens found the addition to be large and obtrusive.<sup>91</sup>
- 4.108 On the role of the proposed addition providing for a more welcoming entrance, Ms Stevens gave the view that there are multiple ways of achieving that with a more discrete, less dominating and obtrusive addition, which utilises more compatible materials than what the Applicant has proposed.<sup>92</sup>

#### *Discussion and findings*

- 4.109 In considering the above, the proposal would clearly have both positive and adverse effects on the historic heritage values of the Church, including those values identified by the Applicant.
- 4.110 We adopt the uncontested evidence that the strengthening works would have meaningful benefits for historic heritage, enabling the building to be put back into use and with greater resilience to seismic risks. We also adopt the uncontested view of all four heritage experts appearing before us that the proposed demolition of the baptistery will have adverse effects on historic heritage values. For the reasons expressed by Ms Stevens and Dr Jacobs, we find those effects to be significant and unacceptable.
- 4.111 We accept the Applicant's quantitative analysis that less than 3% of the building fabric would be lost due to the proposed demolition; however, it is the context of the fabric lost that is more important than the quantum based on the compelling evidence before us. We amplify Ms Stevens and Mr Bowman in this respect, who emphasised that the loss of heritage fabric affects those parts of the building with the highest level of heritage significance.
- 4.112 We also adopt the evidence of Ms Stevens regarding the impact of the proposed additions and alterations on heritage values for the reasons she has expressed. We share her view that the addition is incongruous with the existing building and that this has a detrimental effect on historic heritage values.
- 4.113 While the addition clearly adopts an architectural style that demarcates it from the existing building – consistent with accepted practice – we share Ms Stevens view that the scale, position, relationship and materials selected are inappropriate as proposed.
- 4.114 We reemphasise that we have had careful regard to the Applicant's evidence – and in particular where it has identified liturgical, theological, missionary and related values that also speak to the Church's historic heritage values. We have not discounted those

---

<sup>89</sup> Ibid. para 76

<sup>90</sup> Stevens s42A Report. Para 78

<sup>91</sup> Ibid. Para 79

<sup>92</sup> Ibid. Para 140

values in any way. To the contrary, we have noted the wider benefits of the proposal to those values in the preceding section of this notice of decision, and our findings on this heritage topic incorporate those values to the extent relevant to the concept of historic heritage as defined under the RMA.

- 4.115 On the other side of that same coin, we have been careful not to conflate the Applicant's values with historic heritage values except to the extent that they coalesce. While we do not express any disagreement with the Applicant or its experts that the proposal is the best way to realise the Applicant's values, those values extend beyond historic heritage values. Accordingly, we have not adopted the same approach to assessing values that Mr Forrest has.
- 4.116 We are also compelled to note that the identified heritage values adversely affected by the proposal go beyond the aesthetic matters that Reverend Forsyth's evidence spoke to. It is not simply the appearance of the building that falls under the consideration of historic heritage under the RMA. We certainly understand the Reverend's position about the overall utility of any building to the Applicant being the extent to which it enhances the role and function of the Church; however, that does not override the direction under the RMA to protect historic heritage from inappropriate use and development as a matter of national importance, nor any requirements under the Plan in implementing that and related direction under the RMA for achieving its purpose.
- 4.117 We similarly have no intention of downplaying the significant costs involved in strengthening or redeveloping the church building. That the Diocese has financial viability at the fore of its decision-making on this and other related proposals is an entirely reasonable position in our view. This relates to alternatives, however, which is a matter we turn to subsequently.
- 4.118 Finally, we note that we found difficulty with Mr Brown's position, and are unsurprised that he has ultimately reached a different conclusion than Ms Stevens and Dr Jacobs due to the assessment approach he has adopted. We don't criticise Mr Brown for holding his own professional view about the proposal as a whole when all variables are considered; however, we struggle to agree with Mr Brown that the Applicant's express unwillingness to pursue a strengthening-only pathway is adequate justification for the wholistic assessment approach he adopted. We find that Ms Stevens and Dr Jacobs' assessment approach – as well as their conclusions – to be more robust and appropriate.

### Urban design, streetscape and townscape

- 4.119 The second main effect issue in contention related to the proposal's impact on streetscape, townscape and other urban design matters. In summary, the points of disagreement related to whether:
- a. the form of the proposed addition acknowledges and responds to the site context such that it leads to a 'high quality' building;
  - b. the proposed addition enhances the visual quality and design of the Church at street level;
  - c. the proposal would have an acceptable effect on visual amenity.
- 4.120 We firstly summarise the evidence we heard on this matter before setting out our findings.

*Evidence summary*

- 4.121 Similar to our consideration of heritage matters, the joint witness statement from Mr Cogan and Dr Gjerde has afforded a useful starting point for us on urban design matters.
- 4.122 We record firstly that Mr Cogan and Dr Gjerde agreed<sup>93</sup> on the following matters:
- a. the proposal would maintain or enhance pedestrian safety, and in many circumstances pedestrian convenience also;
  - b. the pleasantness of the environment would be enhanced apart from areas where the two experts disagree;
  - c. the proposed frontage would provide a strong visual connection to the street;
  - d. the addition does many things well, all of which are characteristic of a ‘high quality’ building, including transparency at the street edge, universal accessibility and visual interest – though as noted above, the extent to which the proposal overall is of high quality was in contention;
  - e. the primary view of the church from The Square will be maintained unaffected by the proposal;
  - f. the proposed addition respects – rather than dominates – the scale of the existing building;
  - g. the proposed addition does not reflect the architectural style and character of the existing building – and contrast of design approach can be appropriate; and
  - h. the proposed demolition and addition on the northern elevation would result in an active and accessible street frontage.
- 4.123 In his evidence, Mr Cogan described the iterative design review process he participated in with the Applicant, including several design refinements suggested by him and adopted in the final design. A key concept in this respect included that the west tower remain free of additional structures. Mr Cogan also echoed evidence presented by other experts for the Applicant that an important design consideration is the need to improve the entrance to the Church to make it more welcoming and consistent with the Church’s core values.<sup>94</sup>
- 4.124 Mr Cogan added the following points in closing:
- [37] The design aesthetic is unashamedly contemporary and contrasts with the de Jersey Clere building in materiality and form. It reads clearly as addition and respects the scale of the existing building allowing that still to be read clearly particularly from the primary diagonal view shaft from The Square. The entrance is clear from the street and the structural forms, although organic do reference existing forms and motifs.*
- [38] I consider this design is cementing the survival of the building by understanding and respecting its use in the past but enabling the best use of it for the future by the parish and the Palmerston North community.*<sup>95</sup>
- 4.125 While Dr Gjerde shared Mr Cogan’s view that the proposal would enhance the views between the church interior and the street, he also considered that the intrusion of the addition within the road reserve would diminish the quality of the public space.<sup>96</sup>

---

<sup>93</sup> See joint witness statement of experts – urban design (3 December 2020). Annexure A

<sup>94</sup> Cogan EIC. Para 17-33

<sup>95</sup> Ibid. Para 37-38

<sup>96</sup> Gjerde s42A Report. Para 30-31

- 4.126 Dr Gjerde helpfully provided a detailed consideration of townscape and streetscape impacts of the proposal. On the former, he started by acknowledging the Church's valued contribution to the City's townscape. Dr Gjerde noted the church's silhouette and brick cladding are main contributors to its positive perception at townscape level, with added visual interest stemming from the asymmetric positioning of the tower. In his view, the proposed additions would conceal some of the existing façade from longer views, but overall this would amount to a minor adverse effect on the building's townscape values.<sup>97</sup>
- 4.127 At streetscape level however, Dr Gjerde stressed that the architectural composition, façade detail, materiality and site development become more relevant to the way the building is perceived. In this respect, his view was that the proposed additions would significantly impact the architectural coherence of the built form, with flow-on effects for the streetscape. Expanding on that point, he said:
39. *The additions would visually limit the extent to which the existing building will be seen as a complete and coherent form. This outcome is largely as a consequence of the additional volume extending from alongside the existing building to around in front of it. This would cause views of the street elevation of the existing church building to be blocked and interrupt perceptions of the form as a three dimensional object.*
40. *The additions adopt a largely horizontal emphasis whereas the church building is largely vertical in compositional emphasis. This contrast in formal emphasis would, in my opinion, diminish the extent to which the vertical compositional characteristic of the host building is perceived and lead to an uneasy compositional relationship.*
41. *While contrast is a valid approach when designing additions to existing buildings, and an approach I would encourage, the manner in which the proposed addition is composed is so unique and so different to the building that it would be attached to that it creates a visual conflict. This leads to poor visual outcomes when the project is viewed from the nearby locations, outcomes that in my mind would be significantly adverse.*<sup>98</sup>
- 4.128 Dr Gjerde also addressed the impact of the proposal on the overall sense of place. He found that there would be both positive effects (for example, the transparent nature of the addition allowing views into the church) and negative impacts (for example, the compression of pedestrians into a narrower footpath space).<sup>99</sup>
- 4.129 Dr Gjerde concluded his evidence by lauding the intent of the proposal to rehabilitate and strengthening the existing building, and also some aspects of the proposed addition. Notwithstanding that, he ultimately found the form and location of the additions to be poorly considered in their relationship with the existing building and the street, with the latter being quantified as a significant reduction in the quality of the streetscape.<sup>100</sup>
- 4.130 Dr Gjerde added his opinion that a number of other design approaches could be adopted that both contrast with the existing form and result in more appropriate visual outcomes.<sup>101</sup> We questioned Dr Gjerde on this point and asked him to provide an example of a development envelope that would deliver that outcome, whilst also being mindful of the Applicant's desire for the entrance to be more open and welcoming. Dr Gjerde helpfully circulated a sketch plan the week after the hearing and this was made available to all parties. We discuss this and other alternatives further in our evaluation of objectives and policies.

---

<sup>97</sup> Ibid. Para 32-36

<sup>98</sup> Ibid. Para 38-41

<sup>99</sup> Ibid. Para 42-46

<sup>100</sup> Gjerde s42A Report. Para 47-50

<sup>101</sup> Ibid. Para 51

### *Discussion and findings*

- 4.131 In providing our view on this matter, we firstly record that we have largely adopted the shared view of Dr Gjerde and Mr Cogan as to the positive aspects of the proposal as captured in the joint witness statement and summarised above. We highlight in particular that the proposal enhances the activation to the street. However, we were less convinced that the visibility between the street and the church interior will be enhanced. Whilst the joint witness statement stated this, Ms Stevens in her s42A report perceived a false sense of the level of transparency<sup>102</sup>. This was confirmed in her presentation where she used images to illustrate the potential lack of transparency. We agree with her views on this particular matter. We also note that when asked during the hearing, Mr Cogan, also said that that the transparency of the glass is not confirmed. Dr Gjerde added, also during questioning, that achieving high transparency will be difficult.
- 4.132 We also adopt the uncontested view from all heritage and urban design experts that, conceptually, it is highly appropriate to differentiate old building fabric from new.
- 4.133 Based on the evidence of Mr Cogan and Dr Gjerde, we also find that the impact of the proposal on townscape values would be acceptable for the reasons they expressed.
- 4.134 As to the three key issues in contention we identified at the outset of this section, we adopt Dr Gjerde's evidence that the proposal will poorly relate to the existing building and to the street to the overall detriment of the streetscape and the quality of the local environment. In this specific context, we find those effects to be unacceptable for the reasons expressed by Dr Gjerde.
- 4.135 Whilst we agree that additions and alterations can be acceptable if designed well and relate to the existing architecture, we share Dr Gjerde's view that in this instance the position of the addition, its materiality and its form are incongruous with the existing building. Other examples of modern additions to heritage buildings were referred to us by Sir David Moxon, Ms Stevens and Mr Bowman that are successful in achieving compatibility and functionality. However, this proposal falls short in its efforts to establish an appropriate relationship with the existing building and the adjacent public realm.
- 4.136 We have not aligned with Mr Cogan's view on these key matters in content, primarily owing to the lack of detailed analysis in his evidence. In particular, we found his evidence light on the impact of the proposal on the streetscape and on associated visual amenity values. Dr Gjerde's assessment, in contrast, was well-reasoned and adopted an objective approach informed by the relevant direction in the Plan.

### **Other effects**

- 4.137 There were three other effects topics addressed in Mr O'Leary s42A Report that we wish to comment briefly on here for completeness. These relate to:
- a. pedestrian amenity effects;
  - b. other effects on the transportation network; and
  - c. construction effects.

---

<sup>102</sup> Stevens s42A Report. Para 80

### Pedestrian amenity

- 4.138 Mr O'Leary drew our attention to the lack of continuous pedestrian shelter as the main driver for considering pedestrian amenity effects. In his view, this is an acceptable aspect of the proposal particularly when considered in the context of the existing environment and the adverse effects on the church building that would result from additions necessary to provide continuous shelter.<sup>103</sup>
- 4.139 Mr O'Leary also addressed the proposed works within the legal road and the associated occupation of public space through a portion of the building (and previously also the abstract trees that were proposed before the hearing). In his view, any effects in this respect could be addressed by a management plan and codified in any conditions should consent be granted.<sup>104</sup>
- 4.140 There is a relationship between this point and the other matters we consider under RMA s104(1)(c), insofar as a separate Council approval process is required for the proposed building encroachment. That process point aside, we adopt Mr O'Leary's findings that the net effect of the non-provision of continuous verandah and the encroachment of the building into the footpath will result in acceptable effects on pedestrian amenity for the reasons he expressed.

### Other transportation effects

- 4.141 This matter relates primarily to the fact that the church grounds already contain 83 carparks, which is four times the maximum anticipated in the Plan.
- 4.142 Mr O'Leary referred us to advice he received from Council's Traffic Engineer that confirmed the proposed changes to the building will not increase the overall congregation size or number of carparks utilising the vehicle crossing to the street. On the basis of that advice, Mr O'Leary concluded that the effects of the proposal on the safe, efficient operation of the transportation network would be no more than minor.<sup>105</sup>
- 4.143 The Council expert assessments were uncontested in this respect, and we find no reason not to adopt the experts' reasons or conclusions.

### Construction effects

- 4.144 There was similarly no evidence in contention about construction effects from noise, dust, construction traffic, hours of construction, or other physical construction effects that could not be managed by conditions to the extent that the effects would be acceptable.
- 4.145 Mr O' Leary also noted that the site is a recorded archaeological site, and any works to disturb the site will require a separate authorisation from HNZ. Mr O'Leary gave the view that there is no need for this process to duplicate the management of potential archaeological effects otherwise required by that separate authorisation, and we received no view from HNZ or any other party to the contrary.
- 4.146 In all of the above respects, we find that the effects of construction could be managed through the imposition of appropriate conditions such that the effects are acceptable for the reasons<sup>106</sup> expressed by Mr O'Leary.

---

<sup>103</sup> O'Leary s42A Report. Para 4.64 – 4.70

<sup>104</sup> O'Leary s42A Report. Para 4.68

<sup>105</sup> Ibid. Para 4.71-4.72

<sup>106</sup> Ibid. Para 4.73-4.77

## Objectives and Policies

- 4.147 The relevant instruments for the purpose of our consideration of objectives and policies are the NPS-UD, the RPS and the Plan.
- 4.148 Mr O'Leary was the only person to address us on the NPS-UD and the RPS. Regarding the former, Mr O'Leary gave the view that much of the NPS-UD is not directly relevant to the proposal – but to the extent that it is relevant, the proposal is consistent with the NPS-UD. We have considered the relevance of the NPS-UD, and share Mr O'Leary's conclusion in this respect.
- 4.149 Regarding the RPS, Mr O'Leary drew our attention to Objective 6-3 in the One Plan which aims to protect historic heritage from activities that would significantly reduce heritage qualities. Implementation of this is achieved in part through exercise of policies 6-11 and 6-12 which require the Council to develop and maintain a schedule of known historic heritage and to include provisions in the Plan to protect scheduled items from inappropriate subdivision, use and development.
- 4.150 We adopt Mr O'Leary's position that these aims have been implemented by the Plan, such that our focus can be principally on the objectives and policies in the Plan. We are satisfied that there are no areas of invalidity, incomplete coverage or uncertainty between the RPS and Plan on any matters such that any further detailed assessment against the RPS is necessary here.
- 4.151 Turning to the provisions of the Plan, we adopt Mr O'Leary's method<sup>107</sup> of applying a fair appraisal of the relevant objectives and policies read as a whole, and applying greater weight where provisions are expressed in more directive terms.
- 4.152 Assisted by the parties, we have considered provisions in Sections 2, 3, 11, 17 and 20 of the Plan. We discuss the relevant provisions for each of these Sections in turn below.

## Section 2 – City View Objectives

- 4.153 Section 2 contains overarching 'City View' objectives. Seven of these objectives are relevant to this proposal.
- 4.154 Objective 10 is that the visual appeal of the City is enhanced and Objective 11 seeks that the principles of good urban design be given effect to, particularly for major building developments within the City Centre or fronting key transport routes. As voiced by Dr Gjerde<sup>108</sup>, these aims reflect the main urban design matters that we have considered above in the context of environmental effects on streetscape, townscape and sense of place. For the same reasons that led us to a conclusion that the proposal would result in unacceptable effects in this regard, we find the proposal inconsistent with Objectives 10 and 11.
- 4.155 Objective 14 is that the City Centre remains the primary focus for (among other matters) cultural activities within the City. In our view, the Applicant's evidence demonstrates that the proposal is consistent with this aim, principally by restoring and strengthening an important cultural activity in the heart of the City Centre. To the extent that the Church also hosts recreational and leisure events, the proposal can also be said to be consistent with this Objective.
- 4.156 Objective 16 is that historic heritage is researched, identified and preserved within the context of sustainable management. This aim is implemented in concert with the

---

<sup>107</sup> O'Leary s42A Report. Para 4.100

<sup>108</sup> Gjerde s42A Report. Para 23-25

provisions of Section 17 (Cultural and Natural Heritage Objectives) which we assess shortly.

- 4.157 Under Objective 19, effects of natural hazards are to be avoided or mitigated. The proposal is well aligned with this aim as illustrated by the uncontested evidence that the proposed strengthening will enhance the building's resilience to natural hazard events.
- 4.158 For the reasons we expressed above in relation to pedestrian amenity and other effects on the transport network, we consider the proposal is also consistent with the aims of Objective 24.

### Section 3 – Tangata Whenua and resource management

- 4.159 We are satisfied that the proposal is not inconsistent with any of the provisions in Section 3. Tangata whenua have been consulted with on this proposal and afforded the opportunity to participate in this process. To the extent that any potential cultural effects arise from the accidental discovery of artifacts of importance to tangata whenua, these could be adequately managed by the volunteered consent conditions and the archaeological authority process administered by HNZ.

### Section 11 – Business Zone Objectives

- 4.160 The relevant zone-based provisions are contained in Section 11.5 of the Plan. Objective 1 seeks to enable a wide range of cultural and other activities in the Inner Business Zone. The proposal is partially consistent with this aim in our evaluation as it enhances the ground floor building entries provided to the street edge<sup>109</sup>; however, we have found above that the proposal will result in adverse amenity outcomes, which are to be discouraged in the implementation of this aim.<sup>110</sup>
- 4.161 Similarly, the proposal is partially effective at implementing Objective 2 – being to enable the efficient use and continued viability of existing physical resources in the Inner City. While the proposal is consistent with the enabling direction of Policy 2.1 to achieve a range of activities, and would result in a restored building that is comfortable, fit-for-purpose, safe accessible and durable, the overall built form would not enhance the attractiveness of the Inner City<sup>111</sup>.
- 4.162 In the same way that the proposal is consistent with Policy 2.1, it is equally consistent with Policy 3.1 to enable the greatest diversity, scale and intensity of activities in the Inner Business Zone. This in turn is consistent with the overall aim of Objective 3.
- 4.163 The proposal is also generally well-aligned with Objective 4 and its supporting policies, which collectively seek a pedestrian-focussed environment that is pleasant, safe, convenient, compact and interconnected.
- 4.164 Insofar as we have adopted Dr Gjerde's evidence about the impact of the proposal on the sense of place, streetscape and townscape values of the Inner City, we find the proposal to be poorly aligned with Objectives 5 and 6 and their supporting policies. In particular:
- a. the proposal does not respect the historic character of existing buildings<sup>112</sup>;

<sup>109</sup> Per Policy 1.2

<sup>110</sup> Per Policy 1.6

<sup>111</sup> Per Policy 2.3

<sup>112</sup> Per Policy 5.4

- b. while the accessibility and usability of the existing building will be enhanced, the relationship of the proposal to the public realm is an overall negative<sup>113</sup>; and
- c. the proposal does not amount to high quality building design that responds well to its context<sup>114</sup>.

4.165 Under Objective 9 and its supporting policies, historic heritage is to be protected and retained. As we have discussed above, the proposal is poorly suited to its context, setting and streetscape<sup>115</sup> and is inconsistent with this aim.

### Section 17 – Cultural and Natural Heritage Objectives

4.166 Objective 1 under Section 17.3.A is relevant to buildings and objects of cultural heritage value. Its aim is to ensure that such buildings and objects are appropriately protected and conserved.

4.167 Under the direction of Policy 1.2, buildings such as All Saints are identified as Category 1 buildings due to their outstanding cultural heritage values. This is consistent with the very high value attributed to the building by the community.

4.168 The proposal is consistent with Policy 1.5 insofar as it enables the continued use of a scheduled building; however, the proposal is otherwise poorly aligned with many of the policies that implement Objective 1.

4.169 On the basis that we prefer the expert historic heritage evidence of Dr Jacobs, Mr Bowman and Ms Stevens over that of Mr Brown, we share Mr O’Leary’s assessment that the proposal offends Policies 1.6 and 1.7 as:

- a. it does not avoid, remedy or mitigate the effects of development that destroys cultural heritage values; and
- b. the proposed alterations improve structural performance and access, but do not minimise the significant loss of heritage values.

4.170 This latter point raises the matter of alternatives in a similar way to Policy 1.4, and we are compelled to take some time here to discuss this in detail. Before we do so, however, we note that the Plan adopts a different direction for wholesale demolition of scheduled buildings (under Policy 1.3) than it does for partial demolition (under Policy 1.4). The latter policy is relevant in this case for the reasons we have discussed at Section 3 of this notice of decision above, so Policy 1.4 provides the guiding direction. It reads:

*1.4 To recognize that relocation or partial demolition may be appropriate to ensure long term sustainable use of the scheduled building or object, in circumstances where:*

- *It can be demonstrated that relocation or partial demolition will result in the overall retention of significant heritage values; and*
- *Decisions on resource consent applications for the relocation or partial demolition of a scheduled building or object are informed by a thorough analysis of the alternative options available, including social, cultural, economic and environmental costs and benefits.*

4.171 Plainly interpreted, this policy sets out two limbs to be assessed in determining whether partial demolition is appropriate or not.

---

<sup>113</sup> Per Policy 6.1

<sup>114</sup> Per Policy 6.2

<sup>115</sup> Per Policy 9.4

- 4.172 As Mr O’Leary has done, we rely on the evidence of Ms Stevens and Mr Bowman in concluding that the proposal does not demonstrate the overall retention of significant heritage values, and accordingly is not aligned with the first of the two limbs under Policy 1.4. Dr Jacob’s evidence further supports that appraisal.
- 4.173 Policy 1.4 is conjunctive, and the second bullet is equally applicable as the first. Again, we are aligned with Mr O’Leary on this point, and agree that the Applicant has not demonstrated a thorough analysis of alternative options available to be able to conclude that the second limb of the policy is achieved.
- 4.174 We note that Mr O’Leary requested a detailed assessment of alternatives from the Applicant in the Council’s second further information request in an effort to inform his own understanding of the proposal’s fit with this policy. In response, the Applicant elected not to supply the requested analysis; however, the Applicant signalled its agreement that this Panel would benefit from detailed evidence to address this policy, including an assessment of costs and benefits.
- 4.175 In our review of the Applicant’s evidence, there is no such assessment, at least not to the extent necessary to demonstrate the thoroughness of process anticipated by the policy.
- 4.176 This is not to downplay the demonstrable efforts of the Applicant in considering and discounting options over the last several years leading to the current proposal. Neither is it an indication that we do not take seriously the express desires of the Church to breathe new life into the church in a manner that enhances its values and its mission. As we have noted above, we do not contend that the proposal fails to achieve that aim.
- 4.177 However, we have found the Applicant’s assessment of alternatives – particularly as voiced by Mr Forrest and Mr Neall – to be unbalanced, and lacking in objectivity. In particular,
- a. it adopts several assessment criteria that amount to double-counting;
  - b. many of the matters go beyond what we would consider relevant to the assessment anticipated by this Policy; and
  - c. the 5-point scoring scale adopted by Mr Forrest is not sufficiently objective to reliably achieve consistent decision-making.
- 4.178 That the proposed option so convincingly outscored the other two options in Mr Forrest’s evaluation is evidence of this unbalance.
- 4.179 It is not for us to ultimately suggest what the best option is – we simply record that the compelling evidence from the Council - particularly Dr Gjerde and Ms Stevens - is that (at least) other alternatives over and above those reported by the Applicant exist and should be thoroughly and objectively assessed.
- 4.180 For example, Ms Stevens’ presentation illustrated alternative entrance options that could be adopted without demolishing the baptistery. And Dr Gjerde demonstrated an alternative outline scheme that could be adopted to achieve a more appropriately located addition. This, we observe, bore some resemblance to the F de Jersey Clere-designed St Augustine church addition in Petone referred to us by Mr Bowman.
- 4.181 An assessment involving these and other alternatives against objectives and appropriately derived criteria, assessed using a reliable analytical method is required in our view. Such an assessment may well show that the proposed option is ultimately the most appropriate option. As it stands, we lack confidence in the alternatives assessment demonstrated by the Applicant to conclude it is sufficiently ‘thorough’ for the purposes of this policy.

- 4.182 Given our findings that both limbs of the Policy have not been implemented by the proposal, we are unable to conclude that the partial demolition of the baptistery is 'appropriate' as expressed in Policy 1.4.
- 4.183 By way of closing comments on alternatives, we are compelled to address two related matters.
- 4.184 Firstly, there was wholesale agreement by all parties that the proposed strengthening of the existing building is desirable. We would have been minded to grant consent for those works; however, the Applicant made it perfectly clear that it would not entertain the exercising of that consent in the absence of the proposed additions and alterations, and that we should discard it as an option.
- 4.185 And finally, we respond to the contention by the Applicant that a decision to decline this application seals the fate of the building such that full demolition becomes a *fait accompli*. While this may be the Applicant's opinion on the matter, we reject it as a matter of fact.
- 4.186 Mr Maassen submitted that the Church will not and cannot accept a de facto and hefty tax on its Congregation to sustain buildings that cannot meet their God-ordained mission and prevent the Congregation some license for contemporary expression of their hope and joy in the Gospel.
- 4.187 We do not underestimate the efforts of the Congregation in arriving at the current proposal – however, we find Mr Maassen's position in this respect to be artificially binary, and presumptive that an application to demolish the building in total would be granted resource consent.
- 4.188 If the Applicant ultimately decides to seek demolition of the building in order to meet its obligations under the Building Act, the appropriateness of that will be determined by others. We do not assume either way how such an application would be decided. Rather, our decision is based squarely on the merits of the proposal before us.

### Section 20 – Land Transport Objectives

- 4.189 We have considered the three objectives in Section 20 of the Plan and their supporting policies. There is no evidence before us to suggest that the proposal will result in outcomes that conflict with these three aims for the land transport network. We therefore find the proposal is consistent with the objectives and policies in Section 3 to the extent relevant.

### Overall evaluation of objectives and policies in the Plan

- 4.190 As is evident from the summary above, the proposal's consistency with the objectives and policies in the Plan is variable.
- 4.191 Consistent with views of both Mr Forrest and Mr O'Leary, we find that the strengthening aspect of the proposal is very well aligned with the relevant direction in the Plan. However, the proposal before us entails demolition and construction aspects as well, and it is those components that introduce conflict with the Plan's direction.
- 4.192 When the proposal is fairly appraised *as a whole* against the relevant provisions *as a whole*, we find that a decision to decline consent would be more aligned with the Plan's aims than a decision to grant consent.
- 4.193 Finally, there are no provisions that we have found to be so directive in terms of their language such that we have felt the need to weigh some directions more

determinatively than others. However, and even with that 'level playing field' applied, we are unable to reach a finding that the proposal can be said to be appropriate in the eyes of the Plan, given our findings above about the proposal's fit (or lack thereof) with Heritage Policies 1.4, 1.6. and 1.7, Inner City Policies 5.4, 6.1, 6.2 and 9.4, and City View Objectives 10, 11 and 16.

### **Other matters (s104(1)(c), RMA)**

- 4.194 Mr O'Leary identified six 'other' matters that we should take into account, being:
- a. The All Saints Conservation Plan;
  - b. The International Council on Monuments and Sites (ICOMOS) New Zealand Charter 2010 and Burra Charter;
  - c. The Palmerston North City Council Heritage Management Plan 2018;
  - d. The Palmerston North City Council Urban Design Plan 2018;
  - e. The Palmerston North City Centre Framework Plan 2013; and,
  - f. Approval of Road Controlling Authority.
- 4.195 Before we briefly summarise our consideration of these matters, we simply record here that none of the above matters have been determinative to our decision-making on this proposal. We have considered them in context, but find no need to apply any weight to them over and above the weight we have applied to the provisions of the Plan that are inherently aligned with the above matters.

### **Conservation Plan**

- 4.196 The proposal's fit with the Conservation Plan is a particular focus of Mr Bowman's evidence, though Ms Stevens, Mr Brown and Dr Joseph also considered it.
- 4.197 There was general consensus that the strengthening aspect of the proposal would allow the reuse of the church, and that both of those concepts are well aligned with the Conservation Plan. There was also general consensus that the proposal would be inconsistent with other aspects of the Conservation Plan, including policies regarding changes to the building's exterior elevations.
- 4.198 There were also matters in relation to the Conservation Plan where consensus was not reached. Whereas the Applicant's assessment was that the Conservation Plan has been appropriately considered and reflected in the proposed design, Mr Bowman, Ms Stevens and Dr Jacobs held a different view. The latter position is well captured by Ms Stevens evidence, where she said:

*110. I do not agree with the Applicant's AEE or Heritage Impact Assessment that the Conservation Plan has been appropriately considered or reflected in the design. The proposed partial demolition directly contravenes the Conservation Plan, which clearly articulates that the external elevations and the baptistery have the highest level of significance, and intervention in these areas should be the minimum necessary for ongoing conservation and use of the building.<sup>116</sup>*

- 4.199 Where there is a Conservation Plan for a heritage building, the Plan expressly anticipates that consideration will be given to the extent which any external additions

---

<sup>116</sup> Stevens s42A Report. Para 110

or alterations are consistent with the Conservation Plan<sup>117</sup>. The Plan explains that where a Conservation Plan exists, it will aid the decision-making process.

- 4.200 We have duly considered the Conservation Plan and the evidence presented in relation to it. Consistent with our assessment of effects and our assessment of objectives and policies above, we consider that the proposal will be aligned with some aspects of the Conservation Plan and contrary to others.
- 4.201 The Conservation Plan has been an 'aid' for our decision-making in this respect, but there are no concepts in the Conservation Plan that have not already been traversed by us such that we feel the need to provide a more fulsome assessment here.

#### ICOMOS and Burra Charters

- 4.202 Similarly, we find no need to discuss in any detail the proposal's alignment with the ICOMOS and Burra Charters. To the extent that these are relevant matters, we consider their substance has been applied within the Conservation Plan and reflected in the provisions of the District Plan we have assessed and discussed above.

#### Council Heritage Management Plan

- 4.203 We have had regard to the Council's Heritage Management Plan. This is a non-statutory document, the purpose of which is to create and enable opportunities for employment and growth, supported by the Council's Culture and Heritage Plan. The Heritage Management Plan summarises the existing historic heritage resource in the City and sets out aspirations for enhancing that resource through investment, upgrades to buildings and education.
- 4.204 The main delivery mechanisms identified in the Heritage Management Plan for achieving those aspirations include the District Plan, advocacy, partnership and funding.
- 4.205 To the extent relevant to our decision-making role, we consider the Heritage Management Plan has been adequately reflected in the provisions of the Plan such that we do not need to carry out an additional assessment here.

#### Council Urban Design Plan

- 4.206 Like the Heritage Management Plan, the purpose of the Council's Urban Design Plan is also to create and enable opportunities for employment and growth. The Urban Design Plan similarly sets out a summary of the current situation, aims for the future and direction for the achievement of those aims.
- 4.207 Again, to the extent relevant to our decision-making role, we consider the Urban Design Plan has been adequately reflected in the provisions of the Plan such that we do not need to carry out an additional assessment here.

#### City Centre Framework

- 4.208 The City Centre Framework is a more expansive and ambitious document than the Heritage Management Plan and Urban Design Plan. It sets out an overarching

---

<sup>117</sup> Assessment criteria h. under R17.7.2

framework for the City Centre along with 10 key directions for achieving the vision, including:

- a. streets for people;
- b. connections;
- c. nature in the city;
- d. embracing education;
- e. integrating arts;
- f. city of culture;
- g. play in the city;
- h. activity for people;
- i. entrance experience; and
- j. memories, stories and heritage.

4.209 To the extent relevant to our decision-making, we consider the District Plan responds to these directions in the provisions at Section 2, 11, 17 and 20. There are no concepts in the Framework that have not already been traversed by us such that we feel the need to provide a more fulsome assessment here.

#### Authority from Council as Road Controlling Authority

4.210 There was some discussion at the hearing about the need for the Applicant to obtain a separate authorisation from the Council – as Road Controlling Authority – for the proposed building encroachment.

4.211 Mr O’Leary attached advice from Council’s Manager – Transport & Infrastructure that the Council does not support the proposed encroachment.

4.212 Mr Maassen voiced concern of the Applicant that this was conveyed only for the first time in Mr O’Leary’s report despite a lengthy consultative exchange before and during the application process.<sup>118</sup>

4.213 Mr Maassen also confirmed the Applicant’s understanding that the encroachment would require a separate approval process, and noted that the Council routinely grants such applications.<sup>119</sup>

4.214 We can deal with this matter relatively briefly by noting that it is not within our delegation to consider any application for an encroachment. Whether the Council would approve such an application or not is not a factor that we have applied any weight to. We note Mr Maassen agreed with this position and also stated that the risk associated with the encroachment authorisation process was one that the Applicant accepted.

4.215 It is also not for us to substantively weigh in on Mr Maassen’s disquiet with the Council’s position on this matter, or related concerns the Applicant expressed about consultation with the Council over the course of the project.

---

<sup>118</sup> Legal submissions for the Anglican Diocese of Wellington (undated). Para 224

<sup>119</sup> Ibid. Para 220, 225

## Part 2

- 4.216 Decisions on resource consent applications are “subject to Part 2” of the RMA, which sets out the Act’s sustainable management purpose.
- 4.217 Mr Forrest<sup>120</sup> and Mr Jessen<sup>121</sup> advised that recourse to Part 2 is not necessary in our consideration of this proposal. As noted by Mr Forrest, the Plan is recently updated as at 2019 and has been drafted to expressly implement Part 2.
- 4.218 We adopt that advice and note there is no evidence before us to suggest there are areas of invalidity, incomplete coverage or uncertainty in the Plan or intervening statutory documents such that any detailed evaluation of Part 2 is required.
- 4.219 Insofar as we have found above that the Plan’s aims will be best achieved by declining consent, by extension the same can be said as to the achievement of the Act’s sustainable management purpose.

---

<sup>120</sup> Forrest EIC, para 38

<sup>121</sup> Legal submissions for reporting officers, including corrections and additional submissions given orally (21 January 2021), para 104

## 5.0 Decision

- 5.1 For the reasons set out above, and acting under delegated authority on behalf of the Palmerston North City Council, consent is hereby **declined** to the Wellington Diocesan Board of Trustees for modification to All Saints Church, including: the demolition of the existing baptistery; the addition of a new lobby and reception area; new entrances; an office space; and a new roof.

**DATED THIS 27<sup>th</sup> DAY OF APRIL 2021**



---

Heike Lutz  
Independent Commissioner



---

Jane Black  
Independent Commissioner



---

DJ McMahon  
Independent Commissioner (Chair)

