

Report / decision to determine notification of a resource consent application

(Sections 95A / 95B)

Application number:	RMA/2023/2046
Applicant:	Carol & Peter Johns
Site address:	33 Dublin Street
Legal description:	Lot 1 DP 470468
Zone:	
District Plan:	Residential Banks Peninsula
Proposed Plan Change 14:	Residential Banks Peninsula
Overlays and map notations:	
District Plan:	Character Area Overlay (Lyttelton); Remainder of Port Hills and Banks Peninsula Slope Instability Management Area; Banks Peninsula District Plan Coastal Hazards; Ngā Tūranga Tūpuna
Proposed Plan Change 13:	Contributory building within Residential Heritage Area (HA7 – Lyttelton)
Proposed Plan Change 14:	Sunlight Access Qualifying Matter; Low Public Transport Accessibility Area Qualifying Matter; Residential Heritage Area Qualifying Matter; Sites of Cultural Significance Qualifying Matter
Road classification:	Local road
Activity status:	Restricted discretionary
Description of application:	Demolition of a building

Proposed activity

The applicants are seeking resource consent to demolish an existing dwelling, due to poorly repaired earthquake damage.

The application was originally submitted jointly with a proposal for a replacement dwelling at 28A Jacksons Rd, to the immediate rear of 33 Dublin Street and owned by the applicants. However, the current proposal was removed from the application and that activity was consented separately (RMA/2023/1715). Therefore, any reference to 28A Jacksons Rd or the 'new dwelling' within the application documents should be ignored for the purposes of this activity and consent application.

The purpose of this report is to determine whether the application is processed on a non-notified, limited notified, or publicly notified basis, pursuant to Sections 95A and 95B of the Resource Management Act.

Description of site and existing environment

The application site and surrounding environment are described in paragraphs 5-9 of the AEE submitted with the application, noting that reference to 28A Jacksons Road should be ignored. I adopt the applicant's description, noting however that the dwelling to the immediate south (31 Dublin Street), also a contributory building under Plan Change 13 (**PC13**), was demolished without resource consent in March 2023.

Activity status

Christchurch District Plan

The site is zoned Residential Banks Peninsula. This zone includes the settlements of Lyttelton and Akaroa which each have a distinctive urban character. Lyttelton has a more urban atmosphere and a distinct urban-rural boundary. The residential areas are characterised by small lot sizes and narrow streets. This character is highly valued and the District Plan provisions seek to retain it.

The proposal requires resource consent for a restricted discretionary activity under the following rules:

Activity status rule	Standard not met	Reason	Matters of control or discretion	Notification clause
14.8.3.1.3 RD3	-	Within the Lyttelton Character Area Overlay, demolition of an existing building is a restricted discretionary activity.	14.15.23 – Character Area Overlay	-

Proposed Plan Change 13 Heritage

Proposed Plan Change 13 (PC13) is relevant to this proposal. It was notified on 17 March 2023 prior to the lodgement of this application and proposes amendments to the heritage rules and related provisions in various other chapters of the Plan. The submission period has now closed and there are submissions relating to all proposed provisions.

The objectives, policies and rules have legal effect from the date of notification pursuant to s86B(3) as the rules relate to the protection of historic heritage.

The proposal requires resource consent for a restricted discretionary activity under the following rules in PC13 (and PC14, see below):

Activity status rule	Standard not met	Reason	Matters of control or discretion	Notification clause
9.3.4.1.3 RD7	-	The proposal involves demolition of a contributory building in the Lyttelton Residential Heritage Area.	9.3.6.5 Matters of discretion for demolition in Residential Heritage Areas Where also located in a Character Area: 14.15.27 – Character Area Overlay	No clause

Proposed Plan Change 14 Housing and Business Choice

Proposed Plan Change 14 (PC14) was also notified on 17 March, but only the provisions relating to historic heritage have immediate legal effect. As the historic heritage provisions are qualifying matters for the purpose of the Medium Density Residential Standards and the NPS Urban development, the provisions of PC14 cannot be considered for the purpose of assessing resource consent applications beyond the heritage rules with immediate legal effect. These duplicate the PC13 provisions, so for ease of reference in this report I refer to the “Plan Change” to encompass both sets of identical rules, and reference should be made to the table above for the rules triggered.

Written approvals [Sections 95D, 95E(3)(a)]

No written approvals have been provided with the application.

PUBLIC NOTIFICATION TESTS [Section 95A]

Section 95A sets out the steps that must be followed to determine whether public notification is required:

Step 1: Mandatory notification – section 95A(3)	
Has the applicant requested that the application be publicly notified?	No
Is public notification required under s95C (following a request for further information or commissioning of report)?	No
Is the application made jointly with an application to exchange reserve land?	No

Public notification is not mandatory under this section.

Step 2: If not required by Step 1, notification is precluded if any of the following apply – section 95A(5)	
A rule or NES precludes public notification for all aspects of the application	No
The application is a controlled activity	No

The application is a boundary activity	No
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Public notification is precluded under this section.

Step 3: Notification required in certain circumstances if not precluded by Step 2 – section 95A(8)	
Does a rule or NES require public notification?	No
Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor? (discussed below)	Yes

Assessment of effects on the environment

When assessing whether the adverse effects on the environment will be, or are likely to be, more than minor, any effects on the owners and occupiers of the application site and adjacent properties must be disregarded pursuant to section 95D(a). Accordingly, this part of my assessment focuses on the wider environment beyond the application site and adjacent properties.

As a restricted discretionary activity the Council's assessment of the effects of this proposal is limited to matters relating to the character area and heritage values.

Character area

The relevant matters of discretion are listed in 14.15.2.3. I consider most of these to be irrelevant as they relate to how new buildings affect the values of the character area, rather than demolition of an existing building. However, the following matters are considered relevant to the proposal:

a. Area context:

- i. D. *the relationship with adjoining sites and buildings, including any recorded historic heritage values*
- i. E. *the visual coherence of the area.*

d. Akaroa and Lyttelton:

- i. A. *retains important view from public places;*
- i. D. *retains residential buildings, including accessory buildings, that were built prior to 1945 and/or contribute to the architectural traditions and character values.*

According to the Individual Site Record Form prepared for PC13 (page 502-503 of the Residential Heritage Area – Heritage Report and Site Record Forms - HA7 Lyttelton (1)) the dwelling was built in approximately 1870, which is prior to 1945. However it had a rear extension undertaken in approximately 1990 and was reroofed in decramastic tiles in the 1970s.

It is described as a 'colonial vernacular' style and as a 'modified colonial cottage', with the following physical description: *A single-storey dwelling with an L-shaped footprint and saltbox roof; gabled wing at rear (west elevation). Roof extends to form veranda across principal, east-facing elevation; cast-iron lacework, central entry and bay window at north end. Casement and fanlight type fenestration.*

It is understood that, whilst there is some overlap between character values and heritage values (in that the latter may inform the physicality of the former) the two are distinct concepts. 'Character values' relate to the physical/visual representation of the area's identified attributes (refer policy 14.2.4.7), whereas 'heritage values' relate to tangible and intangible attributes that contribute to the significance of (in this case) a heritage area (refer definition of 'heritage values', as proposed to be amended by PC13).

In terms of its architectural and aesthetic significance of the dwelling, which most closely aligns to the consideration in the matter of discretion listed above, it is noted generally that:

The dwellings in this area have architectural and aesthetic value related to their style and typology. Vernacular styles predominate and the typically modest size and scale of the houses creates a sense of consistency and is expressive of the social history of the township. Although the loss of a number of public, ecclesiastical and commercial buildings following the Canterbury earthquakes changed the appearance of the town centre, Lyttelton's historic houses have generally retained a high level of authenticity.

The proposal, in combination with the demolition of 31 Dublin Street, to the south, will result in two vacant sites side by side. I do note that any new buildings on these sites will need to demonstrate an adherence to the character values lost in order to obtain resource consent. However, at this point in time, no applications have been received by Council to build on these sites so the loss is not able to be mitigated in this way. I do acknowledge the replacement dwelling at 28A Jacksons Road may assist

in “filling in” the blank space, and there is no obligation on the applicant arising from the District Plan to necessarily rebuild at 33 Dublin Street.

The applicant has helpfully set out through photographs at varying distances that the size of the cottage reduces its visibility from public places, which reduces the impact of its loss on the wider environment.

Overall, I consider that the proposed demolition may have a minor adverse effect on the architectural traditions and character values of the area through the loss of the dwelling and the architecture and character it embodies. I do not consider these effects to be more than minor. There remains opportunity to re-establish these character values through a new building on the site that appropriately reflects the architectural traditions of the area.

Heritage values

The applicants have assessed the effects of the demolition of the building briefly in paragraphs 68-73 of the application document and have provided more fulsome assessments in the RFI response (dated 12 September 2023) and a further letter dated 6 November 2023. In the application document, they accept that the demolition will result in the removal of the heritage fabric and heritage values but consider that the building is not very prominent from the street or wider township. This is because of the narrow section, its height above the road, and the separation between of the dwelling from the street by a retaining wall. They conclude that the demolition will have minimal adverse effects on the wider heritage value of the area due to its small scale and the location of the property.

Further assessment provided in the s92 response includes setting out the history of the negotiations between the applicants and EQC, as well as consideration of alternatives to the demolition. An updated assessment of heritage effects is set out in paragraphs 17-25 of that letter, which considers that the heritage value of the building itself is limited, given the assessment in its Heritage Report and Site Record Form that results in its ‘contributory rating’ refers to the values of the area, rather than the building itself. Overall, the demolition is considered to ‘not significantly affect heritage value and distinct character of Lyttelton nor the assessment and identification of the wider RHA’.

Lastly, the applicants provided further information by way of letter, dated 6 November 2023, following receipt of the assessment by Council’s Heritage Advisor, Gareth Wright, which is referred to below. This assessment reiterated that the contributory status of the building means it is of less importance to the heritage value of the area, in comparison to a defining building or listed heritage item. They also consider that the restricted discretionary activity status of demolition means that it is anticipated to a degree by the District Plan. With respect, I consider the activity status does not prevent notification of the application (noting there is no notification preclusion clause in the rule), nor does it prejudice the substantive outcome of the application (it is not a controlled activity which would necessitate granting of consent), and simply restricts the matters to which Council can have regard.

As noted above, Council’s Heritage Advisor, Gareth Wright, has reviewed the proposal, including both letters provided by the applicant after lodgement of the application. His initial assessment (18 October 2023) provided a thorough assessment against the proposed matters of discretion in rule 9.3.6.5 (PC13) and is attached at **Appendix 1**.

For completeness, these are:

- a. The effect of the works on the heritage values of the building or site and the collective heritage values and significance of the heritage area, including the overall integrity and coherence of the heritage area.
- b. Whether the building is a defining building or contributory building.
- c. The extent to which the heritage fabric or heritage values have been damaged by natural events, weather and environmental factors, and the necessity and practicality of work to prevent further deterioration.
- d. Whether the costs to retain the building on site would be unreasonable.
- e. The ability to retain the overall heritage values of the building through an alternative proposal.
- f. The extent of photographic documentation that will occur prior to, during and on completion of the works.

His conclusion is that the effects of the loss of heritage values (individual to the site and collective to the area) will be more than minor, due to the removal of the building and therefore the permanent loss of the heritage values it represents. He has also considered whether there is a reasonable repair strategy that might maintain or reinstate the heritage values of the building. If there isn’t, then demolition may not be inappropriate. However, he concludes that there is a viable repair strategy that could repair and upgrade the building without significantly adversely affecting its overall heritage values.

Mr Wright has also separately responded to the numbered items in the 6 November letter. I have included this as **Appendix 2**.

At this point I would clarify that any consideration of the unreasonableness of the cost of repair (which the applicants have provided detailed information on) cannot be made until the s104 assessment, as it is not an adverse effect, but rather a positive effect of avoiding that cost. This is an accepted approach to assessing heritage applications and I see no reason to deviate from it here. In addition, it is understood that weighting of the PC13 provisions cannot be undertaken at s95 stage and can only be applied to the s104 assessment. On this basis, I acknowledge a number of the applicant's points made in the 6 November letter (particularly paragraph 3) but consider that they are more relevant to the s104 assessment of the proposal that will happen in due course.

In trying to reconcile the two differences in opinion (or approach, from the applicant's agent, given they have not presented any expert heritage evidence) I have interpreted them as follows. From the outset, neither Mr Wright nor the applicant have disagreed that the removal of the building will logically result in the removal of all heritage values associated with it from the site. Where their position differs seems to be the weight to be given to the removal of these heritage values and the resulting degree of effect this has, both on the building itself and on the wider residential heritage area. The applicant argues that the values of the building should be given lesser weight, given its lack of individual listing, its contributory classification and the "generic" evaluation undertaken for the statement of record, and therefore loss of the building cannot have more than minor effects either on its own heritage values or those of the wider area. As I understand his assessments, Mr Wright contends that the value of the building itself is to be given equal weight to its contribution to the collective values, and as demolition constitutes a complete loss of the values associated with the building, resulting effects must be more than minor, on both the building and on the significance of the collective values of the area. Mr Wright has also assessed the proposed repair strategy as a potential 'work' on the building, and concludes that as this will not have significant effects on the heritage values of the building, demolition is inappropriate.

With all due respect to the applicant, I am inclined to agree with Mr Wright that matter a. in 9.3.6.5 does not distinguish weight between the heritage values of the building and the collective values of the area. It requires an assessment of the effects arising from the proposed 'works' (which I consider can include demolition). Initially I was unsure of Mr Wright's consideration of the repair strategy as a type of 'work', but having considered the remaining matters of discretion, and reviewed the relevant policies, I do agree that the heritage framework requires consideration of alternatives to demolition and the resulting effect on heritage values that might result from these. The proposed policies (the notified version is included for reference in **Appendix 3**), as I interpret them, also emphasise consideration of alternatives, particularly in terms of repair strategies and adaptation of historic heritage, and prioritises this over demolition (particularly 9.3.2.2.3, 9.3.2.2.5 and 9.3.2.2.8). I also consider the demolition policy (9.3.2.2.8) does not at this point have an easily identifiable 'cascade' of considerations for buildings in heritage areas compared to listed heritage items, which might support a less rigid treatment of proposals to demolish contributory or defining buildings (noting sub-policy v. relates to heritage items only). This is an issue perhaps for the plan change process, should there be seen a need for greater distinction to better reflect the restricted discretionary activity status, as contended by the applicant.

I make no conclusion at this point on the appropriateness of the demolition (given the other matters that can be considered at s104) and note that the s95 determination is a procedural one, to ascertain whether the effects are of a scale that might warrant the opportunity for public submissions on the proposal (refer ss95A & 95D).

I will admit that I have found the task of reconciling the two positions outlined above to be very difficult, particularly given the stage the proposed provisions are at (whereby limited weight would be given to them if the s104 assessment was to be undertaken at this time). However, the conclusions of Mr Wright as to the scale of effects must lead me to consider public notification is appropriate under s95A(8)(b). This is also in line with case law on the degree to which relevant objectives and policies in a proposed plan should be considered, which should be done in the notification decision without weighting (*Tasti Products Ltd & Anor v Auckland Council* [2016] NZHC 1673 at [82], albeit this was in relation to determining affected parties and limited notification under ss95B & 95E, rather than public notification). This is obviously a substantial process for the applicants to undertake, with significant cost and time implications. I appreciate that they have already been involved in a long and complex process to resolve the outstanding earthquake repairs on their dwelling and are seeking certainty to allow their new build to commence. I am aware of the EQC covenant on their property that dictates demolition, but as it is Government policy rather than a relevant RMA matter, I can give no weight to it.

I conclude by saying that the assessment provided by the applicant, whilst thorough, has not been prepared by a heritage expert, so I must reasonably give greater weight to the conclusions proffered by Mr Wright. On the basis that the matters of discretion and policies above direct consideration of the effects on the heritage values of both the building and the collective area, and that Mr Wright, as a heritage expert, has concluded that these will be more than minor if the building is removed, I am obliged to accept that overall, adverse effects of the proposal will be more than minor on the wider environment.

Step 4: Relevant to all applications that don't already require notification – section 95A(9)	
Do special circumstances exist that warrant the application being publicly notified?	No

Conclusion on public notification

Having evaluated the application against the provisions of section 95A, my conclusion is that the application **must be publicly notified**.

RECOMMENDATION

That, for the reasons outlined above, the application **be publicly notified** in accordance with section 95A of the Resource Management Act 1991.

Reported and recommended by: Ruth Markham-Short, Senior Planner

Date: 16 November 2023

Reviewed by: Andrew Long, Senior Planner

Date: 16 November 2023

Decision

I have thoroughly read all evidence relating to this application, including the additional evidence submitted by the Applicant on 6 November 2023, Mr Wright's evidence, and the s.95 report prepared by Ms Markham-Short. I am also familiar with the planning framework prescribed in Plan Change 13 Historic Heritage, along with s.95 of the RMA.

Having carefully considered the relevant evidence, on balance, I agree with Ms Markham-Short's assessment, including the supporting evidence from Mr Wright. Accordingly, the application is to be publicly notified pursuant to s.95A of the RMA.

Commissioner:

Name: Nathan O'Connell

Signature: 

Date: 22 November 2023

RMA/2023/2046 – 33 Dublin Street, Lyttelton

Demolition of a Contributory building in a Residential Heritage Area.

1.0 Application

1.1 Application has been made to demolish the dwelling at 33 Dublin Street (33 Dublin), Lyttelton. 33 Dublin is a Contributory building in the Lyttelton Residential Heritage Area (RHA). Demolition of a Contributory building in an RHA is a Restricted Discretionary Activity (RD7). This application has been assessed against the relevant Matters of Discretion (9.3.6.5) in Plan Changes 13/14.

1.2 The Lyttelton RHA encompasses most residential properties in the township, including some dating to the earliest years of greater Christchurch's development. It embodies historic, architectural, technological and contextual values relating to its harbour location, underlying development pattern and association with the port.

1.3 A Contributory building is one which *supports and [is] consistent with the heritage values and significance of the heritage area, but [is not a] defining building...* On its Individual Site Record Form, 33 Dublin is described as a *modified colonial cottage that contributes to the area's historic, architectural and contextual values.*

1.4 33 Dublin sustained damage in the Canterbury Earthquake Sequence of 2010-2011. The current owners (the applicants) purchased the property in 2016 after repairs had been completed. They considered the repairs substandard and were subsequently accepted into the EQC On-sold programme. The EQC process considered repair and rebuild options; the applicants settled with EQC for a rebuild in 2022. EQC then placed a covenant across both titles concerned (33 Dublin and 28A Jacksons Road), requiring the demolition and replacement of 33 Dublin.

1.5 Application (RMA/2023/1715) was made in July 2023 for the demolition of 33 Dublin and a new dwelling at 28A Jacksons Road (a neighbouring site subdivided from 33 Dublin by the current owners). To facilitate the new build, 33 Dublin was withdrawn and resubmitted as a separate application (RMA/2023/2046) on 09 August. An RFI was issued on 21 August, with a response received on 12 September.

1.6 In support of the application, the following documentation was provided:

- A consent application (Novo Group, 4 July 2023). This was originally submitted for RMA/2023/1715 and then resubmitted without alteration for RMA/2023/2046. Appendices to the application included a confirmation email from EQC (Allen Hurley, 06 June 2023)
- A Request for Information (RFI) response (Novo Group, 21 September 2023). Appendices to the RFI included:
 - An owner statement (Carol and Peter Johns, undated)
 - An EQC statement (Allen Hurley, undated)
 - A structural report (BMC Consulting, 04 May 2021)
 - A costed scope of repair (Wrightway Construction, 26 July 2023)

2.0 Heritage Assessment

2.1 Heritage Values

(9.3.6.5 a. The effect of the works on the heritage values of the building or site and the collective heritage values and significance of the heritage area, including the overall integrity and coherence of the heritage area)

It is a truism that the demolition of an intact Contributory building in an RHA results in the permanent loss of that building and the heritage values that it represents. It is more useful therefore to consider if a reasonable repair strategy will maintain or reinstate the heritage values of that building such that it will remain a Contributory building within the RHA. If the answer is no, demolition would not be inappropriate.

The BMC structural report observes the settlement of the foundation under the main/original portion of 33 Dublin Street, probably as a result of the failure of the crib wall along the front of the property (since replaced). In view of the generally deteriorated condition of the foundation and subfloor, the engineer recommends their full replacement. The engineer also recommends seeking further guidance from the appropriate professionals regarding site drainage, roof repair, cladding repair and a reassessment of the post-quake crib wall – which is again showing signs of failure. I observe that there is no evidence that this professional evidence was sought. Damage is discussed further under 2.3.

The BMC report and Wrightway scope derived from it suggest that the greater part of the exterior fabric of 33 Dublin may need to be replaced or reconstructed as a corollary of the recommended foundation replacement. Given that the scope of works has not been reviewed by a heritage professional, the extent of necessary replacement is unclear. If extensive replacement is required however, this does not necessarily mean that the building can no longer represent the values that were attributed to it at the time of its assessment. In the first place, some key heritage values (such as historical) have significant intangible qualities that are less dependent on the overall physical integrity of a building. Secondly, heritage practice recognizes that as a consequence of necessary repair, heritage fabric will inevitably be replaced over time. What is more important is not that the fabric is replaced, but how it is replaced. If a heritage conservation approach is taken (observing the dictum ‘as much as necessary but as little as possible’ and replacing critical heritage fabric ‘like for like’ in terms of form and appearance) then heritage values and significance will be maintained. Moreover, returning a building to an earlier known form (by the processes of reconstruction and/or restoration) may serve to recover lost or obscured heritage values and significance. The definition of Heritage Fabric in the PC13/14 provisions supports this interpretation, incorporating as it does not only original fabric, but also later fabric – including that introduced as part of repair, restoration or reconstruction where that fabric contributes to heritage values.

33 Dublin Street is one of a row of four Contributory buildings located at the front of their respective sites overlooking central Lyttelton that serve to illustrate the early development of the township. Given the (large) scale of the Lyttelton RHA, one might argue that the loss of one Contributory building is of little account as others remain to ‘contribute’. Indeed a fifth Contributory building in the row (29 Dublin Street) was demolished just prior to notification of the RHA rules. An RHA is defined however as a *comprehensive, collective and integrated place* (policy 9.3.2.2.2). Although it is a requirement of an RHA that it contains a majority of buildings that are of Defining or Contributory importance to the heritage area, it does not necessarily follow that a simple ‘majority’ is also an acceptable threshold of cumulative loss. Every demolished Contributory building ultimately impacts the overall integrity and coherence of an RHA. In the case of 33 Dublin, I would argue that the run of highly-visible closely-spaced dwellings of which it forms a part are more than the sum of their individual parts (particularly as a consequence of the basin-like topography of the township), and that the loss of any one of these four has more impact on the values and significance of the Lyttelton RHA as a whole than the demolition of a more isolated Contributory building.

2.2 Defining or Contributory

(9.3.6.5 b. Whether the building is a defining or a contributory building)

Level of significance is a supporting matter – an ‘and’, not an ‘or’. It must be considered alongside the other matters relating to level of damage and ability to repair. When level of significance is taken into account however, then it should be recognized that the contribution a Contributory building makes to an RHA is by definition less than that of a Defining building. While this means that it is of less overall value to the RHA than a Defining building, it also means that it can necessarily sustain a greater degree of alteration and fabric replacement because there is not the expectation that it will have the degree of individual integrity that a Defining building will have.

2.3 Extent of Damage

(9.3.6.5 c. The extent to which the heritage fabric or heritage values have been damaged by natural events, weather and environmental factors and the necessity and practicality of work to prevent further deterioration)

The building, including its heritage fabric, has undeniably sustained some damage as consequence of the Canterbury Earthquake sequence. The scale of the current scope is such however at least in part because of issues arising from (ill-advised) historic alteration, poor quality repair and inattention to maintenance. Much of the recommended work would eventually need to have been addressed regardless of whether the building had sustained earthquake damage or not. The scope is reasonable (albeit lacking a conservation approach) and in principle the repair work should be undertaken. There is no indication given however that the building is uninhabitable as it stands, or that it will not remain habitable for the foreseeable future if the work is not carried out. The BMC report and the EQC letter show that the site has its particular challenges, but not that (consideration of costings aside) the work is impractical. As argued above in 2.1, the proposed repair solution would not compromise the building’s heritage values.

2.4 Costs

(9.3.6.5 d. Whether the costs to retain the building on site would be unreasonable)

Council’s legal advice - which has been applied to heritage demolition applications since the Canterbury Earthquakes - is that not incurring the costs of repairing a heritage building is not an adverse effect of a demolition proposal. It can therefore only be considered at s104 stage, not notification stage. For completeness however I offer the following observations.

The Wrightway scope provides a repair estimate of \$525,395.38. The EQC email of 06 June states that the Wrightway repair scope was *marginally less than a high level rebuild estimate supplied by an external QS* but that when variation risks were taken into account, the dwelling was assessed as uneconomic to repair. The detailed costings from the external quantity surveyor have not been provided. The undated EQC letter however states that repair costs with variation risks accounted for were estimated at a minimum of \$840k, and that a rebuild was costed at \$771k (including demolition). On this basis, the applicants settled with EQC for a rebuild.

Based on this scope, repair costs appear to exceed replacement. It is important to note however that an alternative scope prepared by a conservation professional may find that a lower level of fabric replacement is required - which could result in a lower cost estimate for repair. Greater scope definition may also reduce the scale of the sum allocated to variation risks (approximately \$315k). I

note additionally that retention and reuse of heritage buildings has sustainability benefits - avoiding materials going to landfill and retaining the embodied energy of the existing building.

2.5 Alternative Proposal

(9.3.6.5 e. The ability to retain the overall heritage values of the building through an alternative proposal)

As discussed above in 2.1, it is quite possible to repair and upgrade the existing building without adversely affecting its overall heritage values, particularly if that repair and upgrade is informed by heritage conservation considerations. It is also noted that (in spite of the EQC covenant) there is no necessary imperative to demolish the building, particularly as the applicants have elected to 'rebuild' on a adjacent site.

2.6 Photographic documentation

(9.3.6.5 f. The extent of photographic documentation that will occur prior to, during and on completion of works.)

If the application is granted, given the loss of site-specific heritage values that would ensue, it would be appropriate for the dwelling to be photographically documented before demolition.

3.0 Conclusion

On the basis of the above assessment, I consider the effects of the demolition of the Contributory building at 33 Dublin Street on the individual heritage values of the site, and the collective heritage values and significance of the heritage area to be more than minor. If the application is granted, I recommend one condition:

Condition

Prior to demolition of 33 Dublin Street, the consent holder will undertake a digital photographic record of the building. This record will be lodged with the Heritage Team Leader, Christchurch City Council (or nominee) within three months of the completion of the works subject to this consent. Photographs must be of printable quality, at least 1440 pixels by 960 pixels for a 4"x 6" print at a minimum resolution of 240 PPI. Also see advice note 1 below.

Advice Notes

1. The photographic record should be comprised of images of both the exterior and the interior. Exterior images should record each elevation; interior images should record each room. Photographs should be labelled with location, date and photographer's name, and submitted with a plan showing photograph locations. They can be submitted to the nominated Heritage Team contact on a memory stick, or electronically by either email (noting that Council's email data transfer limit is 20MB per email) or file sharing service such as wetransfer.com or dropbox.com to rcmon@ccc.govt.nz.
2. There may be archaeology on this site as protected under the Heritage New Zealand Pouhere Taonga Act 2014. Archaeological sites are defined in the Act as any place where there is physical evidence of pre-1900 occupation, regardless of whether the site is known or recorded or not. Authority from Heritage New Zealand Pouhere Taonga (HNZPT) is required for any work that affects or may affect an archaeological site. Please contact the regional archaeologist at Heritage New Zealand Pouhere Taonga (HNZPT): archaeologistcw@heritage.org.nz or 03 363

1880 before commencing any work on the land. For more information visit <http://archaeology.nz>

3. Information being submitted in relation to conditions of this consent is to be sent by email to rcmon@ccc.govt.nz. The nominated Council Heritage Advisor for this consent is Gareth Wright (941 8026; gareth.wright@ccc.govt.nz).

Gareth Wright
Heritage Advisor
16/10/2023
Revised 18/10/2023

Reviewed by
Suzanne Richmond
Heritage Advisor
17/10/2023

RMA/2023/2046 – 33 Dublin – response to applicant commentary on council's heritage advice

I have broken this down into eight issues.

1. Emphasis on collective values versus individual values (pts 2.1, 2.2, 3, 5, 6)

There is a fundamental difference between the applicant and myself about how the significance of an RHA should be conceptualized. The applicant argues that one should understand the relationship of a building within an RHA with the RHA solely in terms of the contribution that that building makes to the collective values and significance of the RHA. The individual heritage values of a building are therefore of little consequence in any consideration of demolition. This interpretation is supported by the recommended provisions. I would argue conversely that the collective significance of an RHA is the sum total of the individual heritage values of each of its constituent buildings, and that the contribution that a building makes to the whole cannot be understood without reference to its individual values. This interpretation is supported by the notified provisions.

The applicant correctly characterizes the argument I made in my comments that if a building can be repaired in a way that maintains or reinstates its heritage values such that it remains a contributory building then the effects of demolition are unacceptable. The applicant implies that this is an inappropriate response to the pertinent (notified) matters of discretion; I disagree. Matter (a) asks us to consider the effects of the works on the heritage values of the building or site **and** the collective heritage values and significance of the heritage area. It does not say **or**. If one considers the works in question to be simply demolition, then the first part of this matter is rendered nonsensical as (by implication) full demolition will remove all heritage value. Only by thinking of the works as the potential for repair, can one assess the effect of (demolition) works on both individual **and** collective heritage values and significance. I do agree however that if (as per recommended provisions) one is only able to consider collective values and significance then one can consider the effects of demolition directly.

2. Discounting of rating system (pt 7)

The applicant notes that buildings within an RHA were rated on the basis of their ability to contribute to the values of that RHA. The applicant also considers however that those assessments are generic and that values are not separately enumerated. Consequently it is not clear what the particular contribution of a building is or (conversely) why its loss would diminish an area. However there is no obvious reason why additional heritage values assessment could not be undertaken on an 'as required' basis to elucidate and support assessed rating.

3. Uncertainty (pts 2.3 & 13)

The applicant argues that the scale of works and the degree of uncertainty involved makes the works impractical. I would counter that one cannot assess practicality though the medium of uncertainty unless a reasonable attempt to made to quantify that uncertainty. If it is unquantified, then there is no firm ground from which a counter argument can be staged. The onus is therefore on the applicant to provide professional opinions which mediate uncertainty as much as possible. In this case, the application does not make it clear why there is as much uncertainty in this project as apparently there is.

4. Relative ease of alteration and demolition (pt 8)

The applicant asserts (pt 8) that I have argued that it is more difficult to demolish a contributory building than a defining one, and that this is counterintuitive. I agree that this is counterintuitive – but it is not the point that I was making. I made the observation that the expectation of a contributory building is that it will not have the integrity of nor be expected to maintain the integrity of a defining building - and so there will be greater latitude for it to undergo further change (including extensive repair) and still maintain its contributory status. Although there might be implications in this for demolition thresholds that need to be explored, I did not myself draw the conclusion that relative ease of alteration would necessarily make it more difficult to demolish a contributory building.

5. Repair versus replication (pt 9)

The applicant observes that if the values of a building are in large part intangible, and if (as a consequence) the replacement of substantial portions of heritage fabric does not diminish the overall significance of a building (as I have argued in my consent comments), then why could a well-resolved replica building not make an equal contribution to the RHA? I would argue that the key difference between replica heritage and (substantially) repaired heritage is essentially philosophical. Heritage conservation theory considers heritage fabric to be precious as it invests a building with authenticity and integrity – twin concepts which enable the full or truthful representation of heritage values. This does not deny the need to repair or upgrade heritage buildings – including the replication of elements as required – but mandates a conservative approach encapsulated in the guiding dictum ‘as much as is necessary but as little as possible’. Wholesale replication of heritage is not considered a conservation process. This is not to say that a building which is wholly replica could not represent some of the heritage values ascribed to its progenitor, but not all and not to the same degree. If it were in an RHA, it would likely be assessed as a neutral building rather than a contributory one. A community of replica buildings could potentially be a character area (defined by a common visual language), but not a heritage area (defined by a common history).

6. Insulation through scheduling (pt 10)

The applicant argues that although the Lyttelton RHA has a low number of contributory and defining buildings relative to the size of the RHA compared with the other RHAs, it has a relatively large number of scheduled buildings, and to some degree these ‘insulate’ the RHA against the loss of contributory and defining buildings. Recognizing however that the area-wide heritage protection that the RHAs afford is a new phenomena in Christchurch, and that in its absence scheduling provided the only means of protecting an area’s collective heritage significance, then one might argue that the relatively high number of scheduled items in Lyttelton is a reflection of that township’s particular collective value – which makes its ‘supporting’ contributory and defining dwellings of greater significance to the whole, not less.

7. Cumulative loss (pt 12)

The applicant argues that the loss of 33 Dublin will not have any cumulative effect because it is the ‘first cab off the rank’ in terms of consented demolition in the Lyttelton RHA. Each RHA has a numerical threshold, so if one thinks of cumulative effect as purely a numbers game, then this might be considered true. But an RHA maintains its overall significance through the collective values of each of its constituent properties – and every loss is a diminution of

these. There is always a danger that by the time cumulative effect is measurable, the integrity of an RHA might already be compromised.

8. Visibility (pt 11)

The applicant argues that the dwelling is not very visible. I believe this is based on a misapprehension that the only relevant views are those from nearby vantage points – such as in Dublin St itself. Lyttelton's basin-like topography however ensures that much of the township is highly visible from multiple locations. 33 Dublin is no exception. I note in particular that this dwelling can be clearly seen from Winchester St (one of Lyttelton's three main east/west thoroughfares).

Gareth Wright
Heritage Advisor
14 November 2023.

9.3.2.2.2 Policy – Identification, assessment and scheduling of heritage areas

- a. Identify heritage areas groups of related historic heritage within a geographical area which represent important aspects of the Christchurch District's cultural and historic themes and activities and assess them for significance to the Christchurch District and their relationship to one another according to:
 - i. the matters set out in Policy 9.3.2.2.1 whether the heritage area meets at least one of the heritage values in Appendix 9.3.7.1 at a significant or higher level; and
 - ii. the extent to which the area heritage area and its heritage values contributes to Christchurch District's sense of place and identity; has at least a moderate degree of integrity and authenticity; is a comprehensive, collective and integrated place, and contains a majority of buildings or features that are of defining or contributory importance to the heritage area.
- b. Schedule historic heritage areas that have been assessed as significant in accordance with Policy 9.3.2.2.2 (a).

9.3.2.2.3 Policy - Management of scheduled historic heritage

- a. Manage the effects of subdivision, use and development on the heritage items, heritage settings and heritage areas scheduled in Appendix 9.3.7.2 and 9.3.7.3 in a way that:
 - i. provides for the ongoing use and adaptive reuse of scheduled historic heritage, in a manner that is sensitive to their heritage values while recognising the need for works to be undertaken to accommodate their long term retention, use and sensitive modernisation change and the associated engineering and financial factors;
 - ii. recognises the need for a flexible approach to heritage management, with particular regard to enabling repairs, heritage investigative and temporary works, heritage upgrade Building Code works to meet building code requirements, and restoration and reconstruction, in a manner which is sensitive to the heritage values of the scheduled historic heritage, and retains the current level of significance of heritage items and heritage areas on the schedule,
 - iii. subject to i., and ii., protects their particular heritage values from inappropriate subdivision, use and development.
- b. Undertake any work on heritage items and heritage settings scheduled in Appendix 9.3.7.2 and defining buildings and contributory buildings in heritage areas scheduled in Appendix 9.3.7.3 in accordance with the following principles:
 - i. focus any changes to those parts of the heritage items or heritage settings, or defining building or contributory building which have more potential to accommodate change (other than where works are undertaken as a result of damage), recognising that heritage settings and Significant (Group 2) heritage items are potentially capable of accommodating a greater degree of change than Highly Significant (Group 1) heritage items;
 - ii. conserve, and wherever possible enhance, the authenticity and integrity of heritage items and heritage settings, and heritage area, particularly in the case of Highly Significant (Group 1) heritage items and heritage settings;
 - iii. identify, minimise and manage risks or threats to the structural integrity of the heritage item and the heritage values of the heritage item, or heritage area, including from natural hazards;
 - iv. document the material changes to the heritage item and heritage setting or heritage area;
 - v. be reversible wherever practicable (other than where works are undertaken as a result of damage); and
 - vi. distinguish between new work and existing heritage fabric in a manner that is sensitive to the heritage values.

9.3.2.2.5 Policy - Ongoing use of scheduled historic heritage heritage items and heritage settings

- a. Provide for the ongoing use and adaptive re-use of heritage items and heritage settings scheduled in Appendix 9.3.7.2 and defining buildings and contributory buildings in heritage areas scheduled in Appendix 9.3.7.3 (in accordance with Policy 9.3.2.2.3), including the following:
 - i. repairs and maintenance;
 - ii. temporary activities;
 - iii. specific exemptions to zone and transport rules to provide for the establishment of a wider range of activities;
 - iv. alterations, restoration, reconstruction and heritage upgrade Building Code works to heritage items, including seismic, fire and access upgrades;
 - v. signs on heritage items and within heritage settings; and
 - vi. new buildings in heritage settings, Subdivision and new development which maintains or enhances access to heritage items, defining buildings and contributory buildings.

9.3.2.2.8 Policy - Demolition of scheduled historic heritage of heritage items

- a. When considering the appropriateness of the demolition of a heritage item scheduled in Appendix 9.3.7.2 or a defining building or contributory building in a heritage area scheduled in Appendix 9.3.7.3, have regard to the following matters:
 - i. whether there is a threat to life and/or property for which interim protection measures would not remove that threat;
 - ii. whether the extent of the work required to retain and/or repair the heritage item or building is of such a scale that the heritage values and integrity of the heritage item or building would be significantly compromised, and the heritage item would no longer meet the criteria for scheduling in Policy 9.3.2.2.1;
 - iii. whether the costs to retain the heritage item or building (particularly as a result of damage) would be unreasonable;
 - iv. the ability to retain the overall heritage values and significance of the heritage item or building through a reduced degree of demolition; and
 - v. the level of significance of the heritage item.