



## **NOTICE OF MEETING**

**Notice is hereby given that a Meeting  
of the Hearings Panel  
will be held in the Council Chambers  
First Floor, Civic Administration Building,  
101 Esk Street, Invercargill  
On Friday 4 August 2017 at 3.00 pm**

Cr D J Ludlow (Chairman)  
Cr K F Arnold

EIRWEN HARRIS MITCHELL  
MANAGER, SECRETARIAL SERVICES

# A G E N D A

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3. **COMMITTEE IN PUBLIC EXCLUDED SESSION**

Moved, seconded and **RESOLVED** that the public be excluded from the following parts of the proceedings of this meeting; namely

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1)(d) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under Section 48(1) for the passing of this resolution</b>
Consideration of Resource Consent Application	A right of appeal lies to any court or tribunal against the final decision of the Local Authority in these proceedings.	<b>Section 48 (2) (a) (1)</b>

\*\*\*\*\*

## Report to the Hearings Panel 4 August 2017

**HEARING PANEL MEMBERS ARE:**

Cr D J Ludlow (Chair)  
Cr K F Arnold

**1. HEARING – 23B – 23H ANGLEM STREET, INVERCARGILL**

A copy of the report on notification, including a recommendation, is attached.

Report compiled by: Christine Edgley  
Resource Management Officer

Report endorsed by: Gareth Clarke  
Team Leader – Resource Management

**HEARING**

<b>Applicant</b>	HWR Property Limited
<b>Application</b>	The application is to operate visitor accommodation using existing residential units.
<b>Site</b>	23B-23H Anglem Street, Invercargill
<b>Legal Description</b>	Flats 2-8 DP 8579 on Lot 1 DP 8200
<b>Classification</b>	Residential 1 Zone (Proposed Invercargill City District Plan 2016)
<b>Activity Status</b>	Discretionary
<b>Process</b>	The application was received on 5 May 2017. Further information, which included the written approval of parties identified as affected, was requested on 25 May 2017 and a response was received on 30 May 2017. On 1 August 2017 the decision on notification was referred to the Hearings Panel.
<b>Issues</b>	The key issue for this report is the matter of notification of the application.

## APPLICATION DETAILS AND CONSENT CATEGORY

The application is to operate visitor accommodation from seven existing residential units on an eight-unit cross lease. The units will be used for a mixture of accommodation styles as needed including staff accommodation, short term, long term, and for a daily tariff. There will be at least eight car parks to serve the units. A cleaner will visit the site once a day between 8.00 am and 5.00 pm.

Resource consent is required under Rule 3.34.2 (Residential 1 Zone) of the Proposed Invercargill City District Plan 2016 (the Proposed District Plan) which lists visitor accommodation as a discretionary activity. Visitor accommodation is defined in the Proposed District Plan as *"the use of land or buildings for the provision of accommodation by fee paying customers for a daily tariff. This includes hotels, motels, hostels, backpackers, and camping grounds, but does not include home stay."* The accommodation for a daily tariff therefore, is the only part of the proposal that requires a resource consent.

## PROCESS

The application was received on 5 May 2017 and is attached as **Appendix 1**. No written approvals were supplied with the application. In the request for further information dated 25 May 2017 the owners (and occupiers, if different) of all adjacent properties and the owner and occupier of the remaining flat on the subject site (Flat 1) were initially identified as affected parties. A response to the request for further information was received on 30 May 2017 and is attached as **Appendix 2**. Following the receipt of additional information on the fencing between the subject site and the adjoining properties (which was confirmed by an additional site visit), the identification of affected parties was revised to only include the owner and occupier of Flat 1. The application was put on hold pending the supply of this written approval.

The applicant disagreed with the identification of any affected parties, and a number of discussions were held. On 21 June 2017 the Council engaged the law firm Simpson Grierson to give a legal opinion on the matter of affected parties to the application. The legal opinion of Simpson Grierson was received on 19 July 2017 and is attached as **Appendix 3**.

On 1 August 2017 the decision on notification was referred to the Hearings Panel. The applicant waived the timeframes with regards to notification of the Hearing and report distribution.

An aerial image of the site is attached as **Appendix 4**.

## NOTIFICATION

The Hearings Panel must decide if the application is to be processed on a publicly notified, limited notified to affected parties, or non-notified basis.

### Public notification

Section 95A of the Resource Management Act 1991 deals with the circumstances in which an application may be publicly notified, and states:

- (1) *A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.*

- (2) *Despite subsection (1), a consent authority must publicly notify the application if—*
- (a) *it decides (under section 95D) that the activity will have or is likely to have adverse effects on the environment that are more than minor; or*
  - (b) *the applicant requests public notification of the application; or*
  - (c) *a rule or national environmental standard requires public notification of the application.*

It should be noted that the applicant has not requested public notification of the application and there is no rule or national environmental standard that requires it. Therefore the Hearings Panel must decide if the activity will have or is likely to have effects that are more than minor.

Section 95D of the Act deals with the decision by a consent authority as to whether adverse effects are likely to be more than minor and states:

*A consent authority that is deciding, for the purpose of section 95A(2)(a), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—*

- (a) *must disregard any effects on persons who own or occupy—*
  - (i) *the land in, on, or over which the activity will occur; or*
  - (ii) *any land adjacent to that land...*

When making a decision whether to fully notify a resource consent application, Section 95D of the Act precludes the consideration of the effects on all land adjacent to the subject site. A consent authority may also publicly notify an application if it decides that special circumstances exist in relation to the application. If the Hearings Panel decides to fully notify the application because the effects extend to a wider area, or because it decides special circumstances exist, anyone can make a submission regardless of whether or not they are considered to be an affected party.

#### Limited Notification

If the Hearings Panel decides not to publicly notify the application under section 95A, it must decide whether the application should be limited notified. Section 95B of the Act deals with limited notification of a consent application, and provides:

- (1) *If a consent authority does not publicly notify an application for a resource consent for an activity, it must decide (under sections 95E to 95G) whether there is any affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.*
- (2) *The consent authority must give limited notification of the application to any affected person unless a rule or national environmental standard precludes limited notification of the application...*

There is no rule or national environmental standard that precludes limited notification of the application. Section 95E of the Act deals with how the consent authority decides if a person is an affected person, and provides:

- (1) *A consent authority must decide that a person is an affected person, in relation to an activity, if the activity's adverse effects on the person are minor or more than minor (but are not less than minor)...*

Comment

Under Section 95D, effects on adjoining land may not be considered for the purpose of full notification. It is accepted that there are no effects that go beyond the adjoining properties and the proposal does not have any unusual features that would raise special circumstances. I consider that the test for public notification is not met in this instance.

The key issue for an application for visitor accommodation in a residential area is the effects of the proposal on residential amenity. The application states that *"the use of the properties for visitor accommodation will generate no greater effects than the existing and permitted residential use."* In the request for further information dated 25 May 2017 the owners (and occupiers, if different) of all adjacent properties and the owner and occupier of the remaining flat on the subject site (Flat 1) were initially identified as affected parties. The reason for this identification was that traffic movements associated with visitor accommodation tend to be different in character (particularly in frequency and timing) and the associated noise and glare could have an adverse effect on the parties in the neighbouring properties. The parties associated with the adjoining properties in David Street (backing onto the subject site) were identified for their proximity to the outdoor living areas of four of the flats and the car parking area in the southwest corner of the subject site.

Following the receipt of further information (pers. com. R Chapman 31 May 2017) on the fencing between the subject site and the adjoining properties (which was confirmed by an additional site visit on 1 June 2017), the identification of affected parties was revised to only include the owner and occupier of Flat 1. It is considered that the 1.8 metre high (minimum) close-boarded fencing around the perimeter of the site means any adverse effects on adjoining properties from the visitor accommodation activity will be less than minor.

It is considered that in addition to the effects mentioned above still applying to the owner and occupier of Flat 1, it is also considered that there are social conditions associated with visitor accommodation that can adversely affect amenity values (it is noted that the definition of 'environment' in Section 2 of the Resource Management Act 1991 includes social conditions that affect or which are affected by amenity values). Visitor accommodation has a high rate of guest turnover which is unlike normal residential use where there is an expectation that neighbours will stay for longer than a night or two. In addition to this, the units (like similar accommodation such as motels and hotels) are likely to be used during events (such as weddings and the Burt Munro Challenge) where there is likely to be more of a social gathering aspect than would be expected from normal residential activity.

The applicant has stated that the proposed activity will comply with the district-wide rules as they relate to the Residential 1 Zone such as noise, lightspill and signage. Compliance with the district-wide rules relating to the Residential 1 Zone can be taken into account when deciding whether to grant resource consent under Section 104 of the Act, but it does not remove the obligation to gain written approval to the activity from affected parties.

In conclusion, I consider that the applicant has not demonstrated that the effects of the proposed activity on the owner and occupier of Flat 1 will be less than minor.

**RECOMMENDATION**

I recommend that the application be processed in accordance with the provisions of Section 95B of the Resource Management Act 1991 and that notice be served on the owner and occupier of Flat 1 of the subject site.

If the Hearings Panel decide that there are no affected parties, then a decision on the application will be made under delegated authority (after consultation with the applicant on conditions of consent).

# APPENDIX 1



**CRUICKSHANK PRYDE**  
Barristers & Solicitors

5 May 2017

The Director  
Environmental and Planning Services  
Invercargill City Council  
Private Bag 90104  
**INVERCAGILL**



**INVERCARGILL**  
42 Don Street  
P.O. Box 857  
Invercargill 9840  
New Zealand  
DX YA90002  
Phone 03 214 4069  
Fax 03 214 4760  
Email [office@cplaw.co.nz](mailto:office@cplaw.co.nz)

**QUEENSTOWN**  
Unit 23 Gorge Road Retail  
Centre  
159 Gorge Road  
Queenstown  
New Zealand  
Phone 03 441 2424  
Fax 03 441 2426  
Email [adminqt@cplaw.co.nz](mailto:adminqt@cplaw.co.nz)

Trust Account  
ASB 123195 0000222 00

**HWR Property Ltd - Application for Resource Consent (Visitor Accommodation) 23  
Anglim Street, Invercargill**

On behalf of HWR Property Ltd we enclose an application for Resource Consent in respect to the above property, together with our cheque in the sum of \$550.00 in payment of the processing fee.

On behalf of our client, we ask that the application be dealt with on a non- notified basis and under delegated authority.

The application is for visitor accommodation utilising existing residential units. There are no adverse effects over and above those associated with the permitted residential use of the site.

We respectfully request that some urgency be given to the application and we would be grateful if it could be processed as soon as possible.

Yours faithfully  
**CRUICKSHANK PRYDE**

Rex Chapman  
Partner

[rex.chapman@cplaw.co.nz](mailto:rex.chapman@cplaw.co.nz)

Copy to:  
Sue Hill  
HWR Property Ltd  
By Email

SHF-P-37-V1







LANDUSE CONSENT APPLICATION

SECTIONS 88 RESOURCE MANAGEMENT ACT 1991

TO: Environmental and Planning Services
Invercargill City Council
Private Bag 90104
Invercargill

Telephone: 03 211 1777
Email: ResourceConsents@icc.govt.nz

APPLICANT DETAILS

Full name of applicant HWR PROPERTY LTD
Address of Applicant 35 INGLEWOOD ROAD
INVERCARGILL 9810
Address for Service: CRUICKSHANK PRYDE PO BOX 857
INVERCARGILL 9840
Contact Telephone Number 032144069 Fax 032144760
Email rex.chapman@claw.co.nz

LOCALITY OF ACTIVITY

Address of Site to which this application applies: 2/23, 3/23, 4/23
5/23, 6/23, 7/23 and 8/23 ANGLEM ST INVERCARGILL

OWNERSHIP / OCCUPANCY OF SITE

I am the [checked] Owner [checked] Occupier

Names and addresses of owner and occupier (other than applicant) of the site to which application relates.

Blank lines for names and addresses of owner and occupier.

ADDITIONAL CONSENTS

The following additional resource consents have been applied for:

[ ] Water Permit [ ] Coastal Permit [ ] Discharge Permit [ ] Subdivision Consent
Have you applied for a building consent for this project? [ ] Yes [checked] No

1 Documents will be sent to this address. If you specify an email address, a hard copy of documents will not be posted.

**DESCRIPTION OF ACTIVITY TO WHICH THE APPLICATION RELATES**

Describe the activity proposed to be carried out on the site (use additional pages if necessary):

SEE ATTACHED

**ENVIRONMENTAL EFFECTS ASSESSMENT (FOURTH SCHEDULE RMA 1991)**

Assessment of any effects on the environment this section must be completed (use additional pages if necessary):

SEE ATTACHED

**Declaration**

I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.

I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.

Subject to my/our rights under Section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Invercargill City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid

**SIGNATURE OF APPLICANT OR AGENT**

*[Signature]* (RT CHARMAN)  
on behalf of HWK PROPERTY LTD

5/5/17

(Signature of applicant or person authorised to sign on behalf of applicant)

(Date Submitted)

**APPLICANT CHECKLIST**

- Completed and signed this Resource Consent Application form?
- Full description of the activity proposed and assessment of effects?
- Included processing fee?
- Included the Affected Persons Written Approval form?
- Included a set of plans?

**Description of activity to which the application relates**

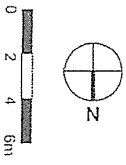
1. The applicant is the owner and currently the occupier of seven residential units at 23 Anglem Street, Invercargill described as follows:  
  
2/23 (23B)Anglem Street – CT SL5C/8450  
3/23 (23E)Anglem Street – CT SL5C/841  
4/23 Anglem Street – CT SL5B/835  
5/23 Anglem Street – CT SL5C/842  
6/23 Anglem Street – CT SL5C/846  
7/23 Anglem Street – CT SL5C/844  
8/23 Anglem Street – CT SL5C/845
2. Copies of the certificates of title and site plan are attached.
3. The seven residential units are situated directly opposite the Bill Richardson Transport World and Grille Café.
4. The applicant is proposing a range of continued residential uses for the properties in the future, ranging from long term rental, short term rental, staff accommodation and visitor accommodation.
5. To the extent that the properties are used for visitor accommodation, a resource consent would be required and is now sought.
6. The properties are located in the Domicile Sub Area under the Operative District Plan adjacent to the Enterprise Sub Area (Transport World/Grille Café).
7. Under the Proposed District Plan, the properties are situated in the Residential 1 Zone and the adjacent Transport World site is zoned Industrial 1.
8. Under both the Operative District Plan and Proposed District Plan, visitor accommodation is a discretionary activity.

**Environmental Effects Assessment**

9. The seven properties have been or shortly will be in the case of 8/23 Anglem Street, extensively refurbished to provide a very high standard of accommodation.
10. The properties will be managed off site, initially and eventually a manager will be located at 8/23 Anglem Street.
11. Rule 2.30.1 in the Proposed District Plan in relation to car parking for visitor accommodation is complied with, with at least one carpark per unit as shown on the attached site plan (12 onsite carparks in total).
12. Signage will comply with Rule 3.16 of the Proposed District Plan.
13. The use of the properties for visitor accommodation will generate no greater effects than the existing and permitted residential use.
14. There are several positive effects of the proposed activity. The seven residential units constructed in approximately 1976, have been refurbished and will be maintained to a very high standard consistent with their adapted use for visitor accommodation.

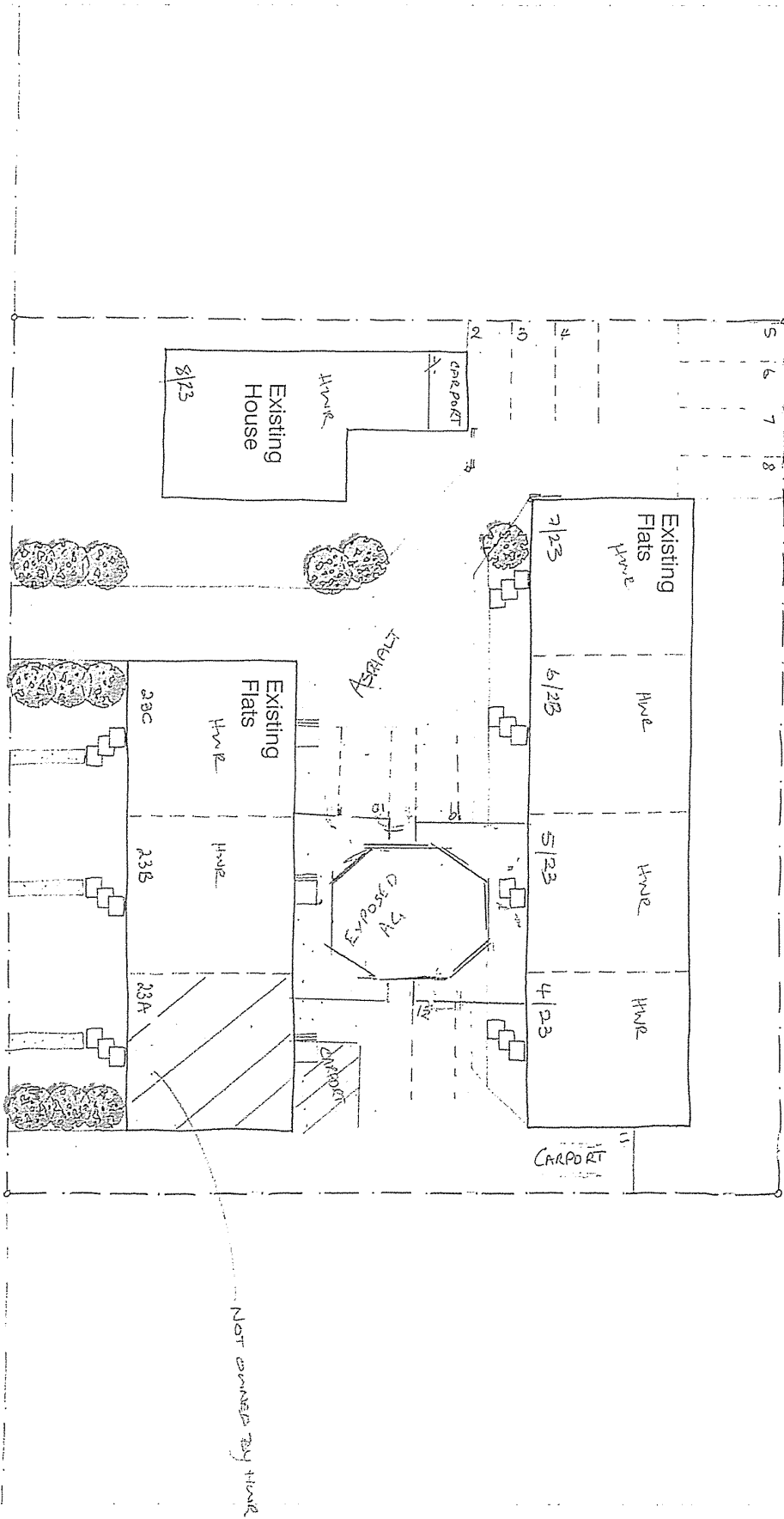
15. There is known to be a shortage of good quality visitor accommodation in Invercargill with acute shortages being experienced during times of major events.
16. The property is very conveniently located, adjacent to the Bill Richardson Transport World and Grille Café which is itself a major visitor attraction for Invercargill. The property is also only a short distance from the Stadium Southland and Velodrome and is very close to Tay Street which places it within a precinct containing numerous motel accommodation.
17. The properties are appropriately located for visitor accommodation and will generate no adverse effects beyond those permitted in the zone.

MASON & WALES  
ARCHITECTS



APARTMENTS • ANGLEM STREET • INVERCARGILL

ANGLEM STREET



Site Plan

Project 5884  
Scale: 1:200 @ A3  
18 November 2016  
**01**  
S1



**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**



Search Copy

**Identifier** SL5C/840  
**Land Registration District** Southland  
**Date Issued** 06 October 1977

**Prior References**  
 SL1A/1385

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**Estate** Fee Simple - 1/8 share  
**Area** 1798 square metres more or less  
**Legal Description** Lot 1 Deposited Plan 8200

**Proprietors**  
 HWR Property Limited

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<b>Estate</b>	Leasehold	<b>Instrument</b>	L 028770.3
		<b>Term</b>	999 years from 2.5.1977

**Legal Description** Flat 2 Deposited Plan 8579 and Carport 7  
 Deposited Plan 8579

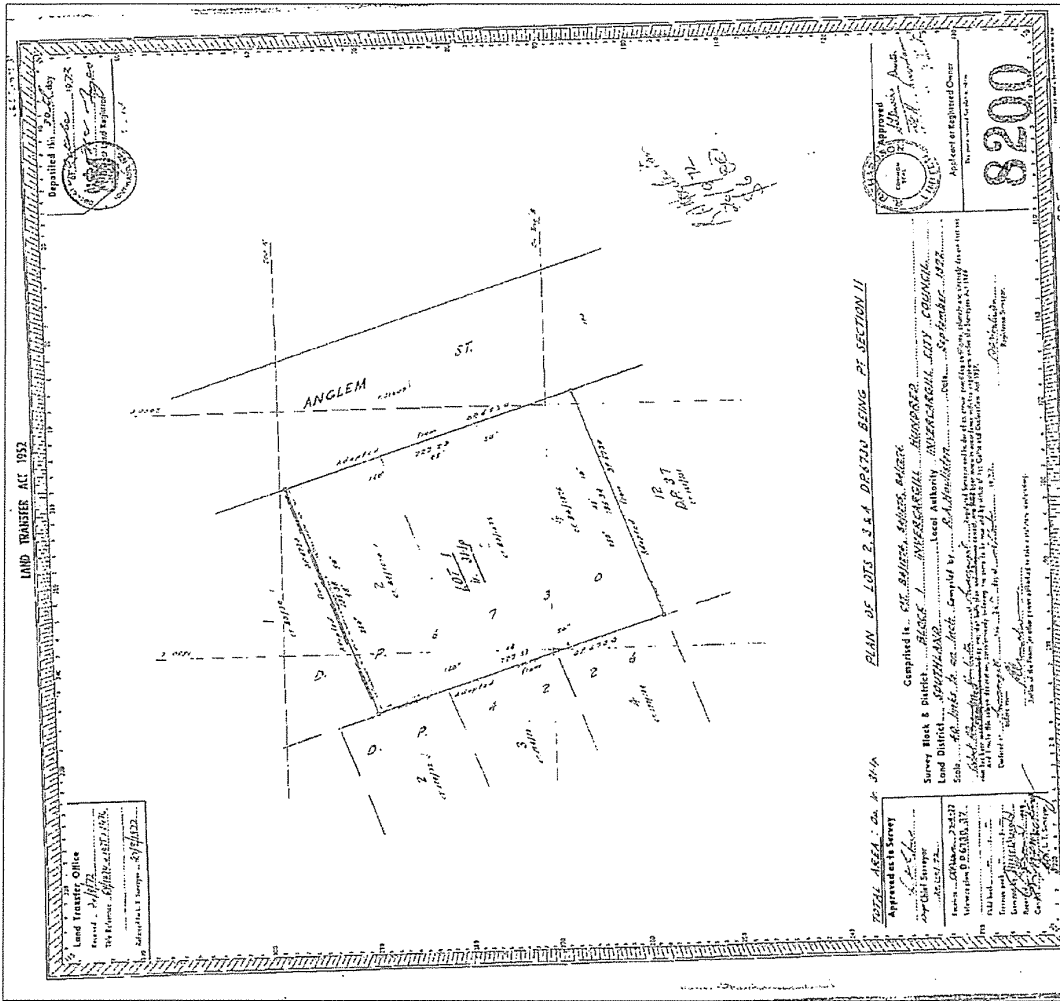
**Proprietors**  
 HWR Property Limited

**Interests**

- 015971.3 Lease of Flat 4 Carport 4 DP 8579 Composite CT SL5B/835 issued
- 028770.2 Lease of Flat 1 Carport 1 DP 8579 Composite CT SL5C/839 issued
- 028770.3 Lease of Flat 2 DP 8579, Carport 7 DP 8579 Term 999 years from 2.5.1977 Composite CT SL5C/840 issued - 6.10.1977
- 028770.4 Lease of Flat 3 Carport 3 DP 8579 Composite CT SL5C/841 issued
- 028770.5 Lease of Flat 5 Carport 5 DP 8579 Composite CT SL5C/842 issued
- 028770.6 Lease of Flat 6 Carport 6 DP 8579 Composite CT SL5C/843 issued
- 028770.7 Lease of Flat 7 Carport 2 DP 8579 Composite CT SL5C/844 issued
- 028770.8 Lease of Flat 8 Carport 8 DP 8579 Composite CT SL5C/845 issued

Identifier

SL5C/840



Transaction Id  
 Client Reference HWR - 2/23 Anglem St & 061599-37 (Ellen)

Search Copy Dated 18/03/16 1:33 pm, Page 2 of 3  
 Register Only

Identifier

SL5C/840

APPROVED BY: *W. HARRISON*  
REGISTERED ARCHITECT

1. I, W. HARRISON, ARCHITECT, HEREBY CERTIFY THAT THIS PLAN IS CORRECT AND TRUE TO THE BUILDINGS AND YARDS ALLIANCE WITHIN THE BOUNDARIES OF C. 1. 100000.

*W. Harrison*  
REGISTERED ARCHITECT

Local Area  
 (amended in CT 1A/1985)


REMARKS: REVISIONS TO THE ORIGINAL PLAN AS PERMITTED BY THE LOCAL AUTHORITY. THE PLAN IS CORRECT AND TRUE TO THE BUILDINGS AND YARDS ALLIANCE WITHIN THE BOUNDARIES OF C. 1. 100000.

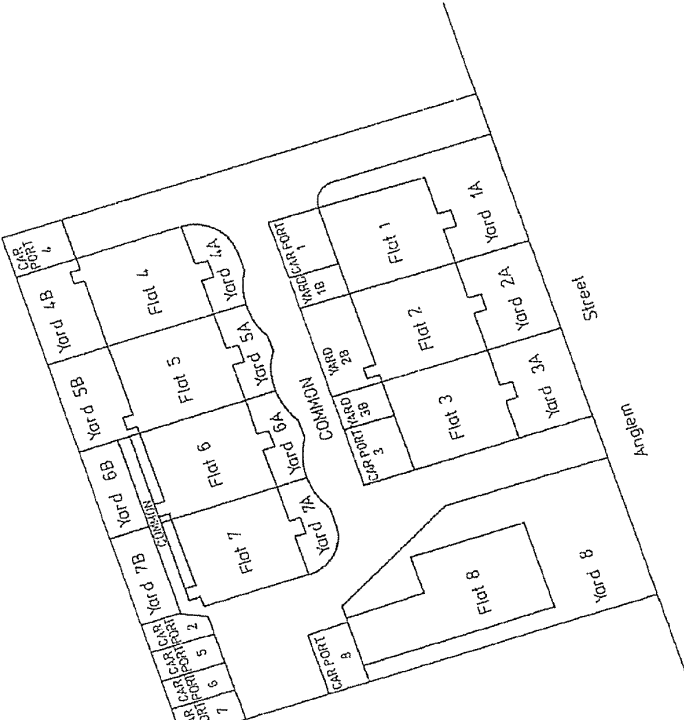
1:1000  
 D.P. 2400

Approved as to Survey  
*M. Hamilton*  
Chief Surveyor

Approved this 14th day of November 1973  
*W. Harrison*  
Registered Architect

DP8579





LAND DISTRICT: SOUTHLAND  
 SURVEY BLK. 8 DIST. 1 INVERCARGILL HD.  
 NZBS 189 (Anglem St) SHEET No. 11

LOCAL AUTHORITY INVERCARGILL CITY  
 Surveyed by: S. A. HOLLAND  
 Date: NOV. 1973  
 Scale: 1:200





**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**



Search Copy

R. W. Muir  
Registrar-General  
of Land

**Identifier** SL5C/841  
**Land Registration District** Southland  
**Date Issued** 06 October 1977

**Prior References**  
SL1A/1385

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**Estate** Fee Simple - 1/8 share  
**Area** 1798 square metres more or less  
**Legal Description** Lot 1 Deposited Plan 8200

**Proprietors**  
HWR Property Limited

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<b>Estate</b>	Leasehold	<b>Instrument</b>	L 028770.4
		<b>Term</b>	999 years from 2.5.1977

**Legal Description** Flat 3 Deposited Plan 8579 and Carport 3  
Deposited Plan 8579

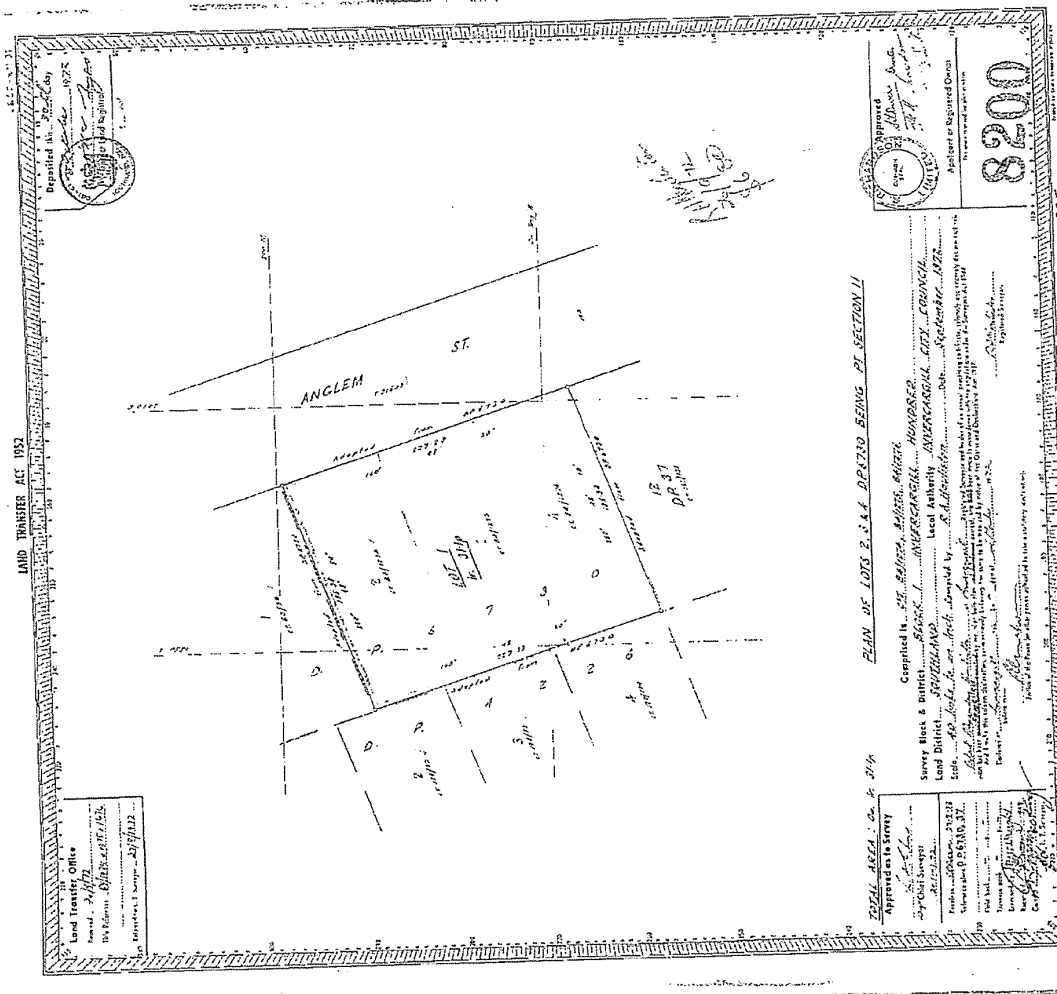
**Proprietors**  
HWR Property Limited

**Interests**

015971.3 Lease of Flat 4 Carport 4 DP 8579 Composite CT SL5B/835 issued  
028770.2 Lease of Flat 1 Carport 1 DP 8579 Composite CT SL5C/839 issued  
028770.3 Lease of Flat 2 Carport 7 DP 8579 Composite CT SL5C/840 issued  
028770.4 Lease of Flat 3 DP 8579, Carport 3 DP 8579 Term 999 years from 2.5.1977 Composite CT SL5C/841 issued  
- 6.10.1977  
028770.5 Lease of Flat 5 Carport 5 DP 8579 Composite CT SL5C/842 issued  
028770.6 Lease of Flat 6 Carport 6 DP 8579 Composite CT SL5C/843 issued  
028770.7 Lease of Flat 7 Carport 2 DP 8579 Composite CT SL5C/844 issued  
028770.8 Lease of Flat 8 Carport 8 DP 8579 Composite CT SL5C/845 issued

Identifier

SL5C/841



Identifier

SL5C/841

APPROVED BY: *W. H. HENDERSON*  
*W. H. Henderson*  
 REGISTERED PROFESSIONAL ARCHITECT

IN ORDER TO COMPLY WITH THE REQUIREMENTS OF THE BUILDING ACT 1984 AND THE BUILDING REGULATIONS 1985, THE ARCHITECT HAS PREPARED THIS PLAN FOR THE PROPOSED MULTI-UNIT FLATS. THE PLAN IS CORRECT AND TRUE TO THE BUILDINGS AS ORDERED AND AS SHOWN ON THE BUILDINGS PLAN OF THE SITE.

*W. H. Henderson*  
 REGISTERED ARCHITECT

LEGAL AREA  
 Contained in CT 1A/1385

THE ARCHITECT HAS BEEN ADVISED THAT THE PROPOSED MULTI-UNIT FLATS WILL BE USED AS RESIDENTIAL ACCOMMODATION AND THAT THE PROPOSED MULTI-UNIT FLATS WILL BE USED AS RESIDENTIAL ACCOMMODATION AND THAT THE PROPOSED MULTI-UNIT FLATS WILL BE USED AS RESIDENTIAL ACCOMMODATION.

DATE OF APPROVAL: 15/11/73  
 DRAWN BY: *W. H. Henderson*  
 SCALE: 1:200

APPROVED BY: *W. H. Henderson*  
 REGISTERED ARCHITECT

APPROVED BY: *W. H. Henderson*  
 REGISTERED ARCHITECT

APPROVED BY: *W. H. Henderson*  
 REGISTERED ARCHITECT

LOCAL AUTHORITY: INVERCARGILL CITY  
 Surveyed by: *W. H. Henderson*  
 Scale: 1:200  
 Date: NOV. 1973

PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS  
 ERRECTED ON LOT 1 DP 8200

LAND DISTRICT: SOUTHLAND  
 SURVEY BLOCK: DIST. I INVERCARGILL, HD.  
 NZS 189 (1973) SHEET No. II

895



**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**



Search Copy

R. W. Muir  
Registrar-General  
of Land

**Identifier** SL5B/835  
**Land Registration District** Southland  
**Date Issued** 24 August 1976

**Prior References**  
SL1A/1385

---

**Estate** Fee Simple - 1/8 share  
**Area** 1798 square metres more or less  
**Legal Description** Lot 1 Deposited Plan 8200

**Proprietors**  
HWR Property Limited

---

<b>Estate</b>	Leasehold	<b>Instrument</b>	L 015971.3
		<b>Term</b>	999 years from 20.8.1976

**Legal Description** Flat 4 Deposited Plan 8579 and Carport 4  
Deposited Plan 8579

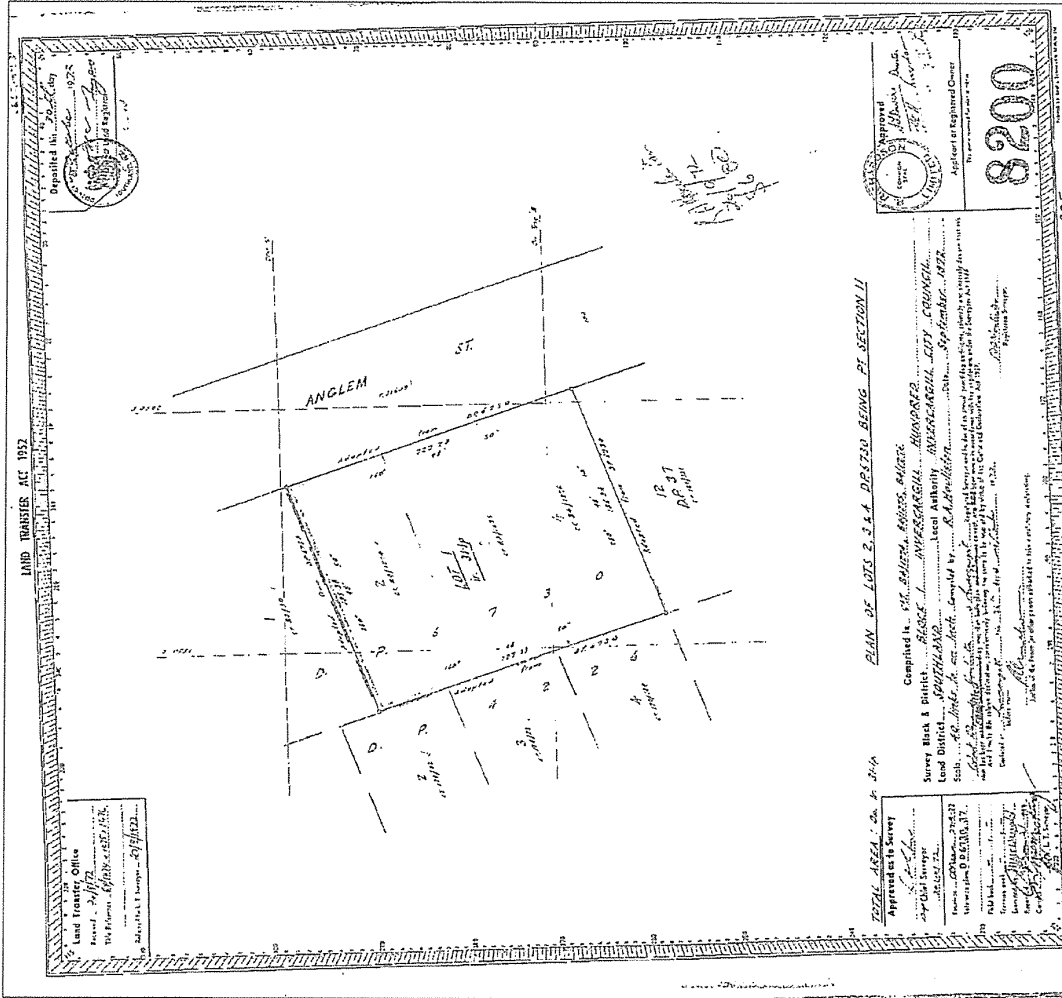
**Proprietors**  
HWR Property Limited

**Interests**

- 015971.3 Lease of Flat 4 and Carport 4 DP 8579 Term 999 years from 20.8.1976 Composite CT SL5B/835 issued - 24.8.1976
- 028770.2 Lease of Flat 1 and Carport 1 Composite CT SL5C/839 issued
- 028770.3 Lease of Flat 2 and Carport 7 Composite CT SL5C/840 issued
- 028770.4 Lease of Flat 3 and Carport 3 Composite CT SL5C/841 issued
- 028770.5 Lease of Flat 5 and Carport 5 Composite CT SL5C/842 issued
- 028770.6 Lease of Flat 6 and Carport 6 Composite CT SL5C/843 issued
- 028770.7 Lease of Flat 7 and Carport 2 Composite CT SL5C/844 issued
- 028770.8 Lease of Flat 8 and Carport 8 Composite CT SL5C/845 issued

Identifier

SL5B/835



Identifier

SL5B/835

APPROVED BY: *W. HARRISON*

*W. Harrison*  
REGISTERED ENGINEER

LOCAL AREA  
Comptrol in CT. 1A/1385

REGISTERED SURVEYOR

LOCAL AUTHORITY INVERCARGILL CITY  
SURVEYED BY: *A. H. KILGOUR*  
Scale 1:200  
Date NOV. 1973

PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS  
ERECTED ON LOT 1 DP 8200

SOUTH LINDO  
DIST. 1 INVERCARGILL HD.  
H213 189 1/4th 3/100 No. 11

LOCAL AREA  
Comptrol in CT. 1A/1385

REGISTERED SURVEYOR

APPROVED BY: *W. HARRISON*  
REGISTERED ENGINEER

LOCAL AUTHORITY INVERCARGILL CITY  
SURVEYED BY: *A. H. KILGOUR*  
Scale 1:200  
Date NOV. 1973

PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS  
ERECTED ON LOT 1 DP 8200

SOUTH LINDO  
DIST. 1 INVERCARGILL HD.  
H213 189 1/4th 3/100 No. 11



**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**



Search Copy

Identifier **SL5C/842**  
 Land Registration District **Southland**  
 Date Issued 06 October 1977

**Prior References**  
 SL1A/1385

Estate Fee Simple - 1/8 share  
 Area 1798 square metres more or less  
 Legal Description Lot 1 Deposited Plan 8200

**Proprietors**  
 HWR Property Limited

Estate	Leasehold	Instrument	L 028770.5
		Term	999 years from 2.5.1977

Legal Description Flat 5 Deposited Plan 8579 and Carport 5  
 Deposited Plan 8579

**Proprietors**  
 HWR Property Limited

**Interests**

- 015971.3 Lease of Flat 4 and Carport 4 Composite CT SL5B/835 issued - 24.8.1976
- 028770.2 Lease of Flat 1 and Carport 1 Composite CT SL5C/839 issued - 6.10.1977
- 028770.3 Lease of Flat 2 and Carport 7 Composite CT SL5C/840 issued - 6.10.1977
- 028770.4 Lease of Flat 3 and Carport 3 Composite CT SL5C/841 issued - 6.10.1977
- 028770.5 Lease of Flat 5 and Carport 5 DP 8579 Term 999 years from 2.5.1977 Composite CT SL5C/842 issued - 6.10.1977
- 028770.6 Lease of Flat 6 and Carport 6 Composite CT SL5C/843 issued - 6/10/1977
- 028770.7 Lease of Flat 7 and Carport 2 Composite CT SL5C/844 issued - 6/10/1977
- 028770.8 Lease of Flat 8 and Carport 8 Composite CT SL5C/845 issued - 6/10/1977









**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**

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R. W. Muir  
Registrar-General  
of Land

Identifier **SL5C/843**  
Land Registration District **Southland**  
Date Issued 06 October 1977

**Prior References**  
SL1A/1385

Estate Fee Simple - 1/8 share  
Area 1798 square metres more or less  
Legal Description Lot 1 Deposited Plan 8200

**Proprietors**  
HWR Property Limited

Estate	Leasehold	Instrument	L 028770.6
		Term	999 years from 2.5.1977

**Legal Description** Flat 6 Deposited Plan 8579 and Carport 6  
Deposited Plan 8579

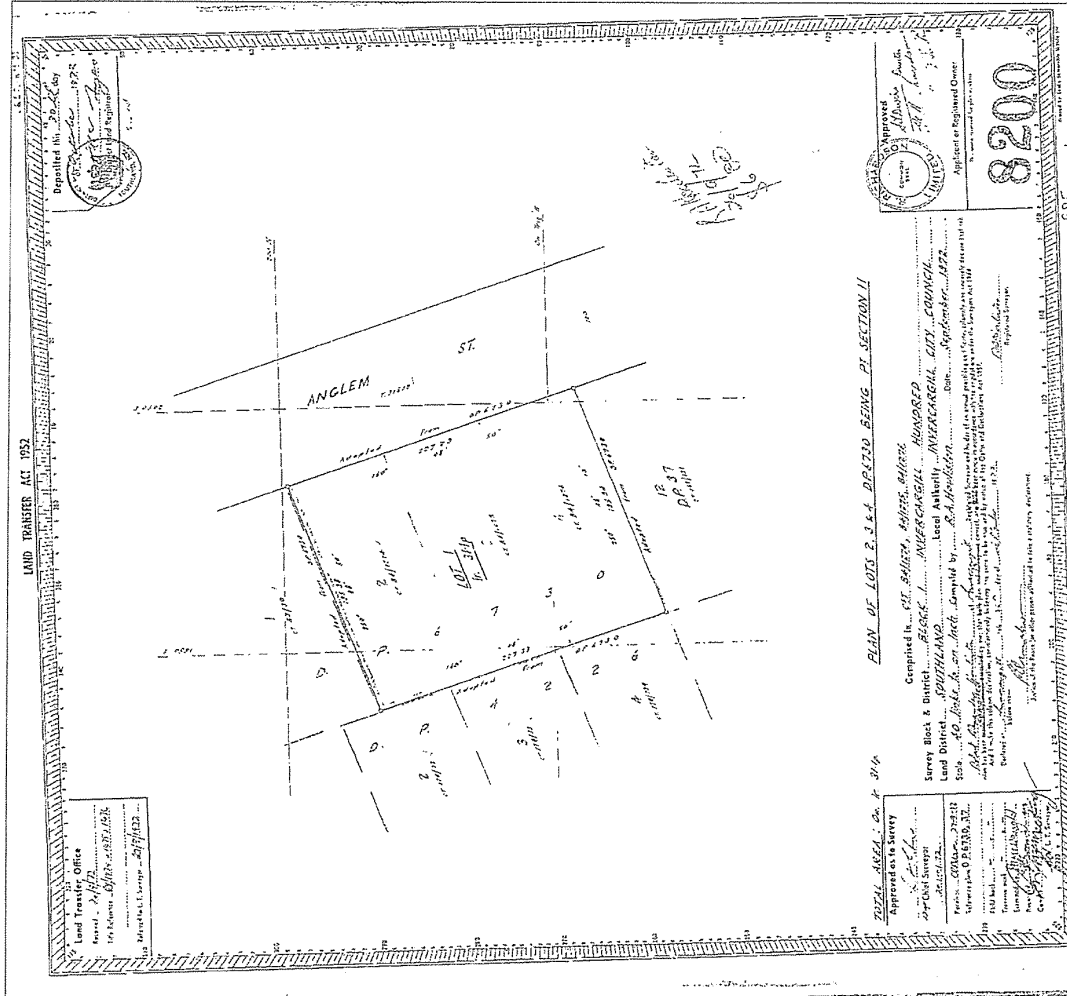
**Proprietors**  
HWR Property Limited

**Interests**

- 015971.3 Lease of Flat 4 and Carport 4 Composite CT SL5B/835 issued - 24.8.1976
- 028770.2 Lease of Flat 1 and Carport 1 Composite CT SL5C/839 issued - 6.10.1977
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- 028770.4 Lease of Flat 3 and Carport 3 Composite CT SL5C/841 issued - 6.10.1977
- 028770.5 Lease of Flat 5 and Carport 5 Composite CT SL5C/842 issued - 6.10.1977
- 028770.6 Lease of Flat 6 and Carport 6 DP 8579 Term 999 years from 2.5.1977 Composite CT SL5C/843 issued - 6.10.1977
- 028770.7 Lease of Flat 7 and Carport 2 Composite CT SL5C/844 issued.
- 028770.8 Lease of Flat 8 and Carport 8 Composite CT SL5C/845 issued

Identifier

SL5C/843



Identifier

SL5C/843

<p>APPROVED BY <b>W. HARRISON</b> REGISTERED PROFESSIONAL SURVEYOR</p>		<p>LOCAL AUTHORITY: <b>INVERCARGILL CITY</b> Surveyed by: <b>S. A. NEWMAN</b> Date: <b>NOV 1973</b> Scale: <b>1:200</b></p>
<p>PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS ERECTED ON LOT 1 DP 8200</p>		
<p>SOUTHLAND DISTRICT SURVEY DISTRICT: <b>INVERCARGILL HD.</b> NBS 183 Invercargill SHEET No. II</p>		
<p>LAND DISTRICT</p>		
<p>895</p>		

LAND DISTRICT

SURVEY DISTRICT: **INVERCARGILL HD.**

NBS 183 Invercargill SHEET No. II

LOCAL AUTHORITY: **INVERCARGILL CITY**

Surveyed by: **S. A. NEWMAN**

Date: **NOV 1973**

Scale: **1:200**

PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS  
ERECTED ON LOT 1 DP 8200

SOUTHLAND DISTRICT

895

APPROVED BY **W. HARRISON**  
REGISTERED PROFESSIONAL SURVEYOR

LAND DISTRICT

SURVEY DISTRICT: **INVERCARGILL HD.**

NBS 183 Invercargill SHEET No. II

LOCAL AUTHORITY: **INVERCARGILL CITY**

Surveyed by: **S. A. NEWMAN**

Date: **NOV 1973**

Scale: **1:200**

PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS  
ERECTED ON LOT 1 DP 8200

SOUTHLAND DISTRICT

895

APPROVED BY **W. HARRISON**  
REGISTERED PROFESSIONAL SURVEYOR

LAND DISTRICT

SURVEY DISTRICT: **INVERCARGILL HD.**

NBS 183 Invercargill SHEET No. II

LOCAL AUTHORITY: **INVERCARGILL CITY**

Surveyed by: **S. A. NEWMAN**

Date: **NOV 1973**

Scale: **1:200**

PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS  
ERECTED ON LOT 1 DP 8200

SOUTHLAND DISTRICT

895



**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**



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R. W. Muir  
Registrar-General  
of Land

Identifier **SL5C/844**  
Land Registration District **Southland**  
Date Issued 06 October 1977

**Prior References**  
SL1A/1385

**Estate** Fee Simple - 1/8 share  
**Area** 1798 square metres more or less  
**Legal Description** Lot 1 Deposited Plan 8200

**Proprietors**  
HWR Property Limited

<b>Estate</b>	Leasehold	<b>Instrument</b>	L 028770.7
		<b>Term</b>	999 years from 2.5.1977

**Legal Description** Flat 7 Deposited Plan 8579 and Carport 2  
Deposited Plan 8579

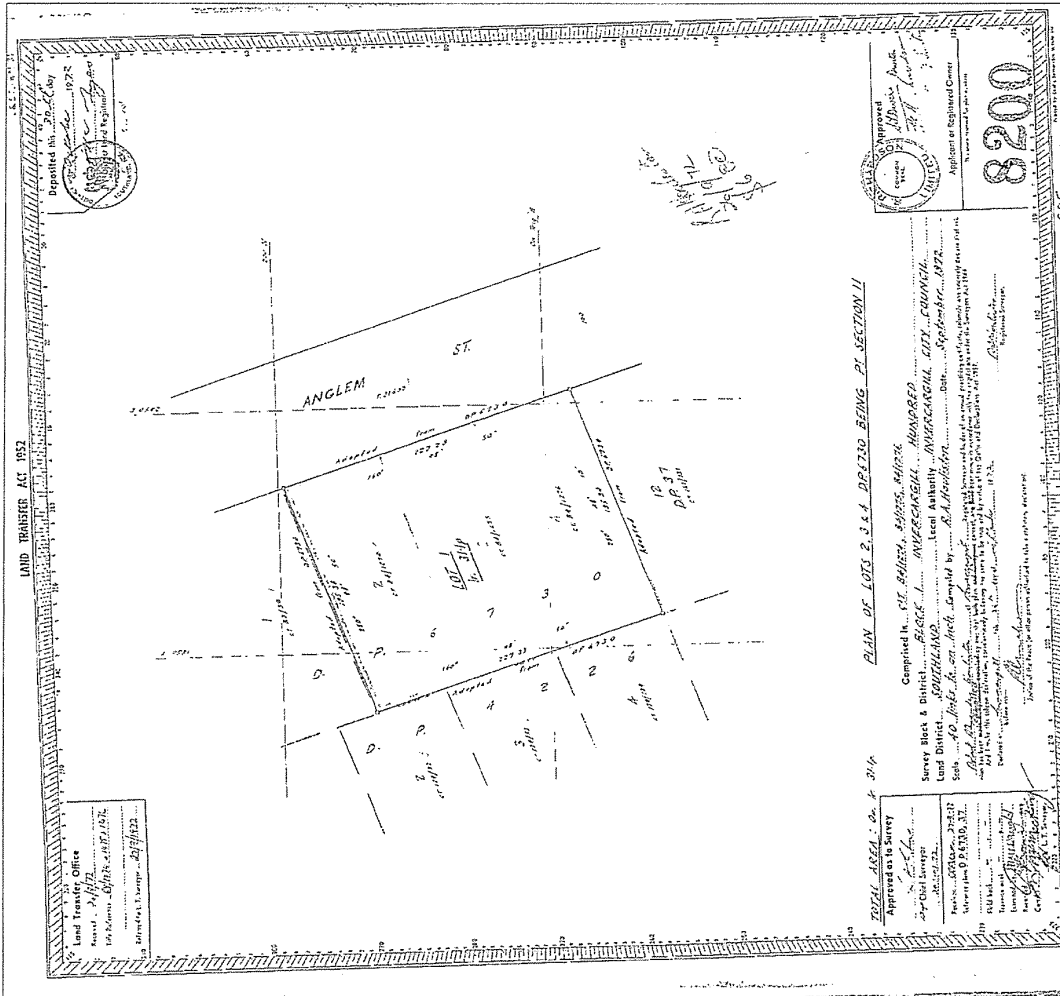
**Proprietors**  
HWR Property Limited

**Interests**

- 015971.3 Lease of Flat 4 and Carport 4 Composite CT SL5B/835 issued - 24.8.1976
- 028770.2 Lease of Flat 1 and Carport 1 Composite CT SL5C/839 issued - 6.10.1977
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- 028770.5 Lease of Flat 5 and Carport 5 Composite CT SL5C/842 issued - 6.10.1977
- 028770.6 Lease of Flat 6 and Carport 6 Composite CT SL5C/843 issued - 6.10.1977
- 028770.7 Lease of Flat 7 and Carport 2 DP 8579 Term 999 years from 2.5.1977 Composite CT SL5C/844 issued - 6.10.1977
- 028770.8 Lease of Flat 8 and Carport 8 Composite CT SL5C/845 issued.

Identifier

SL5C/844







**COMPOSITE COMPUTER REGISTER  
UNDER LAND TRANSFER ACT 1952**



Search Copy

R. W. Muir  
Registrar-General  
of Land

**Identifier** SL5C/845  
**Land Registration District** Southland  
**Date Issued** 06 October 1977

**Prior References**  
SL1A/1385

---

**Estate** Fee Simple - 1/8 share  
**Area** 1798 square metres more or less  
**Legal Description** Lot 1 Deposited Plan 8200

**Proprietors**  
HWR Property Limited

---

<b>Estate</b>	Leasehold	<b>Instrument</b>	L 028770.8
		<b>Term</b>	999 years from 2.5.1977

**Legal Description** Flat 8 Deposited Plan 8579 and Carport 8  
Deposited Plan 8579

**Proprietors**  
HWR Property Limited

**Interests**

015971.3 Lease of Flat 4 and Carport 4 Composite CT SL5B/835 issued - 24.8.1976  
028770.2 Lease of Flat 1 and Carport 1 Composite CT SL5C/839 issued - 6.10.1977  
028770.3 Lease of Flat 2 and Carport 7 Composite CT SL5C/840 issued - 6.10.1977  
028770.4 Lease of Flat 3 and Carport 3 Composite CT SL5C/841 issued - 6.10.1977  
028770.5 Lease of Flat 5 and Carport 5 Composite CT SL5C/842 issued - 6.10.1977  
028770.6 Lease of Flat 6 and Carport 6 Composite CT SL5C/843 issued - 6.10.1977  
028770.7 Lease of Flat 7 and Carport 2 Composite CT SL5C/844 issued - 6.10.1977  
028770.8 Lease of Flat 8 and Carport 8 DP 8579 Term 999 years from 2.5.1977 Composite CT SL5C/845 issued - 6.10.1977





Identifier

SL5C/845

APPROVED BY: **VERHARDSDIJK** is  
*R. Verhardsdijk*  
REGISTERED PROFESSIONAL

UNDER PLANNING REGULATION 1973, I HEREBY CERTIFY THAT THIS PLAN HAS BEEN MADE IN ACCORDANCE WITH THE PROVISIONS OF THE PLANNING REGULATION 1973 AND THAT THE BOUNDARIES ARE CORRECT AND ACCURATE.

REGISTERED SURVEYOR

Local Area Combined in CT 14/1385

TO BE BUILT HEREON IN ACCORDANCE WITH THE PLANNING REGULATION 1973, THE PROVISIONS OF THE PLANNING REGULATION 1973 SHALL APPLY TO THE DEVELOPMENT OF THIS SITE. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY AND THE LOCAL PLANNING AUTHORITY. THE LOCAL AUTHORITY SHALL BE RESPONSIBLE FOR THE ENFORCEMENT OF THE PLANNING REGULATION 1973 AND THE LOCAL PLANNING AUTHORITY SHALL BE RESPONSIBLE FOR THE ENFORCEMENT OF THE PLANNING REGULATION 1973.

16/11/73  
REGISTERED SURVEYOR

LOCAL AUTHORITY: **INNERCARGILL CITY**  
Surveyed by: **E. A. HEDDERLEY**  
Scale: **1:200**  
Date: **NOV. 1973**

PLAN FOR LEASING PURPOSES OF MULTI-UNIT FLATS  
ERECTED ON LOT 1 DP 8200

LAND DISTRICT: **SOUTHLAND**  
SURVEY BLK. & DIST. I: **INNERCARGILL HD.**  
NO. 189 Insignia SHEET No. II

DP 8579

895

## APPENDIX 2



30 May 2017

Christine Edgily  
Resource Management Officer  
Invercargill City Council  
Private Bag  
**INVERCARGILL**

By Email

**INVERCARGILL**  
42 Don Street  
P.O. Box 857  
Invercargill 9840  
New Zealand  
DX YA90002  
Phone 03 214 4069  
Fax 03 214 4760  
Email [office@cplaw.co.nz](mailto:office@cplaw.co.nz)

**QUEENSTOWN**  
Unit 23  
Gorge Road Retail Centre  
159 Gorge Road  
Queenstown  
New Zealand  
Phone 03 441 2424  
Fax 03 441 2426  
Email [adminot@cplaw.co.nz](mailto:adminot@cplaw.co.nz)

Trust Account  
ASB 123195 0000222 00

### Application under the Resource Management Act 1991 for visitor accommodation in Residential 1 Zone at 23 Anglem Street, Invercargill RMA/2017/49

We refer to your letter dated 25 May last.

In response to the request for further information we advise:

1. We consider that the layout of the property complies with Rule 3.20.3. However, if Council does not share that view then we submit that either Rule 3.20.3 is not applicable or failing that a waiver is sought. The property comprising the 8 residential units is fully fenced. The onsite parking spaces are being provided for residential activity not non-residential activity. While the activity in respect of which the consent is sought is visitor accommodation, it is considered that the proposed use will generate no greater effects than the existing permitted residential use.
2. There will not be an office as such at 8 Anglem Street but the manager onsite will be available on call.
3. One cleaner will be servicing the residential units and depending on occupancy, will visit the site daily between 8.00 am and 5.00 pm.

In respect to the request that the applicant obtain written approvals in order for the application to be dealt with on a non-notified basis, we, and our client are strongly of the view that there are no affected properties. We would like to meet with you in order to discuss this prior to Council making any final decision on the question of notification.

Yours faithfully  
**CRUICKSHANK PRYDE**



**Rex Chapman**  
Partner

RTC-140801-1-10-V1

Partners: Thomas McNeil Pryde LL.B. Lester John Smith LL.B. Rex Thomas Chapman LL.B. Murray James Little LL.B. John Richard Pringle BA, LL.B.  
Keith William Brown BSCM, LL.B. Philip Bruce McDonald LL.B. Sarah Denise Maguire LL.B. John Bannerman LL.B. Associate: Anna Jean Stevens BSCM, LL.B. Hilary Copland BA LLB



## APPENDIX 3



## Our advice

Prepared for Michael Morris - Invercargill City Council  
 Prepared by Duncan Laing / Katherine Viskovic  
 Date 18 July 2017

PRIVILEGED AND CONFIDENTIAL

### Review of draft notification decision regarding resource consent application for 23 Anglem Street, Invercargill

#### Background

1. The Council has received an application for resource consent (**Application**) from HWR Property Ltd (**Applicant**) for a visitor accommodation activity at 23 Anglem Street, Invercargill (**Site**), dated 5 May 2017.
2. The Applicant is the owner of seven cross lease residential units on the Site. There is an eighth residential unit (**Flat 1**) located on the Site which is owned by Ms Marie Reynolds (**the Owner**).<sup>1</sup>
3. The Application is to establish a motel complex within existing buildings on the Site (i.e. Flats 2-8). The Site is zoned Residential 1 in the Proposed Invercargill City District Plan (**District Plan**).<sup>2</sup>
4. On 25 May 2017, the Council asked for further information, under section 92 of the Resource Management Act 1991 (**RMA**) relating to:
  - 4.1 Compliance with Rule 3.20.3 (parking spaces for non-residential activities);
  - 4.2 Whether an office or reception will be located on site, and its operating hours;
  - 4.3 Whether there will be staff onsite, how many and the times they will be on site.
5. A response was received from Mr Rex Chapman, the lawyer for the Applicant, dated 30 May 2017:
  - 5.1 Advising that the Applicant considers that the layout of the property complies with Rule 3.20.3,<sup>3</sup> and seeking a dispensation if it did not meet that requirement;
  - 5.2 Stating that there would not be an office at the Site, but that there would be a manager on site who would be available on

<sup>1</sup> For the purposes of this advice, a reference to the Owner includes a reference to the occupier if different.

<sup>2</sup> Decisions on the Proposed District Plan were released in October 2016. Sixteen appeals were received on the decision, these are currently being considered by the Environment Court. None of the provisions relevant to this advice are the subject of the appeals to the Environment Court, therefore the Proposed District Plan provisions are considered to operative in so far as they relate to this advice.

<sup>3</sup> No accompanying analysis was provided.

---

call; and

- 5.3 Advising that a cleaner would service the units daily between 8.00am-5.00pm (depending on demand).
  6. The Applicant is seeking that the Application be processed on a non-notified basis under the RMA.
  7. The Council has prepared a draft officer's report on notification of the Application (currently undated) (**Officer's Report**) which concludes that the owner and occupier of Flat 1 should be notified in accordance with section 95B of the RMA.
  8. On 8 June 2017, Mr Chapman emailed the Council setting out his analysis regarding why his client does not consider that the owner/occupier of Flat 1 is an affected person.
  9. We have also reviewed an email from Mr Chapman dated 30 June 2017, which sets out his response to the Officer's Report, and provides comments about traffic and social/amenity effects.
- 

**Question and short Answer**

**Question:** Are there any affected parties (in accordance with sections 95B and 95E of the RMA) in relation to the Application?

Based on the information we have reviewed,<sup>4</sup> we do not consider that the Council could with any certainty conclude at present that the effects on the Owner of Flat 1 are less than minor and therefore the owner is not an affected person.

---

## Summary of Reasons

### Are there any affected parties (in accordance with section 95B and 95E of the RMA) in relation to the Application?

---

**The Council's notification decision is governed by sections 95B and 95E of the RMA**

1. Section 95B(1)<sup>5</sup> provides that:  
*If a consent authority does not publicly notify an application for a resource consent for an activity, it must decide (under sections 95E and 95G) whether there is any affected person ..."*
  2. Section 95E(1) provides:  
*A consent authority must decide that a person is an affected person, in relation to an activity, if the activity's adverse effects on the person are minor or more than minor (but are not less than minor)*
- 

<sup>4</sup> Being the Application, the supplementary information provided by or on behalf of the Applicant, a review of the relevant District Plan provisions, and conclusions reached in the Officer's Report.

<sup>5</sup> The relevant replacement provisions in the Resource Legislation Amendment Act 2017 are not yet in force.

- 
3. Section 95E(2)(a) enables a consent authority to disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity to that effect.
  4. It is appropriate to make some preliminary observations at this stage:
    - (a) There is no longer a statutory requirement that a Council must be satisfied that it has received adequate information. While the adequacy of the information may not be a separate matter for challenge in judicial review proceedings,<sup>6</sup> the adequacy of information before the Council may well reflect in the *quality* of the decision making.
    - (b) Ultimately, the Council needs to make a decision on limited notification based on the totality of the information before it, including that received as a result of further information requests.
    - (c) The "less than minor" test is not high – a minor impact is enough. If the effects are minor or more than minor, it is mandatory to conclude that a person is affected.<sup>7</sup>
    - (d) If there is a level of uncertainty and limited information available as to all relevant environmental impacts, it must in our view have a bearing on whether the Council can reasonably conclude that the effects are less than minor in any particular circumstances.
    - (e) The default position is limited notification. A broad or liberal approach should be taken to the words in sections 95B and 95E, given the principle that affected persons should be able to participate in matters that affect them if they want to do so.<sup>8</sup>
- 

**Resource consent needed for visitor accommodation activity and possible contravention of other District Plan activity standards**

5. A land use consent is required for the Applicant to establish a motel on the Site. As recorded in the Background section, the Site is zoned Residential 1 in the District Plan. In accordance with Rule 3.34.2(L) visitor accommodation is a discretionary activity in the Residential 1 zone.
  6. Visitor accommodation is defined by the District Plan as:
 

***Visitor accommodation:** Means the use of land or buildings for the provision of accommodation by fee paying customers for a daily tariff. This includes hotels, motels, hostels, backpackers, and camping grounds, but does not include home stay. [emphasis added]*
  7. In addition to this rule, it appears that there are a number of district wide rules that may also apply to consideration of the Application, including:
    - 7.1 Rule 3.11 – Lightspill;
- 

<sup>6</sup> See *Tasti Products Ltd v Auckland Council* [2017] NZRMA 22 at [42] to [48].

<sup>7</sup> *Tasti Products Ltd*, above, at [71] and [80].

<sup>8</sup> *Tasti Products Ltd*, above, at [80].

---

7.2 Rule 3.13 – Noise;

7.3 Rule 3.16 – Signs; and

7.4 Rule 3.20 – Transport.

8. All of these rules require compliance with specified permitted activity standards. Where the standards are not met, a resource consent is required for the activity.<sup>9</sup>
- 

Limited information and analysis has been provided in support of the Application

9. At the outset, we note that the information that the Applicant has provided to the Council is limited in a number of respects. In particular, the Application does not provide detailed analysis regarding how the proposed activity will meet the requirements of the District Plan, nor is there any detailed assessment of possible environmental effects on identified third parties (such as the Owner of Flat 1).

10. Likewise, the response to the Council's section 92 request has also been limited. These are not in themselves criticisms of the Applicant, but reflect the context in which the Council must make a limited notification decision, unless further information is ultimately made available.<sup>10</sup>

11. The Applicant takes the view that the effects of the change of use will not be *greater* than existing. In particular, at paragraph 13 of the environmental effects assessment, the Application states:

*"The use of the properties for visitor accommodation will generate no greater effects than the existing and permitted residential use."*

12. However, the Application does not assess noise impacts to any degree, nor does there appear to be any information in either the Application or the response to the section 92 request which sets out how the transportation rules will be met.

13. The District Plan contemplates that visitor accommodation activities may have different effects to residential activities.<sup>11</sup> This is reflected in the requirement for a resource consent to be obtained to undertake a visitor accommodation activity in the Residential 1 zone (i.e. Rule 3.34.2(L)). Furthermore, Clause 2.35.3 Policy 6 provides:

**Policy 6 Non-residential activities:** *To enable non-residential activities when it can be demonstrated that they:*

- (a) *Are in keeping with the character anticipated in a residential area; and*
  - (b) *Will not compromise the health, safety and amenity values enjoyed by residents; and*
  - (c) *Cannot be practically located in other zones where such activities are anticipated.*
- 

<sup>9</sup> The activity status of the resource consent required depends on the individual permitted activity standard not met.

<sup>10</sup> Under section 104(6), a consent authority may also decline an application on the grounds that it has inadequate information to determine the application.

<sup>11</sup> The objectives and policies in a plan that must be considered under section 104 are relevant in determining whether a person is affected by an application. See *Tasti Products Ltd*, above, at [79].

---

**Explanation:** *Whilst the primary purpose of Residential Zones revolves around residential activities, it is recognised that there will be some non-residential activities that need to be located within parts of the Residential Zones. Examples may include education activities and visitor accommodation. In instances where it is accepted that a location in a Residential Zone is appropriate for a non-residential land use, the activity will need to be designed in a manner which minimises adverse effects and where possible contributes to residential amenity...[emphasis added]*

---

**It is not possible in the abstract to draw a clear parallel between the effects of existing and proposed uses on the owner of Flat 1**

14. As noted above, we have reviewed the email correspondence from Mr Chapman with the Council dated 8 and 30 June 2017. In the latter email, Mr Chapman emphasised that the exterior units have not been changed, rather they have had interior work undertaken to a high "luxury" standard to provide for modern boutique apartment like accommodation.
15. While we note that the physical layout of the Site will not apparently change as a result of the proposed visitor accommodation activity, that does not mean that the effects are necessarily the same or similar as the residential activity that the Site was previously used for. Mr Chapman seems to disagree with that proposition noting in his 30 June 2017 email that:

*The rationale that the Council is applying to this application would mean that for example in the case of a multi-unit or apartment situation, adjoining apartment or unit owners would be considered to be an affected party when a unit was made available for short term visitor accommodation?*

16. In the circumstances described in Mr Chapman's email, if the short-term visitor accommodation activity proposed met the definition of "visitor accommodation" in the District Plan, a resource consent would be required for that activity in the Residential 1 zone (as in this case).
17. Whether or not a neighbour would be an affected party would depend on an overall assessment of effects generated by the activity. We do not consider however that it is possible to draw a clear parallel in the abstract between the Owner of Flat 1 in this case, and the hypothetical neighbour in Mr Chapman's example.

**The Council could not with any certainty conclude at present that the effects on the owner of Flat 1 are less than minor and they are not affected persons**

18. As noted above, the Officer's Report considered the effects on neighbouring properties and found that the effects on those properties would be less than minor, except in relation to Flat 1.
19. The Officer's Report considers that potential effects on the owner of Flat 1 include:
  - 19.1 Impacts of traffic movements (which differ in intensity and timing to residential activities), and associated noise and glare; and
  - 19.2 Impacts of social conditions related to the use of visitor accommodation (given turnover of occupants in each dwelling,



---

and the 'social gathering' use of the flats on the Site e.g. associated with weddings or other events in the City).<sup>12</sup>

20. In undertaking its assessment under section 95E the Council "*may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect*".<sup>13</sup> However it first needs to be determined that the relevant standards will not be contravened. We have discussed this issue above.
21. To the extent that there is compliance with relevant rules and standards, it is at the Council's discretion in accordance with section 95E(2)(a) of the RMA whether or not to consider those effects in determining whether the owner of Flat 1 are affected for the purposes of limited notification.
22. The Council has now accepted that the effects on neighbouring properties (except Flat 1) are considered to be less than minor due to the 1.8 metre fence around the Site. These effects are however still considered by the Council's officer to be relevant in relation to Flat 1.
23. In his emails of 8 and 30 June 2017, Mr Chapman disagrees with the assessment contained in the Officers Report. No additional information of an expert or other nature has however been provided by the Applicant to support this position. The Council is therefore left with a difference in views between a Council officer who has appropriate qualifications and expertise in environmental assessment and the Applicant.
24. From our review and understanding of the Application and the additional information provided to date, we do not consider that the Council could with any certainty conclude that the effects on the Owner of Flat 1 are less than minor, and that the owner is not therefore an affected person. We note that the owner of Flat 1 has apparently not to date provided written approval to the Council for the activities proposed to be undertaken on the Site.
25. However, we also note that the Council could still require further information to satisfy itself as to the effects of the Application (and therefore any associated effects) before making its notification decision.

---

Please call or  
email to discuss  
any aspect of this  
advice

Duncan Laing  
Partner



+64 4 924 3406  
+64 21 434 713  
duncan.laing@simpsongrierson.com

12 Pages 3 – 4 of the Officer's Report.  
13 Section 95E(2)(a), RMA.

# APPENDIX 4

