

BEFORE THE INVERCARGILL CITY COUNCIL HEARINGS COMMISSIONER

IN THE MATTER OF the Resource Management Act 1991 (“the Act”)

AND

IN THE MATTER OF RMA/2018/111, being an application for resource consent to demolish a Class 2 Heritage Building along with other buildings and construct and operate a Hotel

BETWEEN **Invercargill Licensing Trust**

Applicant

AND **Invercargill City Council**

Local Authority

A REPORT PREPARED UNDER

SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991

BY

TIM JOLL, CONSULTANT PLANNER

DATED

30 OCTOBER 2018

1.0 INTRODUCTION

PREAMBLE

1.1 This report reviews the application for resource consent and addresses the relevant information and issues raised. It sets out to provide an independent and objective assessment of the application in accordance with the Invercargill City Council's statutory responsibilities to consider and determine the application. It should be emphasised that any conclusions reached, or recommendations made in this report are not binding on the Commissioner. It should not be assumed that the Commissioner will reach the same conclusion or decision having considered all the evidence to be brought before them by the applicant and submitters.

QUALIFICATIONS AND EXPERIENCE OF THE REPORTING OFFICER

1.2 My full name is Timothy (Tim) James Joll. I am a Consultant Planner and Associate at Planz Consultants Ltd; a planning and resource management consulting company with offices in Christchurch, Auckland and Dunedin. I hold the qualifications of a Bachelor of Resource Studies and a Masters of Applied Science from Lincoln University. I have 14 years' experience as a planner working in New Zealand and the United Kingdom with much of my work experience relating to the preparation and processing of resource consent applications. I have prepared and processed resource consent applications involving works to numerous heritage buildings, including the demolition of heritage buildings, and works to archaeological sites both in New Zealand and the United Kingdom. I am a full member of the New Zealand Planning Institute and an Associate Member of ICOMOS NZ.

1.3 In preparing this evidence I have read and had regard to the following:

- (a) The application and associated appendices;
- (b) The submissions received;
- (c) The relevant provisions of the Proposed Invercargill District Plan (Proposed District Plan); the Southland Regional Policy Statement (SRPS); and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES Contamination).

1.4 I visited the site and surrounding area on 28 September 2018.

1.5 While this is a Council Hearing, I have read the Environment Court's Code of Conduct and agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this statement of evidence are within my area of expertise.

1.6 The data, information, facts and assumptions I have considered in forming my opinions are set out in the report. I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

2.0 THE APPLICATION

2.1 The Invercargill Licensing Trust is seeking resource consent to demolish a Class 2 Heritage Building along with other buildings near the corner of Dee and Don Streets and construct and operate a Hotel incorporating 80 guest suites, a restaurant, café, bars, function rooms, car parking and other guest facilities.

2.2 The proposal is described in detail in the resource consent application and associated documents prepared by Boffa Miskell, dated 6 August 2018. I refer the Commissioner to Section 4 of the Assessment of Effects on the Environment and the plans provided in Appendix 3 of the application for a full description of the proposal.

3.0 DESCRIPTION OF SITE & SURROUNDING ENVIRONMENT

SITE LOCATION & DESCRIPTION

3.1 The site is located on the south-eastern corner of Don Street and Dee Street (State Highway 6), and incorporates several existing buildings, as shown in Figure 1 below. It comprises properties at 57, 61, and 67 Dee Street, 73-81 Dee Street and 5, 7 and 11 Don Street, Invercargill. The total site area is 3,029m² and the properties are legally described as:

- Pt Section 1 TN OF Blk IX Invercargill (380m²) – 73-81 Dee Street;
- Lot 2 DP 8108 (1,884m²) – 57, 61, 67 Dee Street and 5 and 7 Don Street;
- Lot 2 DP 383622 (53m²) – no address details available;
- Lot 1 DP 383622 (712m²) – 11 Don Street.



Figure 1: Site location (source – Google Earth)

- 3.2. The applicant's Assessment of Environmental Effects (AEE) includes a description of the application site and its immediate surroundings in Section 3.1 on pages 3 and 4 of the AEE. I consider that this description is accurate, and it should be read in conjunction with this report.
- 3.3 The existing three storey building (plus basement) at 73 – 81 Dee Street occupies a prominent corner site within the Invercargill central city area. The building is scheduled as a Class 2 'items and areas of local historic heritage significance' in Appendix II.3 Heritage Record of the Proposed District Plan. The building is not identified within the New Zealand Heritage List/Rārangi Kōrero.
- 3.4 The kerb cobblestones immediately outside the site are also identified in Appendix II.4 as items of 'Street Furniture' requiring some form of protection as are the verandah posts and support brackets.
- 3.5 Appendix 5 of the resource consent application contains an assessment of the heritage values of the building prepared by Heritage Properties Ltd.

4.0 DEVELOPMENT HISTORY / PROPOSALS

DEVELOPMENT HISTORY OF THE SITE

- 4.1 There is no recent resource or building consent history relevant to the subject site or the present application. Details of the historic development of the Langlands block, which ran along Dee Street between Esk and Don Streets is contained in 5.3.2 and 5.3.3 of the Initial Heritage Impact Assessment contained in Appendix 5 of the application.
- 4.2 An application for an archaeological authority to "demolish the extant buildings, remove foundations and undertake earthworks in order to construct a hotel complex" on the site was granted by Heritage New Zealand on 2 October 2018 (Authority No: 2019/145).

DEVELOPMENT PROPOSALS IN THE VICINITY OF THE SITE

- 4.3 A resource consent application (RMA/2018/148) was received on 2 October 2018 for the demolition of buildings and the redevelopment of sites within the block bounded by the east side of Dee, south side of Esk, west side of Kelvin and north side of Tay Streets (including Cambridge Arcade). The proposal includes the demolition of two Category II buildings and partial demolition and alteration of the façade of one Category II building listed on the New Zealand Heritage List/Rārangi Kōrero. The proposal also involves the demolition of 13 Class 2 heritage buildings and the retention of the façades of three Class 2 heritage buildings as well as the removal of listed kerbstones and verandah posts.

5.0 THE PLANNING FRAMEWORK

THE PROPOSED INVERCARGILL CITY DISTRICT PLAN

- 5.1 The proposed development is subject to the provisions of the Proposed Invercargill District

Plan (Appeals Version) 2017. I agree with the AEE that all relevant rules of the Proposed District Plan are beyond challenge, and therefore are to be treated as operative under section 87F of the Resource Management Act 1991.

5.2 The entire site is located within the Business 1 (Central Business District) Zone. The District Plan states that *"the Zone seeks to maintain and reinforce the viability and vibrancy of Invercargill's City Centre by enabling a wide range of activities, by encouraging and maintaining a high level of amenity, and by encouraging good urban design"*.

5.3 The site is also located within the following Proposed District Plan precincts:

- Priority Redevelopment Precinct;
- City Centre Heritage Precinct;
- Entertainment Precinct; and
- Pedestrian Friendly Frontages Precinct (PFFP).

5.4 The Proposed District Plan notes:

*"Within the **Priority Redevelopment Precinct** the Council seeks a partnership with the business sector in that it has accepted responsibility for the provision of car parking. This is intended as a significant bonus for redevelopment, enabling utilisation of a greater proportion of the site for building"*.

*"The Business 1 Zone makes specific provision within the **Entertainment Precinct** for entertainment premises, with extended hours of operation and more permissive noise limits than other parts of the City District"*.

*"The third precinct within the Business 1 Zone is the **Pedestrian-Friendly Frontages Precinct**, intended to maintain and enhance the attractiveness and convenience of the City Centre for pedestrians"*.

5.5 Map 9 and Appendix II.3 'Heritage Record' of the Proposed District Plan classifies the building at 73 – 81 Dee Street as a Class 2 'items and areas of local historic heritage significance'. The kerb cobblestones, verandah posts and support brackets immediately outside the site are also identified in Appendix II.4 as items of Street Furniture requiring some form of protection.

5.6 Section 5.1 of the Applicant's Assessment of Environmental Effects (AEE) identifies those provisions of the Proposed District Plan that the proposal does not comply with and considers that overall the proposal requires resource consent for a **Discretionary Activity**.

5.7 Appendix 1 of this report contains, in table form, the rules that are breached and that therefore trigger the need for the land use consent required by the proposal for the Commissioner's convenience. In summary the topic areas that trigger the need for consent are:

- Demolition;
- Hazardous Substances;

- Heritage;
- Construction Noise;
- Earthworks'
- Transport; and
- Urban Design – Built Form.

5.8 On this basis of the assessment contained in Appendix 1, I agree overall with the Applicant that the proposal requires resource consent for a **discretionary activity**.

NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

5.9 The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) came into force on 10 October 2011. The NES manages activities which involve the disturbance of land which may be contaminated. This is determined by whether activities have or are likely to have occurred on the site, which are listed in the Hazardous Activities and Industries List (HAIL).

5.10 Section 5.2 of the AEE provides an assessment of the proposal against the provisions of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (the NES Contamination). The AEE notes that a Preliminary Site Investigation has identified that the site has been subject to activities described on the HAIL list. It further notes that a Detailed Site Investigation report has not been completed, as such will not be possible until the buildings have been demolished. I agree with the Applicant's assessment of the relevance of the NES Contamination and that any soil disturbance, the removal of underground fuel storage tanks, and the change of use are **discretionary activities** under clause 11(2) of the NESCS.

6.0 NOTIFICATION

6.1 The applicant requested that the application be publicly notified under s95A(3)(a). The application was publicly notified on 13 August 2018, which included the service of notice of the application on the following parties that were considered potentially affected:

- Te Ao Marama Inc
- New Zealand Transport Agency
- Heritage New Zealand Pouhere Taonga
- Environment Southland

6.2 The table in Appendix 2 of this report lists the parties who were also served notice as potentially affected parties:

- 6.3 The occupiers of the above properties were also considered to be affected by the proposal; however, as Council does not hold records of who occupies these sites, notification of the application was hand delivered to each site.

SUBMISSIONS RECEIVED

- 6.4 The application received a total of 18 submissions. Of these submissions, ten were in support, one was in conditional support, five were opposed to the application and two were neutral and sought conditions. The Commissioner has been provided with a full copy of all submissions. A summary of the key planning elements of the submissions are summarised in Appendix 3 of this report.
- 6.5 The relevant planning matters raised in the submissions are addressed in the assessment of effects commencing in Section 8 of this report

7.0 STATUTORY CONSIDERATION

RESOURCE MANAGEMENT ACT 1991

SECTION 104, 104B

- 7.1 Subject to Part 2 of the Act, Section 104(1) sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:

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

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

(b) any relevant provisions of:

(i) a national policy statement...

(iii) a regional policy statement or proposed regional policy statement

(iv) a plan or proposed plan; and

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

- 7.2 When forming an opinion for the purposes of actual and potential effects on the environment of allowing the activity, Subsection 104(2) of the Act states that a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

- 7.3 Subsection 104(3) of the Act states that a consent authority must not when considering an application have regard to trade competition or the effects of trade competition, or any effect on a person who has given written approval to the application. I note that the submission in opposition from Mr Larsen states that he is a trade competitor. Based on the content of the submission, I consider this is unlikely but have raised it none-the-less.
- 7.4 Subsection 104(3) of the Act also provides that a consent authority must not grant a resource consent:
- To do something that will or is likely to, have a significant adverse effect on a recognised customary activity, less written approval is given to conduct the activity from the holder of the customer rights order.
 - If the application should have been notified and was not.
- 7.5 Following assessment under Section 104, the application must as a discretionary activity be considered under Section 104B of the Act, which enables the consent authority to grant or refuse consent and if granted may impose conditions under Section 108.

PART 2 OF THE RMA

- 7.6 The application of Part 2 in the context of considering resource consent applications has been impacted by case law arising from the R J Davidson Family Trust v Marlborough District Council case. The Court of Appeal has recently released its decision on Davidson¹. It found that the High Court erred when it determined the Environment Court was “not able or required to consider Part 2 of the Resource Management Act 1991” when undertaking its decision-making role in accordance with section 104 of the RMA. The decision means that when considering resource consent applications, decision-makers “must have regard to the provision of Part 2 when it is appropriate to do so”: [47].
- 7.7 Part 2 of the RMA sets out the purpose and principles of the Act. Section 5 sets out the purpose of the RMA, being “to promote the sustainable management of natural and physical resources” which is defined to mean:

“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while –

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems;*

¹ R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316

and

(c) Avoiding, remedying or mitigating any adverse effects of activities on the environment.”

7.8 Section 6 of the Act identifies what I consider to be the relevant matters of national importance to be recognised and provided for:

(f) The protection of historic heritage from inappropriate subdivision, use and development.

7.9 Section 7 of the Act identifies what I consider to be the relevant matters that are to be had particular regard to:

(b) the efficient use and development of natural and physical resources;

(c) the maintenance and enhancement of amenity values;

(f) maintenance and enhancement of the quality of the environment.

7.10 Section 8 requires the principles of the Treaty of Waitangi to be taken into account. No cultural matters arise in the consideration of this proposal.

8.0 ASSESSMENT OF EFFECTS

S104(2) PERMITTED BASELINE

8.1 Prior to undertaking an assessment of the effects of this proposal it is useful to consider the discretion available under Section 104(2) of the Act (referred to as the “permitted baseline”) whereby a consent authority may disregard an adverse effect of an activity on the environment if the Plan or national environmental standard permits an activity with that effect. I consider that the permitted baseline is of very limited relevance to this application. Demolition of a heritage building requires a resource consent.

S104(1)(a) – Any actual or potential effects on the environment of allowing the activity

8.2 As a discretionary activity the Council’s assessment is unrestricted and all actual and potential effects of this proposal must be considered. Relevant guidance is however contained in the assessment matters as to the effects that require consideration. I have considered the relevant issues and the matters raised by submitters. It is my view that they fall broadly into the following categories:

(a) Heritage Values;

(b) Urban Design & Character;

(c) Amenity Effects on Neighbouring Residents;

- (d) Traffic & Parking;
- (e) Hazardous Substances;
- (f) Demolition & Construction Effects;
- (g) Contaminated Land Management; and
- (h) Positive Effects

HERITAGE VALUES

- 8.3 Heritage effects are among the most significant matters raised by the application and in submissions. The Applicant has provided a detailed assessment of the potential heritage related effects in Section 6.2 of the Assessment of Environmental Effects (AEE) prepared by Boffa Miskell and through a heritage assessment and subsequent addendum undertaken by Heritage Properties Ltd.
- 8.4 As noted earlier, the existing three storey building (plus basement) at 73 – 81 Dee Street is scheduled as a Class 2 'items and areas of local historic heritage significance' in Appendix II.3 Heritage Record of the Proposed District Plan. The building is not identified within the New Zealand Heritage List/Rārangi Kōrero. I also note that the demolition of Class I buildings attracts a non-complying activity status, reflective of the greater degree of significance attributed to those buildings.
- 8.5 Section 6(f) requires that historic heritage be protected from inappropriate subdivision, use, and development. This requirement is reflected in a number of the Proposed District Plan policies and Southland Regional Policy Statement (discussed in more detail below). The assessment on heritage effects therefore rests on a determination as to whether the proposed demolition and replacement of the building is 'inappropriate'. Such a determination involves consideration of:
- The heritage values of the building;
 - The current building condition;
 - The extent of works necessary to bring it up to an appropriate standard;
 - The costs of such works and the effects of them on heritage values;
 - The availability of grants or alternative funding sources;
 - The rate of return/ economic viability of the required investment;
 - Alternatives such as retention of just the façade;
 - The effectiveness of mitigation measures;

- The measures proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment;
- The urban regeneration and economic and social benefits to the community of the proposed replacement building

8.6 The heritage values of the building and the effects on those values of the proposed demolition are assessed by Heritage Properties Ltd in the application documentation. The following table taken from Section 9.9. of the Initial Heritage Assessment submitted as Appendix 5 provides a summary of the heritage values:

Value	Summary of assessment
Archaeological	High
Architectural	High
Cultural	Low-moderate
Historical	Moderate-high
Scientific	Moderate
Technological	Moderate
Contextual	High
Amenity	High

Table 8.1: Summary of Heritage Values of 73-81 Dee Street – Source: Initial Heritage Assessment – Heritage Properties Ltd

Heritage Assessment

8.7 The Application includes a heritage assessment prepared by Heritage Properties Ltd and as noted in Section 6.2.1 of the AEE:

"In recognition of the Heritage Properties assessment which has determined the existing building at 73- 81 Dee Street has moderate-high heritage values, consideration has been given to alternative development options which retain the existing building in its entirety or in part. The options considered by the Trust included the following:

- *Retention, strengthening and re-tenanting of the entire building for commercial use (office and retail).*
- *Retention and strengthening of the existing heritage façade as part of the proposed hotel.”*

8.8 The Applicant has set out the process of considering these options in Section 6.2.1 of the AEE, which includes:

- The development of preliminary strengthening options for the existing heritage building to bring it up to 34%, 67%, and 100% NBS prepared by BECA (May 2018).
- An Initial Seismic Assessment Report being completed by BECA in June 2018.
- The preparation of a structural assessment of the building and development of a temporary works strategy for the retention of the building façade undertaken by Batchelor McDougall Consulting (April 2018).
- Discussions of the challenges of incorporating the existing façade into the new building design by Architects Warren and Mahoney (August 2018);
- Preparation of high-level cost estimates for façade retention only, or seismic upgrade of whole structure completed by WT Partnerships (May 2018); and
- Preparation of a Commercial Feasibility Assessment completed by Harcourts on the retention of the Heritage Building and Heritage Façade (August 2018)

8.9 I consider that there is sufficient explanation within the above documentation of the current state of the building and the options around reuse that can be balanced against the building’s heritage value as described in the application as a whole.

8.10 I note that presently the building cannot be safely occupied or used and the Initial Seismic Assessment Report contained in Appendix 7 of the application identifies the building at <20% NBS. The information submitted with the application in my opinion demonstrates that the works necessary to enable reoccupation are both extensive and so expensive as to not be financially plausible without some significant form of financial subsidy. Without this I consider the future environment scenario is not a choice of demolition and replacement versus repair and reuse, but rather demolition and replacement versus ongoing vacancy and dilapidation.

8.11 Having considered the assessments provided with the application in relation to heritage values, I consider that there will be significant adverse heritage effects at a local level arising from the demolition of the listed building at 73-81 Dee Street. I consider that this adverse effect needs to be considered in the overall context of the following matters which have been raised by the Applicant in the AEE:

- *"There would be a high cost of seismically upgrading to retain the building in a similar configuration to its current form (\$4.5M), and a high cost of retaining the façade in comparison to construction of a new façade over the same area (\$1.85M).*
- *Retention of the existing façade and construction of a new hotel would result in a rate of return on investment below what Harcourts would consider to be the normal industry standard. Although Harcourts acknowledge that ILT is in a unique position in the Southland market by virtue of its role as a community organisation and the legislation preventing the sale of liquor in venues other than those operated by ILT, their analysis indicates that the return on investment is sufficiently adversely impacted by the costs and uncertainty involved in retention of the heritage façade, so as to render this an unviable option.*

8.12 I also note that the structural strengthening solutions to avoid demolition would involve intrusive works to the building's fabric, which combined with the need to re-plan internal partitions to enable functional use, would mean that the retained original fabric would be reduced, which would also have adverse effects on the heritage values of the building. That being said the heritage effects of this option would be considerably less than arising from the total demolition of the heritage building.

8.13 I do consider that the heritage effects of a proposal retaining the facade would be considerably less than arising from the total demolition of the heritage building. The application provides details of the consideration that has been given to this option. Notwithstanding the financial feasibility matters summarised above, the Applicant's Architect have considered the design issues arising from a design incorporating the existing façade. The Design Statement contained in Appendix 4 notes in considering the incorporation of the existing facade that:

"such an approach would be possible but does create additional aesthetic and design difficulties. The principle challenges are:

1. The facade is missing key elements of the original ornamentation which historically provided an attractive top to the building, the loss of which results in a facade that is unbalanced and lacking appropriate proportion.

2. The effects of necessary strengthening work on the visual appearance of the facade.

3. The small scale of the existing window openings and resulting design inefficiencies for hotel functionality to align with these elements.

4. The aesthetic and practical implications of a new-build structure located immediately behind the façade".

8.14 In light of the significant effects arising from the proposed loss of heritage values, the addendum Heritage Assessment prepared by Heritage Properties, which is contained in Appendix 6 of the application, recommends the following measures be implemented to help reduce the impact of the proposal on heritage values. This includes measures, which I consider will ensure positive heritage effects to help compensate for the adverse heritage effects arising from the loss of the building at 73-81 Dee Street:

- *"Naming of the hotel should consider a direct connection to the block and history to provide a continued connection to the place – e.g. Langland's Hotel, Hotel Langland's, Langland's Suite, Langland's Bar.*
- *Inclusion of public interpretation of the heritage in the development to enable the public to understand the relationship to the site, by way of either signage/panels, images, video's, or hotel information booklets.*
- *Recording information about the building prior to and during demolition of the building to a Level 2 standard as defined by Heritage New Zealand, in order to mitigate the loss of archaeological information.*
- *Re-use of transferable materials in either the new structure, street furniture, fixture or fittings, way-finding etc to provide for physical connections to the history of the site.*
- *Provision of a financial contribution of \$50,000 to establish a Council managed Invercargill Heritage Fund to provide a means to retain, reuse, and refurbish heritage assets elsewhere.*
- *The Trust put in place procedures for retaining other existing heritage buildings in its portfolio at 38, 90, and 197A Dee Street together with strategies and initiatives to leverage that commitment in improving the outcomes for adjacent or nearby heritage properties".*

8.15 The Applicant has advised that they are committed to implementing the recommended measures and should the Commissioner be minded to grant approval I would recommend conditions of consent to ensure these measures are secured. I have also recommended a condition (Condition 2) of consent that the building at 73-81 not be demolished until such time as building consent is issued for the replacement buildings, and the finance and construction contracts for those replacement buildings are in place. The purpose of this recommended condition is to ensure that if the effects of the demolition are realised that there is greater certainty that the proposed development with its balancing benefits proceeds. The recommended conditions are set out in Section 14 of this report.

8.16 The Design Statement prepared by the Applicant's Architect's Warren and Mahoney discusses how heritage fabric could be utilised in the proposed design and notes:

“A portion of the brick will be cleaned up and reused for some internal walls for the restaurant, café and wine bar area as well as the external cladding to parts of the laneway. Several classical capitals will be reused subject to condition as elements set in the walls. The original cast iron columns to the canopy will be reused around the café area and the pressed metal ceiling will be reused to form the bar counter. Heart rimu timber floor and ceiling joists will be made into internal and external furniture elements and some finishes subject to fire design restrictions. The overall intent is to ensure the design is tied to its history, practical and aesthetic requirements without resorting to a heritage ‘pastiche’.”

- 8.17 It also discusses how the proposed design references the historical context of the original Langlands Block, which could be considered a more subtle form of mitigation.
- 8.18 While some submitters have queried the value of the financial contribution offered by the Applicant and consider it should be substantially greater, the Addendum to the Heritage Assessment sets out on Page 8 the rationale for the value. I do not consider that there is planning justification to seek further funding beyond that offered by the Applicant.
- 8.19 The veranda support posts and kerb cobblestones immediately outside the site are also identified in Appendix II.4 of the Proposed District Plan as items of Street Furniture requiring protection. The proposed development seeks to incorporate these heritage features into the proposed design. I consider that the relocation of these heritage items will have adverse effects on their heritage value, however the incorporation of these features is preferable to their loss and is not inappropriate.
- 8.20 Having considered the heritage matters and mitigation proposed, including the measures proposed by the applicant for the purpose of ensuring positive effects, on balance while the loss of the building will indisputably result in the loss of heritage values, I agree with the Applicant’s view that demolition of the building is not an inappropriate activity in this context taking into account the above factors.
- 8.21 For completeness, I note that Heritage New Zealand Pouhere Taonga did not submit on the proposal and have issued an archaeological authority for the demolition of the building and associated earthworks. The archaeological authority notes that they do not support demolition and that the granting of the authority does not constitute affected party approval. The comments in the archaeological authority do not alter my conclusions on the heritage effects of the proposal. I further note that the authority contains a number of conditions, which would ensure that any effects from the required earthworks on archaeological fabric would be avoided, remedied or mitigated. These conditions must be adhered to and therefore my recommendation does not seek to duplicate these conditions.

URBAN DESIGN & CHARACTER

- 8.22 The proposed development generates a number of built form non-compliances, including the

height of the building, the setback of the building from the street, the percentage of ground floor glazing, and the extent and height of veranda coverage. Concerns have been raised by submitters in opposition and in partial support of the proposal about design elements of the proposal and the choice of materials. The Applicant's Architects, Warren and Mahoney have provided a Design Statement, which includes a detailed assessment of the proposal against the principles of good urban design set out in policy 2.22.3 of the Proposed District Plan.

- 8.23 In their current dilapidated and largely vacant state, I do not consider that the existing buildings on the site contribute positively towards the vitality of Invercargill's commercial centre and do little to support or complement the wider outcomes sought for the town centre in terms of a vibrant streetscape and a commercial heart and vitality. In contrast to the lack of activity and reduced amenity of the existing site, the proposed development will contain a wide mix of activities and improved amenity through design, as would be anticipated in a town centre commercial context. The anticipated contribution the proposal would make to the vitality of the CBD is something supported by a number of Submitters.

Height of the proposed building

- 8.24 The Design Statement notes that the parapet of the existing heritage building on the corner is currently 14.65m high and was previously taller when it incorporated the original ornamental elements which have subsequently been lost. It is estimated these elements would have added at least an additional 1.0m to the overall height, making the original building approximately 15.6m at its highest point. The Design Statement references the fact that the building is divided into three parts; the Porte Cochere structure, the lower Don Street buildings, and the taller corner form. The lower Porte Cochere structure on Dee Street is below the 10m height limit and aligns with the adjacent building at 55 Dee Street. The two lower structures along Don Street are 17.3m high at the apex and 16.4m in height at the parapet level on the street. The proposed building is a maximum of 29.5m in height on the corner.
- 8.25 The Invercargill CBD contains a wide range of building heights and designs from a variety of different eras. Whilst the predominant built form is that of 2-3 storey buildings, there are a number of taller buildings located throughout the CBD, especially on street corners. Examples of taller buildings include the Grand Hotel on Dee Street, which is four stories, the Government Life building which is up to five stories, the City Council building on Esk Street which is six stories and the State Insurance building which is ten stories.
- 8.26 I note the design rationale for placing the taller building element on the Dee Street / Don Street corner and consider that the proposed building would make a bold corner statement and in the local context would become a landmark building. The corner tower will be the key visual element of the complex and that which is most publicly recognisable. The rationale for reducing the architectural scale of the building as it extends along both the Don and Dee Street frontages is also recognised. I consider that the proposal would provide an iconic landmark building which will positively complement and enhance the existing urban environment. I consider that the form and scale of the proposed building is appropriately

designed to address and articulate the street corner.

- 8.27 With respect to any adverse overshadowing effects arising from the height of the proposed building on neighbouring residents and businesses, the shading diagrams prepared by the Applicant's Architects indicate that there is very little difference in the shading that will arise from the proposed buildings when compared against the existing situation. Further discussion on the effects of this on the neighbouring residents at 55 Dee Street is contained in paragraph 8.35 below. While there will be additional overshadowing of Dee Street, as a multi-lane State Highway, I do not consider it to be particularly sensitive to these types of effects. Having reviewed and considered the shading diagrams provided by the Applicant, I consider that any overshadowing effects arising from the proposed building height will be acceptable.

Glazing and Building Setback

- 8.28 The proposed design incorporates active street frontages. The full length of Don Street would be activated by the restaurant, cafe, bar and the main hotel foyer space. Along Dee Street a secondary entrance is located off a dedicated Porte Cochere area. Given the nature of proposed activities I consider that the level of glazing proposed is appropriate and would provide a high degree of visual transparency and passive surveillance at street level. Similarly, I consider that the proposed building design incorporates a high degree of articulation and interest and that any adverse effects arising from the building setbacks and percentage of glazing non-compliances will be less than minor.

Veranda Coverage

- 8.29 The design rationale for the proposed veranda along Dee Street and in particular the increased height along the Porte Cochere area is to allow taller vehicles such as mini-coaches to access the site. The higher veranda will provide a degree of cover to guests disembarking whilst meeting functional requirements for safe vehicle access. In this context and given the necessity for this type entrance associated with a modern hotel I consider any adverse effects arising along this frontage in terms of weather protection for pedestrians will be no more than minor.
- 8.30 With respect to the proposed veranda coverage along the Don Street frontage, I have reservations about the extent to which the 'grand covered porticos' would provide appropriate weather protection for pedestrians, particularly if the areas under these elements are occupied by outdoor dining furniture etc. I do however note that the adjoining site to the east is utilised for car parking purposes and does not provide any weather protection for pedestrians. When considered in the local context, while I do not consider this to be an optimum design outcome for the weather protection of pedestrians, I consider any adverse effects from this non-compliance would be no more than minor. I further note that if the Commissioner had reservations about this design element, I consider a condition of consent could be offered by the Applicant requiring further details of the weather protection that would be provided for pedestrians along Don Street to be provided to the Council for certification.

8.31 Submitters in opposition have raised concerns about the location of the access and egress points on Dee Street and the effects of these on pedestrians. I consider this matter under the traffic and parking sub-heading below.

Materials

8.32 The Design Statement outlines the rationale for the choice of materials, however the Applicant's Architects may wish to respond to the concerns raised by Mr Duncan in his submission.

Urban Design Conclusions

8.33 I agree with the Applicant that the proposed development will provide for high quality visitor accommodation, and associated activities, including hospitality spaces, which will enhance the amenity and vitality of the inner city. Overall, I consider that the proposed built form appropriately addresses the site and this prominent corner position and will overall achieve good urban design outcomes, albeit that the extent of weather protection provided for pedestrians is suboptimal.

AMENITY EFFECTS ON NEIGHBOURING RESIDENTS

8.34 Several submitters at 55 Dee Street have raised concerns about potential loss of privacy and other amenity effects associated with the proposal. In terms of potential privacy effects, I understand that the residents at 3/55 Dee Street use their rooftop as an outdoor living space, while other residents utilise their 'balconies'. The proposed development includes windows in the conference room, the lift stairwell lobby on the upper levels together with secondary windows in 4 guest suites on Levels 3 – 6, which could provide views towards the neighbouring building at 55 Dee Street. The AEE notes that *"in respect of the relevant guest suites the primary outlook and sunlight access is from the west and accordingly it is likely that the south facing windows will be screened to protect both guest privacy and the privacy of adjacent neighbours"*. A condition to this effect has not been offered by the Applicant. I note however that the adjoining building at 55 Dee Street is built up to the shared boundary with no fenestration present in the northern façade, which reduces potential overlooking opportunities to habitable spaces. I further note that the placement of the proposed Porte Cochere provides an approximate separating distance of 30m between the aforementioned windows and the southern internal boundary. I consider that this is more than sufficient to ensure that any adverse privacy effects on the adjoining residents at 55 Dee Street would be less than minor. Similarly, I consider that the separating distances provided by Don Street, will ensure that any privacy effects of the additional height on the neighbouring Alexandra Building will be less than minor.

8.35 The submitters at 55 Dee Street also raised concerns about potential loss of access to sunlight and daylight. Having reviewed the shadow diagrams contained in Appendix 4 of the application and in noting that the existing building is built up to the shared boundary so there are no

north facing windows serving internal living spaces, I consider any effects on the amenity of neighbouring residents at 55 Dee Street arising from loss of access to sunlight or daylight will be less than minor.

- 8.36 The submitters at 55 Dee Street have also queried whether there will be another application lodged at a later date to extend the proposed development. I note that if a future application were received it would be assessed on its merits accordingly.
- 8.37 Concerns have been raised by the submitters at 55 Dee Street about adverse effects arising from the electrical transformer and this is a matter the Applicant may wish to address. I do note however with specific reference to noise from the proposed transformer that the Applicant has volunteered a condition of consent (Condition 13), which states that operation noise will comply with the noise requirements set out in rule 3.13.2 of the Proposed District Plan. Subject to this, I consider that any noise effects arising from the transformer will be less than minor.
- 8.38 I consider the concerns raised by the submitters at 55 Dee Street associated with the demolition and construction phases of the proposed development under a separate heading below.

TRAFFIC & PARKING

- 8.39 I agree with the statement in the Applicant's AEE that the proposed development complies with the transportation rules of the Proposed District Plan, with the exception that resource consent is required for the construction and use of the new vehicle access and egress from State Highway 6 / Dee Street.
- 8.40 The traffic and parking arrangements proposed as part of the application have been detailed in the Integrated Transport Assessment (ITA) prepared by Traffic Design Group (now part of Stantec) and provided as part of the original application. The application has been considered by Russell Pearson, the City Council's Roading Manager. Mr Pearson did not raise any concerns with the impact of the proposal on the safety or efficiency of the transport network of Don Street. I note that at pre-application stage Mr Pearson sought consideration of the potential two-way conversion of Don Street. This matter is considered in the ITA, which concludes that any future two-way conversion "is not expected to affect the traffic generation or parking demands generated by the hotel development", which has addressed Mr Pearson's concerns.
- 8.41 Mr Pearson also queried the following matters, which have been relayed to the Applicant:
- Clarification is required as to where future responsibility lies for the costs of removing on-street car parking spaces and any associated street furniture, paving etc. The Council considers this should sit with the Applicant;
 - Confirmation is required that the proposal will not adversely impact on the existing streetlight and decoration wires on the adjoining street frontages.

- 8.42 Mr Pearson further advised that the New Zealand Transport Authority (NZTA) would consider the implications of the proposal on the Dee Street as a State Highway.
- 8.43 NZTA provided a submission, which was neutral on the proposal. The submission states that if the Commissioner is minded to grant consent, NZTA want to see the following matters addressed through conditions of consent associated with: the design of the porte cochere; to address reverse sensitivity; and requiring the preparation and implementation of demolition and construction management plans.
- 8.44 Another submission from C Edgley, in opposition, raised concerns with the location of the porte cochere on the frontage of Dee Street and considered that the vehicle movements associated with its use and the use of the car park would have an adverse effect on the pedestrian experience on this frontage.
- 8.45 I consider that the matters identified in the NZTA submission and the submission of C Edgley regarding pedestrian safety and in respect of NZTA reverse sensitivity can be appropriately addressed through further design detailing, which can be achieved by way of conditions of consent and an advice note (see draft conditions 15 and 16 in section 17 below).

HAZARDOUS SUBSTANCES

- 8.46 As part of the operation, LPG will be stored onsite in 16 x 45kg LPG cylinders. The application states that the LPG storage facility has been designed to comply with all relevant regulations, and a Site Management and Emergency Response Plan will be prepared and certified in accordance with those regulations prior to the operation of the hotel commencing.
- 8.47 There is now greater weighting on other legislative documents rather than district plan rules to achieve environmental outcomes relating to hazardous substances. In particular, significant weighting is accorded in achieving compliance with HSNO regulations and Safety at Work Regulations. In this case the Applicant has stated that the storage of hazardous substances would comply with all the relevant standards of HSNO and relevant National Environmental Standards. On that basis, the proposed storage of hazardous substances is considered to meet the prescribed standards, I consider that the potential for adverse effects on the surrounding environment are less than minor.
- 8.48 To ensure any adverse environmental effects are avoided, mitigated or remedied, the Applicant has volunteered a condition of consent. This is reflected in Condition 6, which I have amended to also refer to the Hazardous Substances and New Organisms Act 1996.

DEMOLITION & CONSTRUCTION EFFECTS

- 8.49 Several submitters in opposition have raised concerns with the potential adverse environmental effects arising during the demolition and construction phases, including potential noise, dust, and vibration effects and potential structural damage to neighbouring properties.

- 8.50 Having assessed the proposal, I agree with the Applicant's AEE that the proposed development complies with all rules of the Proposed District Plan related to demolition and building construction matters, with the exception of those relating to the volume of earthworks and levels of construction noise generated. I also note that Rule 3.17.1 provides an exemption for earthworks which are a necessary consequence of building a structure for which a building consent has been obtained. While the application seeks approval for a non-compliance with the earthworks provisions, this is a matter of timing and the same level of effects from earthworks could be generated for any new building development in the CBD without triggering the need for resource consent.
- 8.51 The Application includes a preliminary Demolition Management Plan, which provides details of the proposed demolition methodology and management measures. I consider that both demolition and construction management plans are appropriate for a development of this scale and should the Commissioner be minded to grant approval, I have recommended conditions of consent requiring that such management plans be prepared and submitted to the Council for certification prior to works commencing. The proposed wording largely reflects the conditions offered by the Applicant in their AEE. The recommended conditions are set out in Section 14 of this report (draft conditions 7-13).
- 8.52 In terms of potential noise effects arising from the proposed demolition and construction process, I consider that the demolition and construction process may have more than minor effects on neighbouring residential and commercial uses. However, I agree with the Applicant that the effects will be temporary, and through the implementation of demolition and construction management plans will be remedied or mitigated as far as practicable by the proposed management measures. These effects would likely arise with any proposed redevelopment of the site and are not therefore unique to this proposal. The Noise Assessment prepared by Acoustic Engineering Services and contained in Appendix 15 of the Application identifies that compliance with the long-term noise limits set out in NZS6803:1999 would be appropriate and would result in reasonable and acceptable noise effects. The Applicant has offered the following conditions of consent to minimise the adverse effects on neighbours as far practical:
- *Demolition and construction activities on the site complying with the long-term limits outlined in Table 2 of NZS6803:1999 as far as practical.*
 - *Installing a continuous 3 metre-high screen/fence to the north, east, and south east boundaries with a 2 metre screen to the west, and constructed with a surface mass of 8kg/m².*
 - *Preparing and implementing a Construction Noise and Vibration Management Plan (CNVMP) outlining how noise and vibration will be mitigated. The plan would include restrictions on work hours, physical mitigation to be employed, limitations on the timing of specific activities including high noise generating activities.*

- *Consulting neighbouring properties prior to high level demolition, piling, and concrete pouring.*

- 8.53 Should the Commissioner be minded to approve the application, I agree that conditions to this affect would be appropriate. The recommended conditions are set out in Section 14 of this report (draft condition 7-13).
- 8.54 In the event that resource consent is granted, I consider that the recommended condition of consent requiring details of the Construction Management Plan to be submitted to Council for Certification would allow the Consent Holder to demonstrate the steps to be taken to ensure construction plant does not extend into the Invercargill Airport Limited's "Horizontal Surface", as sought in the submission from Invercargill Airport Limited.
- 8.55 The Southland Community Broadcasters Charitable Trust has submitted in support of the proposal, however they note that noise from the proposed demolition and construction phases would effect live broadcasts or recordings conducted at their premises. No further information is provided on this and it is something that the Applicant may wish to specifically address at the hearing.
- 8.56 As noted earlier, the Archaeological Authority (2019/145) issued by Heritage New Zealand-Pouhere Taonga contains a number of conditions, which would ensure that any effects from the required earthworks on archaeological fabric would be avoided, remedied or mitigated.

CONTAMINATED LAND MANAGEMENT

- 8.57 I agree with the Applicant's assessment of the relevance of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (the NESCS). The Applicant has volunteered a condition (6, third bullet point) which would require the Consent Holder to provide the Council details, for certification, of:

"measures to provide for the sampling and assessment of potentially contaminated soils, undertaking works in areas of contaminated soils in accordance with the directions of a contaminated land specialist, and the appropriate disposal of contaminated soils at a facility authorised to accept the material".

- 8.58 I consider this to be an appropriate approach and will ensure any adverse environmental effects associated with contaminated land will be avoided, mitigated or remedied.

POSITIVE EFFECTS

- 8.59 The Applicant provides an assessment of the positive effects of the proposal in Section 6.1 of the AEE. In addition, I note that several of the submissions in support of the application refer to the benefits of the proposal in terms of improved amenity, employment opportunities and increased vibrancy and vitality for the CPD.

- 8.60 I consider that the design of the replacement building would make a positive contribution towards the localised streetscape while the provision of high-quality guest accommodation and associated hospitality activities would provide an important addition to the attractiveness and vibrancy of the town centre and may act as a catalyst for further economic stimulus through increased tourism and further regeneration, urban renewal and development within the CPD.
- 8.61 In contrast to the existing site, the proposed development will contain a wide mix of activities, as are anticipated in a town centre commercial context and would reinforce the commercial viability of the Town Centre.
- 8.62 I also consider that the financial contribution to an Invercargill Heritage Fund and a strategy for the retention and upgrading of the Applicant's existing heritage buildings at 38, 90, and 197A Dee Street are important conservation measures and in isolation are positive heritage outcome beyond the site boundary.

SUMMARY OF EFFECTS

- 8.63 The demolition of the heritage listed building at 73-81 Dee Street will have irreversible adverse heritage effects, and this is acknowledged by the Applicant. However, as identified in the foregoing assessment, the demolition of the heritage building is not considered to be 'inappropriate' given the local (rather than nationally significant) listing, the current building condition, the substantial loss of fabric inherent with seismic strengthening, and the substantial costs of such works that in combination make the long-term retention and restoration of the building economically implausible. The loss of heritage values also need to be balanced against the heritage-related mitigation offered by the applicant and other positive effects arising from the proposal, including city centre regeneration. I agree with the positive effects identified by the Applicant, and also consider that overall, the adverse effects, with the exception of loss of heritage, of the proposal are not significant and where necessary can be appropriately addressed through conditions of consent.

9.0 RELEVANT OBJECTIVES, POLICIES, RULES AND OTHER PROVISIONS OF A REGIONAL POLICY STATEMENT [SECTION 104(1)(B)(V)]

SOUTHLAND REGIONAL POLICY STATEMENT

- 9.1 Under section 104(1)(b)(v) of the RMA, the consent authority shall have regard to the relevant provisions of a regional policy statement. The Southland Regional Policy Statement (RPS) provides an overview of the resource management challenges for Southland. It outlines objectives, policies and methods, which guide the management of Southland's natural resources. These methods include directions for provisions in district and regional plans. The RPS became operative on 9 October 2017.

9.2 Chapter 14: Historic Heritage of the RPS, provides for the management of historic heritage in Southland, including built heritage, sites of significance to tangata whenua, archaeological sites and the surroundings associated with these features.

9.3 Section 7.2 of the AEE provides an assessment of the RPS and identifies two relevant heritage related objectives.

Objective HH.1 –Historic heritage values are identified and protected from inappropriate subdivision, use and development.

Objective HH.2 – The built heritage of Southland is appropriately recognised and where possible utilised in a sustainable manner.

9.4 For the reasons outlined further below, I also consider that the following Objective also applies:

Objective HH.3 - Historic heritage values are appropriately managed to avoid or mitigate the potential adverse effects of natural processes and climate change.

9.5 The wording of the supporting Policy HH.2 is central to my assessment of the proposal against the heritage provisions of the RPS and is as follows:

Policy HH.2 - Avoid, mitigate and, where appropriate, remedy adverse effects on historic heritage values from inappropriate subdivision, use and development. On a case-by-case basis take into account factors such as the significance of heritage values, financial cost and technical feasibility when making decisions relating to the protection of historic heritage.

9.6 The sub-text of these provisions refers to the protection of historic heritage from inappropriate subdivision, use and development. I consider that the Heritage provisions of the RPS do not contemplate preservation of existing buildings at all costs as evidenced in the wording of Policy HH.2. I further consider that these objectives and the associated policies should be considered in light of the overall context of the proposal, which is that the building at 73 – 81 Dee Street has local historic significance, however alternatives allowing the repair, strengthening and utilisation of the heritage building as part of the wider works appears to be unfeasible.

9.7 While the proposal does not sit comfortably against these provisions, I consider that they must be balanced against the Assessment of Environmental Effects and an overall weighting undertaken. For the reasons outlined earlier in my report, I do not consider the proposal is 'inappropriate' and on this basis, I do not consider the proposal is entirely inconsistent with these provisions given their contents.

9.8 I also consider Objective HH.3 –Historic heritage values is relevant to this proposal. Objective HH.3 seeks to ensure historic heritage values are appropriately managed to avoid or mitigate

the potential adverse effects of natural processes and climate change. The explanation refers to the potential risks posed by natural hazards, including earthquakes to historic heritage. Given that the heritage building on the site is earthquake prone; it is not on the New Zealand Heritage List/Rārangī Kōrero; and mitigation in the form of recording information on the building, the provision of a financial contribution to establish a Council managed Invercargill Heritage Fund and establishing a process for retaining existing heritage buildings in the Applicant's portfolio, I consider that the proposal is not inconsistent with this objective and will assist with prioritising resources to protect and manage the region's most important historic heritage.

- 9.9 Chapter 17 of the RPS – Urban seeks to promote sustainable development of Southland's urban area.

Objective URB.1 seeks to ensure urban development occurs in an integrated, sustainable and well-planned manner which provides for positive environmental, social, economic and cultural outcomes.

- 9.10 The associated Policy URB.1 states that the adverse effects of urban development on the environment should be avoided, remedied or mitigated. Policy URB.2 seeks to manage urban growth and development in a way that amongst other things: supports existing urban areas; promotes the redevelopment of existing urban areas over greenfield development, particularly within areas that have existing infrastructure capacity; and promotes a compact urban form.

- 9.11 Policy URB.3 encourages opportunities for urban intensification and redevelopment within Southland's existing urban areas, while Policy URB.4 encourages high quality urban design.

- 9.12 Policy URB.5 makes provision for a range of land use activities within urban areas and recognises a variety of developments are required to support community wellbeing and economic growth and development.

- 9.13 I consider that the proposed development is consistent with these provisions, the proposal seeks to provide a high-quality visitor accommodation in an existing urban area, identified for these types of activities and which is suitable for urban intensification. Furthermore, the proposal will likely increase vibrancy and vitality within the Central City.

10.0 PROPOSED DISTRICT PLAN OBJECTIVES AND POLICIES (SECTION 104(1)(B)(VI))

HERITAGE

- 10.1 Within the Heritage section of the Proposed District Plan (Section 2.8), I consider that the following objectives and policies are of most relevance to the proposal:

Objective 1: Heritage values are identified and protected from inappropriate subdivision, use and development.

Objective 2: The built heritage of Invercargill is appropriately recognised and utilised.

Policy 3 Effects on heritage: To avoid, remedy or mitigate the potential adverse effects of subdivision, use and development on heritage.

Policy 4 Integration: To encourage the integration of new subdivision, use and development with heritage.

Policy 5 Active management: To promote the active management, in particular the adaptive reuse, of heritage buildings to:

(A) Avoid serious risk to human safety.

(B) Investigate and evaluate all reasonable means of restoration, adaption, reuse and relocation as alternatives to demolition

- 10.2 As with the heritage provisions in the RPS, the sub-text of these provisions refers to the protection of historic heritage from inappropriate subdivision, use and development, which in turn echoes the wording of s6(f) of the RMA. In circumstances such as this, it becomes a matter of fact and degree in terms of the relative merits of the case. I consider it involves a balancing exercise between the heritage values of the building in its current earthquake prone and vacant state, the ability and plausibility of the building being returned to an economically viable use, the development opportunities anticipated by the Plan and the positive effects of such development for the town centre and the community. As previously noted, I consider that the Heritage provisions do not contemplate preservation of existing buildings at all costs as evidenced in the wording of Policy 3, which anticipates that an activity may avoid, remedy or mitigate the potential adverse effects of subdivision, use and development on heritage. Similarly, Policy 4 encourages integration, and Policy 5 promotes active management. I further consider that these objectives and the associated policies should be considered in light of the overall context of the proposal, which is that the building at 73 – 81 Dee Street has local rather than national historic significance. Alternatives allowing the repair, strengthening and utilisation of the heritage building as part of the wider works have been investigated and evaluated and alternatives to demolition are considered unfeasible. In undertaking this work, I consider that the process by which the Applicant has reached the decision to demolish the building is consistent with the requirements of Policy 5B.
- 10.3 The proposal will result in the loss of heritage values and I consider that there is a degree of inconsistency with some of the heritage provisions, such as Policies 3 and 5. However, when considered on balance against all the relevant objectives and policies of the Proposed District Plan (as discussed below), I do not consider the proposal is contrary with the heritage provisions in Section 2.8.

NATURAL FEATURES, LANDSCAPES AND TOWNSCAPES

- 10.4 I consider that the following Objective and associated Policies from Section 2.10 of the Proposed District Plan are applicable to the proposal.

Objective 1: Invercargill's outstanding natural features and landscapes are identified and protected from inappropriate subdivision, use and development.

Policy 5 Identification of Invercargill's townscapes of value: To identify and promote the following as townscapes of value to the City District:

(A) The rich variety of built heritage in the Central Business District (CBD).

Policy 6 Protection for locally distinctive and valued landscapes and townscapes and culturally significant landscapes and townscapes:

(A) To recognise the visual importance of the CBD, the established neighbourhoods and the parks in defining the character of Invercargill, and

(B) To encourage new development to complement and build on existing character and heritage.

Policy 7 Assessing effects on natural features and landscapes: In considering any application for resource consent, assess the adverse effects on any natural feature or landscape, and avoid, remedy or mitigate such effects to an extent commensurate with the significance of that natural feature and landscape.

- 10.5 These provisions seek to identify and promote the rich variety of built heritage in the CBD as a townscape of value to the City, but also looks through Policy 6 to encourage new development to complement and build on existing character and heritage.

- 10.6 The existing building at 73 – 81 Dee Street has local historic significance and a detailed assessment of the proposal against the heritage provisions is outlined above. I consider that this assessment is also applicable to the consideration of the proposal on townscape values and I again note that under the applicable townscape provisions, protection is not absolute, and demolition of townscape features may be appropriate.

- 10.7 I agree with the AEE that the built form of the surrounding area of the Invercargill CBD contains a mix of historical facades from a variety of different eras as well as varying scales. I consider that the proposal would provide an iconic landmark building which will positively complement and enhance the existing urban environment. I therefore consider that the proposal is consistent with these provisions.

BUSINESS 1 (CENTRAL BUSINESS DISTRICT) ZONE

- 10.8 The relevant objectives and policies relating to the Business 1 Zone are set out in Section 2.23 of the Proposed District Plan, a copy of the Business 1 provisions I consider most relevant to the proposal is contained in Appendix 4 of this report.
- 10.9 I agree with the Applicant that the proposed development will provide high quality visitor accommodation, and associated activities, including hospitality spaces, which will enhance the amenity and vitality of the inner city. The establishment of a new hotel in the CBD, is identified as a potential catalyst for further revitalisation in various supporting documents, including the Southland Regional Development Strategy and the Invercargill City Centre Retail Strategy. I therefore consider that the proposal is consistent with Objective 1 and Policy 1 of this Section of the Proposed District Plan.
- 10.10 Objective 4 seeks the protection of heritage with the associated Policy 22 promoting the retention of heritage items. As noted earlier, the existing building at 73 – 81 Dee Street has local historic significance and a detailed assessment of the proposal against the heritage provisions is outlined earlier in this report. I consider that this assessment is also applicable to the consideration of the proposal on heritage values and I again note that under neither Objective 4 or Policy 22, is protection absolute. In this case, the Applicant has identified that alternatives allowing the repair, strengthening and utilisation of the heritage building as part of the wider works have been investigated and evaluated and alternatives to demolition are considered unfeasible. I therefore consider that while there is a level of inconsistency with some of these provisions such as Objective 4 and Policy 22, the proposal is not contrary to these provisions.
- 10.11 The Applicant's Architects have provided a Design Statement, which includes a detailed assessment of the proposal against the principles of good urban design, which addresses each of the matters in Policy 2.22.3. The Design Statement also addresses the matters such as pedestrian experiences (Policy 4), weather protection for pedestrians (Policy 10), CPTED (Policy 19) and promoting pedestrian connectivity and legibility (Policy 20). Notwithstanding the loss of heritage values and protection from weather (Policy 10), in all other respects the proposal is consistent with these provisions. Notwithstanding the matters associated with the loss of heritage, I consider that the proposal is consistent with Objective 3 and its desire to enhance the amenity values of the Business 1 Zone.
- 10.12 The storage of hazardous substances on site would accord with appropriate HSNO legislation and therefore would be undertaken in accordance with Policy 13.
- 10.13 The application includes details of alternative options that have been explored as opposed to the demolition of the building. In the event that the Commissioner is minded to approve the application, I agree with the Applicant's AEE that the potential effects of the demolition activity on amenity values can be appropriately managed through the finalisation of a Demolition Management Plan which would incorporate measures for screening, traffic management, noise

management, work hours, and dust control. The application also states that the redevelopment of the site will occur promptly following demolition. For these reasons, I consider the proposal is consistent with Policy 15.

- 10.14 Policy 16 seeks that the height of structures is controlled in order to create aesthetic coherence along frontages, avoid adverse microclimate effects, promote availability of sunlight to the street, and require new buildings on street corners to be an appropriate form and scale to address and articulate the street corner. As noted previously, I consider that the proposal would provide an iconic landmark building which will positively complement and enhance the existing urban environment. I consider that the form and scale of the proposed building is appropriately designed to address and articulate the street corner, while the proposal would result in the loss of sunlight to the street and some properties on the opposite of Dee Street and is taller than any adjoining building, on balance I consider that the proposal is not inconsistent with this policy.
- 10.15 The site is located within the Priority Redevelopment Precinct and also provides a level of car parking sufficient to cater for anticipated demand as well as providing a secure cycle parking facility. I therefore consider the proposal is consistent with Policy 22.
- 10.16 With respect to Policy 5, the Applicant has confirmed that operational noise would comply with the Proposed District Plan noise standards, while, in the event that resource consent is granted, noise effects associated with the demolition and construction phases would be appropriately avoided, remedied or mitigated. I therefore consider that operational noise will be consistent with this policy. Similarly, if the Commissioner is minded to grant approval, I consider that any adverse effects associated with glare, electrical interference and lighting can be appropriately addressed through conditions of consent.

TRANSPORT

- 10.17 Section 2.17 of the Proposed District Plan contains the relevant transportation objectives and policies, which includes:

Objective 1: Development of transport infrastructure and land use takes place in an integrated and planned manner which:

(A) Integrates transport planning with land use.

(B) Protects the function, safety, efficiency and effectiveness of the transport network.

(C) Minimises potential for reverse sensitivity effects to arise from changing land uses.

(D) Provides for positive, social, recreational, cultural and economic outcomes.

(E) Minimises where practical the adverse public health and environmental effects.

Policy 1 Infrastructure: To provide for the safe and efficient operation, improvement and protection of transport infrastructure.

Policy 3 Roading hierarchy: To have regard to the Council's Roading Hierarchy when considering subdivision, use and development of land.

Policy 4 Standards: To set development standards for vehicle access, loading, parking and manoeuvring facilities.

Policy 5 Adverse effects: To manage subdivision, use and development adjacent to transport infrastructure in such a way as to avoid, remedy or mitigate potential effects, including reverse sensitivity effects on transportation infrastructure.

Policy 6 State highways: To have regard to any New Zealand Transport Agency standards regarding the location of new accesses on to, and egresses from, State Highways where the speed limit exceeds 50 kph.

Policy 8 Public health: To manage transport activities and surrounding land use activities to protect public health and environmental values.

Policy 9 Integration: To integrate the planning of land use with existing transport infrastructure and provide for future transportation requirements.

Policy 10 Public transport, walking and cycling: To promote the use of public transport, and walking and cycling networks.

Policy 11 Significant transportation networks: To recognise that the Invercargill Airport, Seaport, Railway, State Highway, and the arterial roads which link this infrastructure are regionally significant transportation networks and are essential to the ongoing viability and functioning of the District.

- 10.18 Subject to further detailed design, which I consider could be addressed through conditions of consent, I agree with the Applicant's AEE that the proposed access arrangements could ensure effective vehicle and coach access and egress to and from the site without adversely impacting on the safe and efficient movement of traffic on the frontage roads, and pedestrian movements at the access points. I also note that no work can be undertaken within the adjoining State Highway without the prior approval of NZTA, therefore the requirements of Policy 6 will effectively be met.
- 10.19 In the event that the application is approved, a condition of consent could be implemented to ensure that the hotel, which is a noise sensitive activity, would be designed in a way which meets appropriate internal acoustic performance standards so as to avoid reverse sensitivity effects on the operation of the transport network, including the State Highway, from the change in land use.

- 10.20 The Applicant has considered the implications of the potential two-way conversion of Don Street and this is not expected to affect the traffic generation or parking demands generated by the development.
- 10.21 The proposed cycle parks and central city location all also promote alternative means of transport.
- 10.22 In the event that resource consent is granted, I consider that the recommended condition of consent requiring details of the Construction Management Plan to be submitted to Council for Certification would allow the Consent Holder to demonstrate the steps to be taken to ensure construction plant does not extend into the Invercargill Airport Limited's "Horizontal Surface".
- 10.23 For these reasons, I consider that the proposal is consistent with the transportation objective and associated policies.

CONTAMINATED LAND

- 10.24 I agree with Section 7.1.6 of the AEE that the relevant objectives and policies of the Proposed District Plan that address the issue of contaminated land are set out in Section 2.5 and include:

Objective1: Land that is affected by soil contamination is identified, monitored and managed.

Objective2: The adverse effects of contamination on subdivision, use and development of contaminated land are remedied or mitigated.

Policy 3 National Environmental Standard: To implement and require compliance with the provisions and requirements of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.

Policy 5 Human health: To manage the subdivision, land use and development of land that is potentially, or known to be, contaminated land so as to protect human health.

Policy 6 Management: To determine appropriate management action for contaminated land..

- 10.25 The Applicant acknowledges that should consent be granted, further investigations pertaining to historic fuel storage would need to be undertaken prior to the development occurring, and that testing of excavated material occurs and that off-site disposal of soils would also be required. If the Commissioner is minded to approve the application then this matter could be addressed via conditions of consent, which would ensure that any adverse effects from potential land contamination on human health and the environment are remedied or mitigated. I therefore consider that the proposed development is consistent with these objectives and related policies.

ENERGY

- 10.26 I consider that the relevant objective and policy relating to energy is contained in Section 2.6.2 of the Proposed District Plan:

Objective 6: Building design and development takes into consideration energy efficiency and conservation.

Policy 1 Efficiency and conservation: To promote energy efficiency and conservation through subdivision and building design and development.

- 10.27 The proposal involves the construction of a modern, energy efficient building. The Design Statement prepared by the Architects for the project includes details of the environmental analysis, which helped inform the design and which seeks to achieve solar gain with the associated energy efficiencies. It also notes:

"Sustainable initiatives being discussed for this project include increased levels of insulation and airtightness to improve the overall performance of the building envelope. Building setbacks, deep window recesses and external canopies have been designed to shade the building in summer while reducing areas of glazing from that typical of many commercial developments will provide greater thermal efficiency".

- 10.28 In light of these factors, I consider the proposal is consistent with this objective and policy.

HAZARDOUS SUBSTANCES

- 10.29 The relevant objectives and policies relating to hazardous substances are set out in Section 2.7 of the Proposed District Plan as follows:

Objective 1: Protection of the environment and human health and safety from the adverse effects of the manufacture, storage, use, transportation and disposal of hazardous substances.

Objective 2: Avoid creating new areas of contaminated land and further contamination of already contaminated land.

Policy 1 Environment: Ensure that hazardous substances are manufactured, stored, used and disposed of in a manner that avoids, remedies or mitigates adverse effects on the environment.

Policy 2 Public health: Ensure that hazardous substances are manufactured, stored, used and disposed of in a manner that avoids adverse effects on public health.

Policy 3 Accidents: To require the establishment of facilities, systems and procedures which will minimise the risk of pollution of soil, groundwater, water courses and air in the event of accidents involving hazardous substances.

Policy 5 Other legislation: To recognise the provisions of other legislation, such as the Hazardous Substances and New Organisms Act 1996 which manages the adverse effects of manufacture, storage, use, transportation and disposal of hazardous substances.

- 10.30 The manufacture, storage, use, disposal and transportation of hazardous substances is an accepted and essential part of many everyday activities in the District. The HSNO Act provides the framework for developing technical standards for the use, storage, transportation, inspection, identification and regulation of hazardous substances.
- 10.31 The AEE notes that "*the LPG storage facility has been designed to comply with all relevant regulations*", and therefore should the Commissioner approve the application, a Site Management and Emergency Response Plan would need to be prepared and certified in accordance with the requirements of the HSNO Act prior to the operation of the hotel commencing, which will avoid, remedy or mitigate any potential adverse effects associated with the proposed LPG storage facility. I therefore consider that the proposal is consistent with these objectives and policies.

EARTHWORKS

- 10.32 I agree with the Applicant's assessment of the relevant earthworks objective and policy in the Proposed District Plan contained in Section 7.1.5 of the AEE, which includes:

Objective 3: Earthworks in Invercargill are carried out in such a way as to avoid, remedy or mitigate adverse environmental effects.

Policy 6 requires land use activities and development which propose to fill or re-contour land, or move or remove significant quantities of soil to be controlled.

- 10.33 I also agree with the conclusions reached in the AEE that if granted, appropriate measures can be incorporated into the Demolition and Management Plans to ensure that any earthworks undertaken as part of the proposal would avoid, remedy, or mitigate adverse environmental effects.
- 10.34 As noted earlier, the Archaeological Authority (2019/145) issued by Heritage New Zealand-Pouhere Taonga, contains a number of conditions, which would ensure that any effects from the required earthworks on archaeological fabric would be avoided, remedied or mitigated.
- 10.35 I therefore consider that the proposal is consistent with this objective and policy.

DISTRICT PLAN OBJECTIVES AND POLICIES CONCLUSION

- 10.36 The proposal will result in the loss of heritage value and while there are elements of inconsistency with some of the heritage related objectives and policies, when considered on balance against all the relevant objectives and policies of the Proposed District Plan (as discussed above), I do not consider the proposal to be 'inappropriate' and therefore I do not

consider the proposal is contrary to the heritage related objectives and policies. I further consider that the proposal is broadly consistent with the other relevant objectives and policies in the Proposed District Plan relating to Townscapes, the Business 1 Zone, Transport, Contamination, Energy, Hazardous Substances and Earthworks.

11.0 SECTION 104(1)(C) – RELEVANT OTHER MATTERS

PRECEDENT AND PLAN INTEGRITY

11.1 The submission in opposition from Ms Edgley raises concerns about the potential precedent of approving this application could have. Notwithstanding the fact that each resource consent application needs to be considered on its respective merits, the above discussion has identified that the proposal is not contrary to the objectives and policies of the Plan and therefore broadly cannot be said to create a precedent or threaten Plan integrity. Furthermore, I consider that the positive effects associated with the increased vibrancy and vitality for the CBD associated with the proposal and its identified role in non-statutory documents as a pivotal element of the CBD's regeneration (as discussed below) are unique aspects of this proposal. I further consider that the Heritage Fund offered by the Applicant and the strategy for the retention and upgrading of some of the Applicant's other heritage buildings and the positive heritage outcome that this would achieve beyond the site boundary are sufficiently unique to differentiate this application from other applications involving the demolition of Class 2 heritage buildings or the construction of a tall building on a corner site.

SOUTHLAND REGIONAL DEVELOPMENT STRATEGY: 2015-2025

11.2 The strategy defines five transformational projects to help Invercargill City thrive by delivering new relevance for locals and visitors. It notes that an arts centre, motorcycle museum, new hotel and anchor retail developments are all pivotal elements of the City's proposed ambitious but realisable regeneration. It further notes that these large-scale projects are likely catalysts for wider renewal and investment. It is anticipated more CBD property owners will improve buildings and new businesses would look favourably at locating in Invercargill based on the City's enhanced destination value and appeal. The proposal is considered to be consistent with this document, which identifies a high-end hotel as a 'high priority' and acknowledges that the Applicant is a contributing party.

INVERCARGILL CITY CENTRE RETAIL STRATEGY - 2017

11.3 This document references the Regional Development Strategy and Section 3.6 deals specifically with tourism. Section 3.6.3 specifically states:

"Hotels are a pivotal element in strengthening the City's economy by enabling and supporting greater visitation. Retail, hospitality and tourism sectors benefit economically from leisure travellers, business visitors, conferences and locals attending events.

These activities are anticipated to increase in scale and frequency if improved facilities

with greater capacity were available.

The imminent announcement of a new hotel for Invercargill's CBD is welcomed. This will deliver more capacity and improved quality – both important factors in attracting people into the City to stay and spend. It will also mark a demonstrable shift in positioning and proposition.

A fresh, contemporary hotel proposition will support attraction by stimulating competition and compelling other providers to also improve their offer."

A new hotel on Don Street is specifically identified in Section 5.3 as an anchor development supporting a growing concentration of large businesses.

The application site also sits outside the potential heritage precinct identified in Section 5.4, while I consider that the design of the proposed building is in keeping with the Urban Design Principles outlined in Section 5.5 and the desire to define city gateways that develop a sense of arrival. I consider that the proposed development is consistent with this document.

INVERCARGILL CITY: CENTRAL CITY AREA – HERITAGE BUILDING RE-ASSESSMENT 2016

11.4 The executive summary notes:

"The re-assessment of the Invercargill CCA Heritage Buildings Review identified that Tay Street, Dee Street and Esk Street are the 'crown jewels' of the Invercargill CCA and should be considered from a perspective of the value they bring to the CCA and not from the perspective that they are a constraint to future development. It also identified that there is a need to place greater emphasis on the requirement for high quality, good, new design that is sympathetic and conscious of the heritage character of the CCA, in terms of frontages, storey heights and massing."

11.5 The re-assessment identifies the building at 73-81 Dee Street as a Tier 2: Sites of Local Significance. It therefore does not recommend elevating the heritage status of the building beyond its current status in the Proposed District Plan.

11.6 The proposed development would result in the loss of a locally significant heritage building on one of the 'crown jewels' streets in the Central City.

ICOMOS NEW ZEALAND CHARTER 2010

11.7 The International Council of Monuments and Sites (ICOMOS) NZ Charter is a set of guidelines on cultural heritage conservation, produced by ICOMOS New Zealand. The NZ Charter is widely used in the New Zealand heritage sector and forms a recognised benchmark for conservation standards and practice. It is used by central government ministries and departments, by local bodies in district plans and heritage management, and by practitioners as guiding principles. The Proposed District Plan requires that Council shall have regard to the

principles of the ICOMOS NZ Charter in considering proposals for the adaptive reuse of heritage buildings or structures - Heritage Policy 5.

11.8 As a conservation document the Charter does not address the demolition of heritage items as this is contrary to the principle of conservation. I note that façade retention in isolation, is also not a preferred option (although not directly referred to), but from a conservation perspective would be preferable in lieu of total demolition.

11.9 The proposal does however seek to incorporate the re-use of transferable materials in either new structure, street furniture, fixture or fittings, way findings etc and the recording is identified as an essential part of the physical investigation of a place. The financial contribution to an Invercargill Heritage Fund and a strategy for the retention and upgrading of the Applicant's existing heritage buildings at 38, 90, and 197A Dee Street are also important conservation measures proposed as part of the overall development.

12.0 CONCLUSION

12.1 The existing three storey building (plus basement) at 73 – 81 Dee Street occupies a prominent corner site within the Invercargill central city area. The building is scheduled as a Class 2 'items and areas of local historic heritage significance' in Appendix II.3 Heritage Record of the Proposed District Plan.

12.2 The demolition of the heritage listed building at 73-81 Dee Street will have irreversible adverse heritage effects. Section 6(f) requires that historic heritage be protected from inappropriate subdivision, use, and development. This requirement is reflected in a number of the Proposed District Plan and Regional Policy Statement objectives policies. The assessment on heritage effects therefore rests on a determination as to whether the proposed demolition and replacement of the building is 'inappropriate'. Such a determination involves consideration of:

- The heritage values of the building;
- The current building condition;
- The extent of works necessary to bring it up to an appropriate standard;
- The costs of such works and the effects of them on heritage values;
- The availability of grants or alternative funding sources;
- The rate of return/ economic viability of the required investment;
- Alternatives such as retention of just the façade;
- The effectiveness of mitigation measures;

- The measures proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment;and
- The urban regeneration and economic and social benefits to the community of the proposed replacement building.

12.3 For the reasons set out above, I consider that in balancing the effects associated with demolition and the loss of heritage values, with those associated with full redevelopment of the site, that the purpose of the Act would be better served by the proposed comprehensive development. In the circumstances of this case, I consider that the proposed development of the site is not "inappropriate" and would enhance the amenity values and the quality of the environment, as well as making a more efficient use of the land resource available on the development site as a whole. The proposed development and associated activities will make a significant contribution to the revitalisation of this part of the Town Centre. Consequently, whilst being a difficult conclusion to reach given the heritage values that are attached to the building, I consider that allowing demolition and thereby enabling the site to be redeveloped for commercial purposes better achieves the purpose of the Act than retaining the building

13.0 RECOMMENDATION

Having considered all the matters relevant to this application, I recommend that this application be granted pursuant to Sections 104, 104B and 108 of the Resource Management Act 1991 subject to the following conditions:

GENERAL

1. The development shall proceed in general accordance with the information and plans submitted with the application and as amended by the evidence and plans produced at the hearing. The approved consent documentation has been entered into Council records as number RMA/2018/111.

HERITAGE

2. The building at 73-81 shall not be demolished until such time as building consent is issued for the replacement buildings, and the finance and construction contracts for those replacement buildings are in place. The consent holder shall provide confirmation of these matters, in writing, to Director of Environmental and Planning Services prior to any demolition work commencing.
3. Prior to demolition of the heritage building at 73 – 81 Dee Street commencing, the Consent Holder shall provide the following information to the Council’s Director of Environmental and Planning Services for certification that it provides suitable mitigation for the loss of heritage values:
 - The proposed name for the hotel, which shall provide a connection to the heritage

values of the site.

- Details of the proposed recording that will be undertaken during the demolition of the building.
- Details how public interpretation of the heritage values of the site will be incorporated into the development, which may for example include signage/panels, images, videos and/or information booklets.
- Details confirming how materials from the building, the original kerbstones and original verandah columns will be reused in the development.

Note: *The Council will either certify, or refuse to certify, the mitigation measures within 10 working days of receipt. Should the Council refuse to certify the measures, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.*

4. Prior to the demolition of the heritage building at 73 – 81 Dee Street commencing, the consent holder shall provide to the Council’s Director of Environmental and Planning Services for certification a strategy for the retention and upgrading of the Trust’s existing heritage buildings at 38, 90, and 197A Dee Street. The strategy shall outline how the Trust intends to retain, strengthen, refurbish, and use the buildings, including an indicative programme for those works.

Note: *The Council will either certify, or refuse to certify, the strategy within 10 working days of receipt. Should the Council refuse to certify the strategy, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.*

5. Prior to the demolition of the heritage building at 73 – 81 Dee Street commencing, the consent holder shall provide to the Council a financial contribution of \$50,000.00 to enable the establishment of an Invercargill Heritage Fund to support the retention, reuse, and refurbishment of publicly owned heritage items elsewhere in the inner city.

HAZARDOUS SUBSTANCES

6. Prior to the commencement of the operation of the hotel, the consent holder shall provide to Council’s Director of Environmental and Planning Services a Site Management and Emergency Response Plan (SMERP) which certifies that the storage and use of hazardous substances complies with all requirements of the Hazardous Substances and New Organisms Act 1996 and the Health and Safety at Work Regulations 2017. The SMERP shall address:
 - Hazard risk identification, hazardous control zones, and monitoring.
 - Emergency response procedures, including alarm activation, emergency shut down, spill response, and evacuation and assembly protocols.

- Incident reporting and clean up actions.
- Plan effectiveness review requirements.
- Staff awareness training and induction.
- Site security and maintenance of the facility.
- Emergency equipment (PPE, fire suppression, first aid).
- Site manager responsibilities.

DEMOLITION & CONSTRUCTION

7. Prior to demolition of any of the existing buildings commencing, the consent holder shall provide to Council's Director of Environmental and Planning Services a Demolition Management Plan (DMP) for certification which provides suitable measures to avoid or mitigate the effects of demolition activities. The DMP shall include:

- Measures to confirm the presence of asbestos containing material (ACM), and an asbestos removal plan which provides for the removal of asbestos in accordance with approved methods, and its disposal at a facility authorised to accept the material to ensure effects on human health are avoided.
- A De-Construction Plan which provides measures for the recovery of heritage materials for reuse, avoidance of the collapse of weakened structures, structural inspection of adjoining buildings and retention of the structural integrity of buildings on adjoining sites, and to ensure demolition occurs safely.
- Measures to provide for the sampling and assessment of potentially contaminated soils, undertaking works in areas of contaminated soils in accordance with the directions of a contaminated land specialist, and the appropriate disposal of contaminated soils at a facility authorised to accept the material.
- A Communication Plan with affected parties, which includes procedures ensuring consultation prior to high noise generating activities occurring, and the receipt, recording, and resolution of complaints.
- A Site Specific Safety Management Plan which includes measures for the management of hazards to health and safety.
- A Traffic Management Plan (TMP) which includes measures for the control of vehicle and pedestrian movements, including road closures, to ensure the safety of the public, and the continued safe and effective operation of the road network.
- A Construction Noise and Vibration Management Plan (CNVMP) outlining how noise

and vibration nuisance will be mitigated during demolition activities. The plan shall include restrictions on work hours, physical noise mitigation to be employed, and limitations on the timing of specific activities including high noise generating activities.

- Measures for erosion and sediment control, including for the management of dust, and prevention of sediment being carted onto roads, or entering the public stormwater system.
- Details of the steps to be taken to ensure that construction plant does not extend into Invercargill Airport Limited's "Horizontal Surface".

Note: *The Council will either certify, or refuse to certify, the DMP within 10 working days of receipt. Should the Council refuse to certify the DMP, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.*

8. The Demolition Management Plan certified by the Council under condition 7 above, shall be implemented for the duration of the demolition activity occurring on the site.
9. Prior to construction of the new development commencing, the consent holder shall provide to Council's Director of Environmental and Planning Services a Construction Management Plan (CMP) for certification that it provides suitable measures to avoid or mitigate the effects of construction activity. The CMP shall include:
 - A Communication Plan with affected parties, which includes procedures ensuring consultation prior to high noise generating activities occurring, and the receipt, recording, and resolution of complaints.
 - A Site Specific Safety Management Plan which includes measures for the management of hazards to health and safety.
 - A Traffic Management Plan (TMP) which includes measures for the control of vehicle and pedestrian movements, including road closures, to ensure the safety of the public, and the continued safe and effective operation of the road network.
 - A Construction Noise and Vibration Management Plan (CNVMP) outlining how noise and vibration nuisance will be mitigated during construction activities. The plan shall include restrictions on work hours, physical noise mitigation to be employed, and limitations on the timing of specific activities including high noise generating activities.
 - Measures for erosion and sediment control, including for the management of dust, and prevention of sediment being carted onto roads, or entering the public stormwater system.

- Details of the steps to be taken to ensure that construction plant does not extend into Invercargill Airport Limited's "Horizontal Surface".

Note: *The Council will either certify, or refuse to certify, the CMP within 10 working days of receipt. Should the Council refuse to certify the CMP, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.*

10. The Construction Management Plan certified by the Council under condition 8 above, shall be implemented for the duration of the construction activity occurring on the site.
11. Demolition and construction activities shall occur only between the hours of 7.30am – 6.00pm Monday to Saturday, and truck movements shall only occur between 7.30am – 5.00pm Monday to Saturday. No activities shall occur on Sundays and public holidays except in cases of operational necessity.
12. Demolition and construction activities comply with the long-term limits outlined in Table 2 of NZS6803:1999 as far as is practical. The Construction and Vibration/Noise Management Plan required under conditions 6 and 8 shall include measures for higher noise generating activities that cannot practically comply with NZS6803:1999.
13. Prior to demolition and construction activities commencing a continuous 3-metre-high screen/fence to the north, east, and south east boundaries, and a 2-metre-high screen to the west boundary, shall be constructed. The fence shall have a minimum surface mass of 8kg/m², and be constructed with no gaps, with exception of where site access is required. The fence shall remain in place for the duration of demolition and construction activities.

OPERATION

14. Operational noise from the site shall comply with the noise requirements set out in rule 3.13.2 of the Proposed Invercargill District Plan.
15. The hotel building shall be constructed and maintained to achieve the internal design sound levels set out in rule 3.13.9 of the Proposed Invercargill District Plan.

SAFETY & EFFICIENCY OF ROAD NETWORK

16. Prior to construction of the new development commencing, the consent holder shall provide to Council's Director of Environmental and Planning Services for certification details of porte cochere layout demonstrating how it has been designed to ensure pedestrians have priority at the access frontage and ensure visibility for vehicles entering and existing the site. A copy of this design is to be provided to NZTA and a copy of any feedback they provide is to be forwarded to Council.

Note: *The Council will either certify, or refuse to certify, the porte cochere design within 10 working days of receipt. Should the Council refuse to certify the porte cochere design, then*

they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.

ADVICE NOTES:

- i. No works shall be undertaken within State Highway 6 without the prior approval of the NZ Transport Agency pursuant to Section 51 of the Government Roading Powers Act 1989. Such works may include the formation of the access and egress to the porte cochere.
- ii. Any works undertaken on Council land, including the removal of on-street carparking, alterations to the existing streetlights and decoration wires etc and any right to occupy are subject to separate approval processes.

Tim Joll

30 October 2018

APPENDIX 1:

PROPOSED INVERCARILL DISTRICT PLAN ASSESSMENT

Rule	Assessment	Activity Status
Section 3 District Wide Rules		
<p>3.3 Contaminated Land</p> <p>3.3.1 All activities, including removing or replacing a fuel tank, soil sampling, soil disturbance, subdivision or change in land use, undertaken on a "piece of land", are required under the RMA to comply with the requirements of Clause 8 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 contained in Appendix XII.</p>	<p>An assessment of the proposal against the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations (NES Contamination) in Section 5.2 of the AEE notes that change in use is a discretionary activity under clause 11(2) of the NES Contamination.</p>	<p>Noted</p>
<p>3.4 Demolition or Removal Activities</p> <p>3.4.2 Unless Section 3.8 Heritage applies, it is a controlled activity to demolish or remove buildings and structures in the Business 1 zone with an area 120m² or more.</p>	<p>The buildings located at 57 – 67 Dee Street and 11 Don Street are not subject to Section 3.8; have an area in excess of 120m²; and will be demolished.</p>	<p>Controlled</p>
<p>3.7 Hazardous Substances</p> <p>3.7.2 It is a discretionary activity to store, use and/or manage hazardous substances other than as provided for by Rule 3.7.1.</p> <p>Rule 3.7.1 and the associated Appendix VII restrict the permitted storage of LPG in the Business 1 Zone to 300kg and indoor storage to four 45kg cylinders.</p>	<p>The storage of LPG on site will exceed the 300kg, being 720kg.</p>	<p>Discretionary</p>
<p>3.8 Heritage</p> <p>3.8.6 The relocation or demolition of any building listed in Appendix II:3 Sites of Local Significance other than listed in Rule 3.8.3 and 3.8.4 above, is a discretionary activity.</p> <p>3.8.7 Any alteration, addition, removal and/or demolition of, and/or the attaching of any signage to, any item listed in Appendix II.4 Street Furniture and/or Appendix II.5 War Memorials/Relics is a discretionary activity.</p>	<p>The building at 73 – 81 Dee Street which is to be demolished is listed in Appendix II: 3</p> <p>The veranda posts and kerbstones along the Dee Street site frontage which will be relocated are listed in Appendix II: 4</p>	<p>Discretionary</p> <p>Discretionary</p>

<p>3.13 Noise</p> <p>3.13.18 In accordance with Rule 3.13.4, construction noise is to comply with the following noise limits: 70dB LAeq and 85dB LAm_{ax} between the hours of 0730 – 1800 Monday to Saturday, and 45dB Leq and 75dB LAm_{ax} at all other times.</p>	<p>Construction noise is anticipated to exceed these limits at times.</p>	<p>Discretionary</p>
<p>3.17 Earthworks</p> <p>3.17.7 In accordance with Rule 3.17.2 the maximum permitted earthworks are limited to 50m³ per 1,000m². Based on a site area of 3,029m², up to 150m³ of earthworks are permitted.</p>	<p>The proposed earthworks volumes may exceed 150m³.</p>	<p>Discretionary</p>
<p>3.20 Transport</p> <p>3.20.11(B) Access to, and Egresses from, Roads:</p> <p>It is a discretionary activity to construct and use new vehicle accesses from, and egresses on to, State Highways for any discretionary or non-complying activity where the speed limit is 50 kph or less.</p>	<p>The proposal includes a separate access and egress onto State Highway 6 and the proposal is a discretionary activity.</p>	<p>Discretionary</p>
<p>Zone Rules</p> <p>3.23 Business 1 (Central Business District) Zone</p>		
<p>3.23.6 Pedestrian Friendly Frontages</p> <p>In Accordance with Rule 3.23.4 (A) the ground floor façade of all buildings within the Pedestrian Friendly Frontages Precinct is required to have at least 40% devoted to display windows.</p> <p>In accordance with Rule 3.23.5 (A) any new building within the Pedestrian Friendly Frontages Precinct is required to be set back from the street boundary by no more than 3m.</p> <p>Where these provisions are not met the activity is a discretionary activity.</p>	<p>The Dee Street frontage will not have at least 40% devoted display windows.</p> <p>Part of the outdoor dining area and laneway fronting Don Street are setback more than 3 metres from the site frontage, as are elements of the Porte Cochere on Dee Street</p>	<p>Discretionary</p> <p>Discretionary</p>
<p>3.23.10 Weather Protection</p> <p>In accordance with Rule 3.23.8 within the Pedestrian-Friendly Frontages Precinct all buildings are to be provided with verandahs across the public footpath for the full width of the site frontages.</p>	<p>The veranda along the Don Street frontage extends only across the frontage of the tower.</p>	<p>Restricted Discretionary</p>

<p>In accordance with Rule 3.23.9 Any verandah is to be designed and constructed to:</p>		
<p>(A) Have a maximum height of 3.5m and a minimum height of 3m above the footpath;</p> <p>(B) Be set back 0.6m from the kerb line.</p> <p>(C) Be so related to verandahs on adjacent buildings as to provide continuous weather protection for pedestrians.</p> <p>Where these provisions are not met the activity is a discretionary activity.</p>	<p>The proposed verandas will in part be 3.8 metres above the footpath, will be set back more than 0.6m from the kerb line and will not be so related to adjacent buildings as to provide continuous weather protection for pedestrians.</p>	<p>Restricted Discretionary</p>
<p>3.23.12 Height of Structure</p> <p>In accordance with Rule 3.23.11 the maximum height of any building or structure is 10m.</p> <p>Any activity that does not comply with this Rule is a restricted discretionary activity.</p>	<p>The proposed building will exceed 10 metres being a maximum of 29.5m in height.</p>	<p>Restricted Discretionary</p>
<p>3.23.17 Street Frontage & Building Height – Pedestrian Friendly Frontages Precinct</p> <p>In accordance with Rule 3.23.14 (except as otherwise provided for in Rule 3.23.14-3.23.20) all buildings within the Pedestrian Friendly Frontages Precinct are to be two storeys high along the street frontage.</p> <p>In accordance with Rule 3.23.15 the actual height of the two storeys is to be sufficient to match the first two storeys of the buildings on either side where the buildings are directly adjoining each other.</p> <p>Where these provisions are not met the activity is a discretionary activity</p>	<p>The proposed building will exceed two storeys, being a maximum of eight storeys high.</p> <p>The building will not match the height of the existing adjoining building at 55 Dee Street.</p>	<p>Discretionary</p> <p>Discretionary</p>
<p>3.23.20 Corner sites and building height – Priority Redevelopment Precinct</p> <p>In accordance with Rule 3.23.19 New buildings within the Priority Redevelopment Precinct which are on the corner of two formed roads are to be three storeys over at least 50% of the footprint of the building and the higher part of the building shall face the public streets.</p>	<p>The proposed building is a maximum of eight stories high on the corner of Dee and Don Streets.</p>	<p>Discretionary</p>

For clarity, I note that in accordance with Rule 3.20.1 (A), there is no minimum off-street car parking requirement within the City Centre Priority Redevelopment Precinct in the Business 1 Zone.

In accordance with Rule 3.20.6(B) there is no requirement for on-site loading facilities and manoeuvring spaces within the Priority Redevelopment Precinct in the Business 1 Zone.

A detailed lighting plan has not yet been prepared nor have details of proposed signage been confirmed. However, the Applicant has advised that the proposal will either comply with the permitted lighting and signage standards or would be subject to a separate application(s).

APPENDIX 2:

PARTIES WHO WERE SERVED NOTICE

Property	Owner
12 Don Street	JR's Investments Ltd
14 Don Street	Timat Investments Ltd
19 Don Street	19 Don Street Ltd
20 Don Street	Invercargill City Council
25 Don Street	Southern Institute of Technology
28 Don Street	R J & P I Schweyer
32 Don Street	Invercargill Club
1 - 33 Don Street	Pascoe Properties Ltd
2 - 33 Don Street	Southern Institute of Technology
35 Don Street	Her Majesty The Queen
36 Don Street	Geoffrey John Thomson
40-42 Don Street	Sadara Ltd
43 Don Street	Don Buildings Ltd
45 Don Street	Don Buildings Ltd
46 Don Street	K & M Shanmuganathan
38 Kelvin Street	Privilege Properties Ltd
26 Esk Street	White Property Consultants Ltd
28 Esk Street	McPherson Family Partnership
30 Esk Street	R E & K R Turner
34 Esk Street	Chalcom Ltd
36 Esk Street	HWCP Management Ltd
38 Esk Street	Cargill Agencies Ltd

40 Esk Street	Logez Properties Ltd
42-44 Esk Street	Eskdale Properties Ltd
30-32 Dee Street	C R Ellenden and N J McGilvray
35 Dee Street	White Property Consultants Ltd
43 Dee Street	Deecol Properties Ltd
45 Dee Street	Deecol Properties Ltd
49 Dee Street	Jing Cheng
50 Dee Street	Invercargill City Council
1-55 Dee Street	G H & S M Griffith
2-55 Dee Street	Fishing Hunting South Ltd
3-55 Dee Street	Fishing Hunting South Ltd
4-55 Dee Street	G H & S M Griffith
5-55 Dee Street	Fishing Hunting South Ltd
6-55 Dee Street	Fishing Hunting South Ltd
11-55 Dee Street	H G & T A Ophuis and Public Trust
14-55 Dee Street	Katope NZ Ltd
15-55 Dee Street	Jast Apartments Ltd
66 Dee Street	Invercargill City Council
68 Dee Street	D W & H E Hubber
72 Dee Street	N W Livesay and W Calder and F Moss
76-86 Dee Street	Phil&Nic Enterprises Ltd
83-85 Dee Street	Alexandra Building Ltd
87 Dee Street	Weiki Investments Ltd
91 Dee Street	A J Jenkins and M J Little

APPENDIX 3:

SUMMARY OF SUBMISSIONS RECEIVED

Submitter Name	Submission Summary	Wish to be Heard
Nathan Shearing	Support – Will provide amenity and vitality to the city and will be a catalyst for further development.	No
Southland Community Broadcasters Charitable Trust Inc (Radio Southland)	Support – The submission notes however, construction noise could impact on live broadcasts or recordings. The height of the new hotel will create a complication for the ongoing transmission of their broadcasts.	Yes
Carl Heenan	Support – Will bring benefits to the City and create jobs.	No
Chris Gorman	Support – Will create jobs and has tourism benefits.	No
Craig Hillman	Support – No comments provided	No
Cruickshank Pryde	Support - Promotes rejuvenation of the CBD and has tourism benefits. Heritage can be recognised and preserved in ways that do not impeded development.	Yes
BodyCorp 14605	Oppose – Effects during demolition and construction (noise, dust, vibration, structural damage to neighbouring properties). Loss of privacy and amenity including access to light. Noise from the Electrical Transformer Concerns over further development on the site.	Yes
Gary Larsen	Oppose – Trade Competition	Yes

<p>Hendricus Gerhardus & Trudy Anne Ophuis</p>	<p>Oppose - Effects during demolition and construction (noise, dust, vibration, structural damage to neighbouring properties).</p> <p>Loss of privacy and amenity including access to light.</p> <p>Noise from the Electrical Transformer</p> <p>Concerns over further development on the site.</p>	<p>Yes</p>
<p>Venture Southland</p>	<p>Support - Development will enhance the inner city. It will increase viability and vibrancy.</p> <p>Will maintain and enhance amenity values and provides tourism benefits.</p>	<p>No</p>
<p>Cain Duncan</p>	<p>Conditional Support</p> <p>Support - Supports aspects of the design.</p> <p>Oppose - Concerns with some aspects of the design, including the proposed materials and the impact of elements on the Dee Street streetscape;</p> <p>Concerns with the loss of heritage.</p> <p>Suggests conditions of consent to address loss of heritage, choice of materials and review some design elements.</p>	<p>Yes</p>
<p>Christine Edgley</p>	<p>Oppose - Loss of heritage and alteration of historic street furniture.</p> <p>Height of the proposed building.</p> <p>The location of access and egress on Dee Street.</p>	<p>No</p>

Invercargill Airport Limited	<p>Neutral - The height of the proposed new hotel building relative to IAL's Airport Approach and Land Use Controls Designation (Designation 74) and the associated methodology and management plans proposed to be implemented during construction.</p> <p>Suggests conditions of consent associated with the preparation and implementation of a construction management plan.</p>	No
Wayne Hill	Support -No planning comments	No
Katope NZ Limited	<p>Oppose - Effects during demolition and construction (noise, dust, vibration, structural damage to neighbouring properties).</p> <p>Potential impacts on tenants and possible loss of rent without compensation.</p>	No
Southland Chamber of Commerce	Support - Will increase CBD vibrancy, will add economic benefits, create jobs and help develop the region.	Not stated - Assumed No
New Zealand Transport Authority	<p>Neutral - Potential issues with some of the design details and the measures in place to ensure the safe and efficient operation and safety of users of the state highway.</p> <p>Suggests conditions of consent associated with: the design of the porte cochere; to address reverse sensitivity; and requiring the preparation and implementation of demolition and construction management plans.</p>	Yes
Community Trust of Southland	Support - Increase CBD vibrancy.	No

APPENDIX 4:

RELEVANT BUESINESS 1 ZONE OBJECTIVES & POLICIES

Objective 1: Maintenance and enhancement of the primacy of the Invercargill Central Business District as the primary centre for retailing, business, culture, entertainment, education and social services for Invercargill City and the wider Southland region.

Objective 3: Identification, maintenance and enhancement of the amenity values of the Business 1 Zone.

Objective 4: Protection of the heritage values of the Central Business District.

Objective 5: An holistic approach to economic, social and geographical issues in the Central Business District is complemented through the District Plan.

Policy 1 Business 1 CBD Zone: To establish and implement a Business 1 Zone to retain existing and encourage new commercial/retail activities in the Central Business District.

Policy 2 Precincts: To identify within the Business 1 Zone:

(A) The Priority Redevelopment Precinct.

(B) The Entertainment Precinct.

(C) The Pedestrian-Friendly Frontages Precinct.

Policy 3 Urban design: To encourage the incorporation of the following urban design principles into the design of buildings and open space:

(A) Buildings and land uses respect their context.

(B) Buildings and land uses reflect and enhance the character of Invercargill.

(C) Building and land uses offer diversity and choice for people.

(D) Building and land uses are clearly linked by appropriate connections.

(E) Buildings and land uses demonstrate creativity, encouraging innovative and imaginative solutions.

(F) Custodianship - Buildings and land uses should be environmentally sustainable, safe and healthy.

(G) Collaboration – stakeholders collaborate to achieve good urban design outcomes.

Policy 4 Pedestrian-friendly frontages: To create an environment along the identified frontages that will offer safety, comfort and a stimulating and enjoyable pedestrian experience within the recognised retail area.

Policy 5 Noise:

(A) To provide in the Central Business District for a level of ambient noise consistent with mixed land uses including residential.

(B) To delineate an area in the Central Business District within which a reasonable level of noise associated with entertainment activities (day and night) is both expected and tolerated as an inevitable characteristic of a vibrant entertainment precinct.

Policy 6 Odour: To accept low levels of odour emissions whilst ensuring the absence of nuisance from objectionable odour.

Policy 7 Glare: To accept low levels of glare.

Policy 8 Electrical interference: To avoid nuisance from electrical interference.

Policy 9 Lighting: To encourage the provision of lighting associated with businesses, and also amenity and security lighting, as ancillary to a vibrant and attractive Business 1 Zone while recognising the inevitability of moderate amounts of lightspill.

Policy 10 Protection from weather: To require the design of structures located in the City Centre to have regard to the need to offer pedestrians shelter from rain and wind.

Policy 11 Signage: To recognise and provide for signage that contributes to a vibrant and attractive City Centre while avoiding signage that:

(A) Is not related to activities on the site on which the sign is situated.

(B) Has the potential to create a nuisance.

(C) Detracts from the amenities of the area, either because of its size, character or content.

Policy 13 Hazardous substances: To provide for the storage and use of substances classed as hazardous whilst having regard to the safety of the general public.

Policy 15 Demolition or removal activities:

(A) To encourage owners to consider the restoration, and adaptive re-use of buildings in preference to demolition.

(B) To manage the adverse effects of demolition or removal on amenity values by ensuring the clean-up, screening and maintenance of sites.

(C) To encourage active utilisation of sites post-demolition by encouraging their prompt redevelopment and in the meantime encouraging use of the site for such activities as car parking or public open space.

Policy 16 Height of structures:

(A) To control the height of structures in order to create aesthetic coherence along frontages, avoid the creation of adverse microclimate effects, and promote availability of sunlight to the public street.

(B) To require that replacement buildings within the Central Business District that are required to have a Pedestrian-Friendly frontage have a two storey frontage to the public street or streets.

(C) To require new buildings within the Priority Redevelopment Precinct and also on a street corner to be an appropriate form and scale to address and articulate the street corner.

Policy 19 Crime Prevention Through Environmental Design (CPTED): To encourage the incorporation of the following CPTED principles into the design of buildings and public spaces:

(A) Awareness of the environment.

(B) Visibility by others.

(C) Finding help.

Policy 20 Connectivity and circulation:

(A) To promote connectivity and legibility of access to and within the Central Business District to enable people to find their way around easily and conveniently.

(B) To promote pedestrian friendly routes along the identified pedestrian-friendly frontages.

Policy 21 Parking and vehicle manoeuvring:

(A) To require the provision of off-street car parking outside the Priority Redevelopment Precinct sufficient to meet the needs of clients, service vehicles associated with enterprises using the building and staff, and to require convenient provision for service vehicles.

(B) To encourage the provision of secure on-site cycle storage.

(C) To provide car parking to meet the needs of land uses associated with new buildings within the Priority Redevelopment Precinct.

Policy 22 Heritage value: To promote the retention of the character and scale of the heritage structures, buildings and places within the City Centre.