

Commissioner: John Maassen
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DECISION AND SECTION 104 ASSESSMENT UNDER THE RESOURCE
MANAGEMENT ACT BY A COMMISSIONER ACTING UNDER
DELEGATED AUTHORITY FROM THE INVERCARGILL CITY COUNCIL
CONCERNING AN APPLICATION BY THE INVERCARGILL LICENSING
TRUST TO DEVELOP AN EIGHT-STOREY 80-ROOM HOTEL AND
ASSOCIATED ENTERTAINMENT FACILITIES ON THE CORNER OF DEE
AND DON STREETS, INVERCARGILL

¹ The errata relate to the reference to the external façade material as “slate” instead of the correct description “terracotta” and Mr Adamson wrongly referred to as Mr Anderson.

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Summary and Outcome

1. This decision concerns a proposal by the Invercargill Licensing Trust (ILT) to develop an eight-storey, 80-room hotel on the corner of Don and Dee Street in the centre of Invercargill. In implementing the development, ILT seeks consent to demolish a Victorian building on the corner site at 73 - 81 Dee Street. That building was constructed in 1885 by the architect Frederick Burwell. The building is a scheduled building under the District Plan because it is of local heritage significance. For convenience, the building is referred to in this decision as the 'Caledonian', based on the earliest known photograph shown below that displays that warehouse name. That name is not one in common usage in Invercargill but the building's popular name tended to reflect the main occupant at any time. I have not used Langland as this refers more to the original group of Burwell buildings along Dee Street.



Figure 1

2. The sustainable management of the resources of the Invercargill Central Business District receives special attention in the new Invercargill District Plan (Plan). It is easy to overlook the nuanced approach the Plan adopts

to the use, management and protection of the mainly physical and land resources in that area. The priorities of the new community Plan are focused by spatial tools including zoning and for the Central Business District a method called 'Precincts'. The Precincts signal the aims of achieving a vibrant, pedestrian focused, social magnet through redevelopment as well as heritage protection. The vital nature of that mission is because the central core of the City and its fabric, that is made up of many heritage buildings, has struggled to find a strong contemporary role for itself in the face of wider demographic, retail and economic forces. As a consequence, much of the existing heritage fabric, comprising a collection of Victorian and Edwardian buildings, is under-utilised and in disrepair. The Plan addresses the need to reboot the relevance of the Central Business District as a pre-eminent matter concern in the Plan's Issues Statement at 2.22.1. To address that concern, redevelopment and replacement buildings are contemplated in order to unleash the much needed revitalising forces of renewal.

3. The community has in its Plan provisions recognised the trade-offs associated with attracting new development and land uses on the one hand and the retention of in-tact well maintained heritage resources on the other hand. There is no right answer when trade-offs are involved there are simply differences in values and weighting in the evaluation. These trade-offs are to be weighted and assessed as and when the market opportunities are presented. The Plan contemplates grappling with these trade-offs through a thorough evaluation under s 104 RMA rather than the straight-jacket of directive strategic priorities.

4. With intense pragmatism the Plan calls for a case-by-case assessment of individual proposals for modifications or demolition of heritage items². No door to re-development is firmly shut. No environmental heritage-loss limits are definitively set. In the end the Applicant must make its case recognising a preferential option for adaptive use of existing heritage buildings where feasible and sensible³.
5. A decision-maker in making the evaluation must consider carefully the Plan as a whole and discern from the Plan's objectives and policies a coherent strategy that the Plan employs to achieve the community's vision of sustainable management in a particular locality⁴.
6. Looking at all the Plan provisions that relate to this site – because of its position within the Business 1 Zone, the Priority Redevelopment Precinct, the City Center Heritage Precinct, the Entertainment Precinct, and the Pedestrian Friendly Frontages Precinct - my assessment is that the Plan strategy can be summarised in the following over-arching strategy statement:

The Central Business District has many heritage items of local significance that are all identified and listed in Appendix 2 to the Plan⁵. Their individual values are not adumbrated but the items are known to have heritage values that should trigger the requirement for a consent before modification or demolition. That will mean the merits of demolition or modification are

² In this respect the Plan implements the Regional Policy Statement (Policy HH.2 – Protection of Historic Heritage) that calls for a case-by-case assessment of whether or not any proposal for demolition or modification of heritage is “appropriate”.

³ See Proposed District Plan section 2.8 Policies 5 and 6.

⁴ *Environmental Defence Society Incorporated v. New Zealand King Salmon Company Limited* [2014] NZSC 38 at [45] – [61].

⁵ See Appendix 2 (ii) – Heritage Record, Introduction: paragraph 3 that commences: “Appendix (ii).3 sets out items in areas of local heritage, historic heritage of significance as recognised in Gray. J. (July 1997)_Invercargill City, Central City Area, Heritage Buildings Review”.

closely scrutinised⁶. The long-term retention of a large proportion of the heritage item's values individually and collectively is important for the social and cultural wellbeing of the Invercargill community⁷. The Plan's identification process does not assess comparative significance to any great degree and there are no preservation priorities for heritage protection within the basket of heritage items beyond a simple classification system leaving open a case-by-case assessment in each case of the merits of the proposal rather than a strong strategic and directive approach⁸.

Protection of heritage is not an absolute value or an end in itself in the Plan in the Central Business District. It is seen through the lens of its value to the community by contributing to a vibrant place for social relations with a distinctive identity⁹. Adaptive use (which is not unqualified protection) is preferred where practicable. In all cases where a consent is sought a robust assessment must be undertaken and the proposal must be assessed against a range of specific assessment criteria including heritage assessment criteria that ensures a proper cost-benefit analysis is undertaken. There must be a thorough examination of the adaptive use option thereby achieving the direction in Part 2 s 6 (g) by examining the "appropriateness" of the proposed authority in a holistic way¹⁰.

⁶ See section 2.8 Heritage of the Proposed District Plan, Policy 3 and Method 4.

⁷ See section 2.8 Heritage of the Proposed District Plan and in particular Policy 6 and the associated explanation.

⁸ See the Proposed District Plan Assessment Criteria in Rule 3.8.10, Policy 2 for the Central Business District that implements Objective 5 for that zone.

⁹ *Ibid.*

¹⁰ *Ibid.*

The site is in multiple precincts where the Plan aims to enhance and increasingly facilitate pedestrian focused activities including entertainment, food and beverage and comparative retail¹¹. Redevelopment and replacement buildings are seen as pivotal to achieving the long-term sustainable management of the physical resources in that locality¹². The Plan anticipates that effects will include loss of identified heritage when projects anchor a redevelopment that produces significant potential positive effects including enhancing urban amenity, the better use of public infrastructure and catalysing opportunities for further redevelopment and improvement in existing heritage¹³. In this respect the Plan also acknowledges the great importance of the efficient use of the existing Central City infrastructural resources as a finite resource and sees the maintenance and enhancement of amenity in the City core as important as does Part 2, RMA¹⁴.

7. Concerning the process, at ILT's insistence the application was notified and there has been a thorough process by which the community could engage with this proposal. The remarkable absence of any opposition to this proposal with its comprehensive assessment of the effects of loss of the heritage building on the corner of Dee and Don Street contains a message.
8. The application will result in the complete loss of one heritage and archaeological item. It will, however, be replaced by a facility that is bold and will be an architectural lodestar: it will be a contemporary marker of the confidence the Invercargill community has in the future of Invercargill. In that sense the new building will have a symbolic value that is similar to that of the Langland's *fin de siècle* collection. The new

¹¹ *Ibid.*

¹² See Issue 1 in section 2.22.1.

¹³ Policy 2(A) in the Business 1 Zone.

¹⁴ S 7(b) & (g) & (f) of Part 2 of the RMA.

building is well designed with sensitive urban design components. The proposal will perpetuate a characteristic of Invercargill City Centre by displaying with distinction an architecturally designed signature building on a corner of the City grid.

9. In addition, the sensitive treatment of the Dee Street frontage with soldier-like fenestration in assembled rows pays fitting homage to some of the architectural elements of the collection known as the Langland buildings that once occupied this Dee Street frontage.
10. I am satisfied that this application is very worthy of approval and should be granted. It meets the environmental outcomes of the Plan by a large margin.
11. The conditions attached to this decision in Appendix 1 are those conditions that will apply to the consent.

Applicant and Application

12. The Applicant is the ILT. The identity of the Applicant is normally irrelevant except that in this case there are features about the Applicant that are important. Both in terms of the values the ILT has adopted in conceiving this project and the commitments the ILT makes in this application.
13. The ILT was formed following the restoration of alcohol sales in Invercargill in 1944.¹⁵ The public elected a licensing trust model for the sale of liquor. The consequences of that are that the ILT has a monopoly on the sale and supply of liquor. The price of that mandate is the obligation to spend the profits for the benefit of the community pursuant to s 307 of the Sale and Supply of Alcohol Act 2012. Mr Ramsay the Chief-Executive of ILT explained with clarity that the ILT well understands that this mandate carries an obligation to be accountable

¹⁵ SOE Chris Ramsay at 3.1.

to the people of Invercargill. That is expressed in the commitments to investment in the community and respecting community processes. Mr Ramsay stated that the Invercargill public are strongly supportive of the redevelopment project contained in the application and the project is consistent with the Southland Regional Development Strategy. That strategy is a high-level strategic document looking at ways in which the community can assist in contributing to the economic social and cultural welfare of the Invercargill community and to expand its population.

14. The site comprises 73 – 81 Dee Street, 56, 61 and 67 Dee Street, 5 and 7 Don Street and 11 Don Street. The total area is 3,029m². The ILT proposes to demolish all existing buildings and construct and operate an eight-level hotel incorporating 80 hotel suites, a restaurant, café and bars, function spaces, car parking and other guest facilities.
15. The development has the following elements also shown in Figure 2 below:
 - (a) At the corner of Dee and Don Streets an eight-storey tower will rise above the corner providing a reception lobby and bar at the ground level. Hotel suites will occupy levels two – six with a function room and associated exterior terrace located at level seven providing expansive views across the City.
 - (b) Adjacent to the tower will be two five storey blocks that will extend along the frontage with Don Street separated at mid-point by a central laneway which extends some 15m in the site. A café restaurant and second boutique bar will be located at ground level with associated outdoor dining locating fronting the Don Street within the laneway.
 - (c) A Porte Cochere will be located on the Dee Street frontage facilitating covered guest arrival with departure. The Porte

Cochere will accommodate two car parks and sufficient space for three other vehicles to pick up guests and drop off.

- (d) At the rear of the site will be 32 car parks including two mobility spaces. A coach park is proposed to be located in the Dee Street adjacent to Porte Cochere.
- (e) Hard and soft landscaping is proposed around the exterior and interior streetscape. That includes bluestone concrete and aggregated paving, street trees and other planting contained within curb extensions, rain gardens and mobile plant boxes. Historic curb stones will be preserved and other elements will be introduced into the streetscape design.



Figure 2

16. The architects for this project are the firm Warren + Mahoney. The following elements have informed its design:
 - (a) The construction of an iconic landmark building that will complement and enhance the existing urban environment.
 - (b) Appropriate articulation of the scale and mass of the building. That is achieved through breaking the building into three forms in the taller eight storey building structure.
 - (c) The façade of the building is to be broken into several layers including a transparent base, a solid masonry central section and a high transparent glaze in light clad upper portion.
 - (d) The building has been designed to activate a street edge.
17. ILT's application is very detailed. It fully responds to requirements of Schedule 4 of the Resource Management Act 1991 (RMA) in assessing all potential and adverse effects. The benefits of the proposal are somewhat modestly stated in s 6.1. Beyond that, the AEE considers in detail the urban design effects, the built form effects, the transportation effects and the effects of demolition and construction including noise.
18. All the detail in the application does not require repetition here. This decision focuses on those matters in contention and addresses the key matters of importance in Part 2 RMA.
19. There is however one aspect of the AEE that is worthy of particular mention because of its importance in the assessment of a matter of national importance concerning heritage also important under the Plan.
20. Appendix 5 to the application contains a heritage assessment report by Heritage Properties Limited known as McStay (2017).¹⁶ That report

¹⁶ McStay "One End of Langlands Block" (2017).

contains a detailed heritage assessment of the Caledonian and reaches the conclusion that the demolition will mean:

“The architectural and archeological values will be effected [sic] and lost. The proposed works will signal the end of Langlands Block, of Burwell’s design, and a pre-1900 building and its façade considered to be a key characteristic of Invercargill city centre. The contextual and amenity values of the streetscape will be effected [sic]. There will be a final loss of façade continuity associated with Langlands Block, and potentially because of redevelopment through height, building set back, facades, verandah, effecting the visual coherence of the heritage streetscapes especially on Dee Street. Not all effects are primarily visual or physical. Building demolition and façade removal will affect other heritage values, including those of other buildings within the streetscape such as 43 – 45 and 55 Dee Street, by removing connection with local histories, reference points for architectural styles and cultural and social values. Other buildings within the streetscape, such as 43 – 45 and 55 Deed or the Alexandra Building are within the wider project area, may therefore be at greater risk from accumulative effects in the future”.

21. I will return to that paragraph in section 10 of McStay (2017) in my assessment of the heritage effects. McStay (2017) also relies upon a non-statutory report (Farminer & Miller, 2016) to the Invercargill City Council concerning certain heritage values with a specific eye to streetscapes.
22. The outcome of McStay (2017) was a recommendation to ILT to consider options to retain the façade as part of the overall redevelopment of the site. The Applicant undertook further work in accordance with that report including a feasibility assessment by Harcourts dated 3 August

2018¹⁷, an assessment of strengthening options by Beca¹⁸ and a façade retention assessment by McDougall Consulting Limited¹⁹. Finally, there is a cost estimate for heritage façade strengthening by WT Partnership that is at Appendix 10 to the AEE.

23. The ILT asked Heritage Properties Limited to undertake a further assessment of heritage effects in light of this new information. That was produced as an addendum to McStay (2017) and was prepared by Dr Cawte. At section 3 of that addendum report the feasibility analyses described above were considered. Also considered was a statement by the architects, Warren + Mahoney about feasibility. The following passage from that report by Heritage Properties Limited states:

“Warren and Mahoney Architects have considered the use of the façade within a hotel design, however, have determined that with the existing building have being constructed at first and second floor offices, the window location widths are not consistent with efficient design for a modern hotel with 3.8m between walls being optimal (which could be achieved a long Don Street but not Dee Street). Incorporating two existing window openings in each hotel room would presumably reduce overall numbers of rooms available and as Warren and Mahoney (2018b:) describe reduce overall numbers of rooms available and as Warren and Mahoney (2018b:), describe would impact upon efficiency”. They also cite openings to ground floor as a challenge to meet the design brief. Therefore, it was determined that while retaining the façade was possible it would not be feasible to do so within the scope of a hotel development (Warren and Mahoney (2018b))”.

¹⁷ AEE Appendix 11: “Commercial Feasibility Assessment – Harcourts”.

¹⁸ AEE Appendix 8: “Heritage Buildings Strengthening Options – Beca”.

¹⁹ AEE Appendix 9: “Façade Retention Assessment by McDougal Consulting Limited”.

24. Dr Cawte summarised the heritage values assessed in McStay (2017) in table 2.1 and these are set out again below.

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

25. Dr Cawte in section 7 of his addendum report then stated the following:

“The building and site footprint of 73 – 81 Dee Street has been determined to have moderate-high heritage values (McStay (2017)). This addendum report considers the effects of the proposed redevelopment in light of completed architectural plans, as well as the results of feasibility studies, undertaken on previous recommendations (ibid).

The feasibility studies present a number of difficulties in the retention of the façade, and engineering and hotel design requirements would see the façade used simply as a non-functioning veneer which, would have reduced benefit to heritage values. There are also economic challenges in retaining façade only, or strengthening the existing structure.

Thus, the 'assessment of effects' has considered the full demolition of the structure and removal of subsurface archaeological resources. Therefore, the overall effect remains the same as presented in McStay (2017), however, mitigation measures have been presented for the effective mitigation of this loss. Therefore, it is recommended that the following mitigation measures be adopted during the redevelopment of the site:

- Naming of hotel should consider a direct connection to the block and history – as an example – Langland's Hotel, Hotel Langland's, Langland's suite, Langland's Bar
- Public interpretation of the heritage, by way of either signage/panels, images, videos or hotel information booklets. As an example this could include a 'history of site' or 'About Langland's' page in guest information
- Recording of the Building to Level 2 during demolition (Heritage New Zealand 2014)
- Re-use of transferable materials in either, new structure, street furniture, fixture or fittings, way-finding etc
- Financial contribution of \$50,000 to a Council managed Heritage Fund to assist with mitigating the loss of the building
- ILT to put in place procedures for retaining existing heritage buildings in portfolio namely:
 - Waxy O'Sheas building at 90 Dee Street
 - Lone Star building at 197A Dee Street
 - Speights Ale House at 38 Dee Street".

26. The reason that this process of assessment and re-assessment is set out at length in this decision is to demonstrate that the Applicant went through a thorough process of evaluation and re-evaluation in order to satisfy its heritage experts that there had been a robust conclusion on the desirability of adaptive reuse.
27. The application was publicly notified on 13 August 2018 and certain potentially affected parties were identified.
28. The Council received 18 submissions. Of these 10 were in support and one was in conditional support, five were opposed to the application and two were neutral and sought conditions.
29. Prior to the hearing a number of issues were resolved between the Applicant and submitters or the evidence demonstrated that the concerns had been adequately addressed. Some issues were resolved by minor modifications to the proposal submitted at the hearing of the application. These are fully set out in the evidence of the Applicant presented at the hearing. I do not list them here because they are minor matters that do not go to the heart of case. I am satisfied that these changes are minor and within the scope of the application and now captured by Condition 1.

Evidence received at the hearing and matters in contention

30. The Applicant called six witnesses as follows:
 - (a) Chris Ramsay – CEO of the ILT in relation to the vision and goals of the Applicant.
 - (b) Dr Cawte – Heritage consultant in relation to effects on heritage values.
 - (c) Mr Adamson – Architect and urban design.
 - (d) Dr Trevathan – Noise and in particular construction noise.

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- (e) Mr Leckie – Transportation effects.
 - (f) Mr Dale – Planning evidence.
31. Ms Semple, counsel for the Applicant, presented written submissions in advance of the hearing and addressed those in an oral submission at the start of the hearing.
32. Mr Joll provided an excellent planning report pursuant to s 42A of the Act on behalf of the Council. He recommended consent be granted and proposed a suite of conditions.
33. There were three submitters that gave evidence:
- (a) Mr and Mrs Ophuis. They live in an apartment on Dee Street and were concerned about the effects on them of the development including effects of overlooking and noise from various parts of the hotel infrastructure.
 - (b) Mr Cain Duncan presented a thoughtful submission in relation to areas of concern and addressed those matters orally. They focused on matters of heritage, effects on the pedestrian experience on Dee Street with the Porte Cochere and the importance of ensuring that the façade materials approved for the design are appropriate and achieve the intended design outcomes expressed in the application.
 - (c) Finally, Mr Hodgkinson, and his expert Nathan Surendran expressed concerns about the extent to which the Applicant incorporated the core sustainability principles including energy sufficiency, carbon efficiency and other elements in the overall design of the project.
34. None of the people were opposed to the application but they sought to have their concerns noted or addressed by means of conditions.

35. This decision deals with the evidence received to the extent relevant to the matters in contention. While all submitters were reconciled to the potential loss of heritage values from the demolition of the Class 2 building at 73 – 81 Dee Street, I have given that matter detailed consideration in this decision. That is because the Plan directs that sort of level of consideration and so does Part 2, RMA.

Evaluation of effects of the development under s104(1)(a)

Positive effects

36. It is convenient to categorise the positive effects into three classes as follows:
- (a) Direct economic and employment benefits.
 - (b) Positive effects of development in achieving Plan outcomes.
 - (c) Indirect benefits to remaining heritage from inner city revitalisation.

Direct economic and employment benefits

37. The project will employ 80 people once fully operational. That number may expand if the hotel is a roaring success. The design provides opportunities for further development on the site. It is anticipated that the proposal will generate profits. While that is not a significant matter normally in resource management assessment it has some relevance here where a community based organisation is involved. Those profits will be further reinvested in the community and provide a platform for further economic development. These are important matters for any community. While a full economic analysis was not undertaken in support of this application it is evident that the tourism opportunities in Southland are great and there is a real prospect of enhanced tourism with improved accommodation offering. This development will provide

greater opportunities for hosting visitors and providing them with superior accommodation and elevated views across the Southland.

Positive effects of development and achieving plan outcomes

38. The analysis in this decision of the Plan's desired outcomes demonstrates the importance of revitalisation of the Central Business District with good urban design. I consider that the positive effects anticipated by the Plan from quality redevelopment will be achieved by this proposal and therefore it fully implements these aspects of the Plan. These include:

- (a) High quality redevelopment based on sound urban design principles.
- (b) A pedestrian focused and friendly environment that provides interest through enhanced activation at street level and sensitive street level improvements.
- (c) Provision of entertainment locations to attract visitors to the City core.

Indirect benefits to remaining heritage

39. The long-term future for Invercargill's heritage depends on economically viable adaptive use of many of the buildings. This in turn can only be achieved by economic revitalisation. Quantifying economic benefits to heritage from redevelopment and renewal is difficult. However, when heritage buildings have the right bones and they are placed next to contemporary buildings that attract patronage then they are likely to experience indirect positive effects. They increase the potential for economic use of the heritage buildings. The new 'Auction House' on Don Street and the current upgrading of the adjoining heritage building is perhaps an example of that. It is realistic to suppose that the proposed development will have positive flow on effects for the existing heritage

fabric of the Central Business District. Indeed, that was a significant plank of Dr Cawte's support for the proposal. He took a balanced approach and recognised the need for redevelopment and new activities that foster regeneration of existing heritage fabric.

Effects on heritage

40. The effects on heritage values are best analysed by breaking them down into two classes as follows:
 - (a) Direct effects of loss of heritage values from demolition of 73 – 81 Dee Street.
 - (b) The cumulative effects of loss of 73 – 81 Dee Street.

Scale of direct loss of heritage values for demolition

41. 'Effects' under the RMA are those that are caused and those that are potentially caused by the application. The effects assessment framework in the RMA requires one to consider a complex matrix of environmental risks assessed against the Plan's goals.
42. The starting point is to consider the condition of the existing building caused by long-term degeneration to predict the building's short to medium term prospects.
43. The building is tired and has seen better days. Many of the internal components are in a state of significant disrepair and not authentic. The parapets are highly modified and have lost much of their ornamentation. The colour of the building is insulting to the heritage values of the original fabric and the verandah is in such a state of disrepair as to be depressing. All of the frontages are untenanted and some are darkened leading to an overall impression of a moribund streetscape that is unattractive and disheveled.



Figure 3

44. Dr Cawte noted that many heritage buildings in Invercargill are two or three storeys. Most of the upper levels of these buildings have been disused for as long as the 1920s and are now both unsuitable and probably unsafe. There is, therefore, no prospect of economic re-use of a three-storey building of this type without some form of major adaptation. The most obvious is a completely new building behind the façade.
45. Dr Cawte has wide experience in relation to heritage management use and protection in Invercargill. He said that the effect on heritage remains the same as assessed in McStay (2017) however the feasibility studies demonstrate to his satisfaction that adaptive reuse of the building is not feasible in the context of establishing the type of hotel and tourist facility that is proposed for the site.²⁰
46. In addition, Dr Cawte, correctly in my view, questioned the value of façade retention alone as recommended for consideration in McStay (2017)). At [4.12] he said:

²⁰ SOE Dr Cawte at [4.11].

“Similarly, the retention of the façade only, has less than desirable outcomes for heritage values, comes at a high cost and would render the façade relatively non-functioning, acting only as a historic veneer”.

47. Dr Cawte considered that the long-term future of the Caledonian was bleak. It is probable that the long-term decline that the Caledonian has experienced will continue with perhaps some relief through strengthening under the earthquake-prone building legislation. At the present time, and for the foreseeable future, the Caledonian will not make the sort of contribution to social and cultural wellbeing that heritage can deliver. Therefore, Dr Cawte said, enjoining an incisive observation of Mr Joll, at [5.3]:

“In reviewing the application Joll accepts that the Applicant has provided sufficient information around the current building state that can be considered against the heritage values (s 89) and the current structural state (-20% MBS) that *it is not a choice between demolition versus economic re-use, rather demolition and replacement versus the status quo of a vacancy and dilapidation (s 8.10)*”.

48. Having visited the site and considered some of the heritage located in Invercargill, I was unconvinced by the description of this building as being a “crown jewel” in the recent Farminer & Miller 2016 report that has no statutory weight²¹. It was also unconvincing that McStay (2017) emphasised the importance of the Caledonian as a remnant of the Langlands building and therefore providing a historical association to the opulent Victorian commercial buildings that once occupied the length of Esk Street and Don Street fronting Dee Street. Currently this frontage of Dee Street is in a poor state. There are a lot of architectural elements

²¹ Farminer & Miller *Invercargill City: Central City Area: Heritage Buildings Re-Assessment 2016*. That is referenced in section 6.2 of McStay (2017).

both modern and old that are not harmoniously arranged and, frankly, discordant. It is so eclectic as to be dizzying and a far-cry from the nobility of Burwell's original architectural symphony.



Figure 4

49. The Caledonian now sits as an individual piece that no longer can be associated - probably even by a trained eye - with the larger whole that historically existed. The Caledonian's only streetscape significance is its prominence on the corner. It is often the collection of heritage buildings together that create the special streetscape values that are highly prized. Many examples of those exist in Invercargill. For example, there is an excellent collection in Esk Street where strong retail occupancy supports maintenance of the heritage elements. Another example is the striking façade along Dee Street extending from the Grand Hotel northwards.
50. In McStay (2017) in table 2.1 (referred to above) a methodology was applied to assess the values of the Caledonian. I questioned Dr Cawte in relation to that scale and the meaning of some of these value categories. It seems as though the taxonomic system has a particular meaning in heritage assessment. For example, cultural values would only score highly if there were special values associated with a minority group. Amenity values seemed to be related to the degree to which other values could be tangibly enjoyed by the existing integrity of the heritage. So, where archaeological values are preserved that results in high amenity for those with that interest. 'Amenity' under the RMA is more democratic and refers to pleasantness and coherence arising from a community's appreciation of the values. When asked, Dr Cawte said that

he did not think the present structure provided much amenity or pleasantness in that sense.

51. Concerning contextual values, Dr Cawte agreed that the contribution of the site to the heritage context of the Invercargill City centre was limited to its prominence as a corner building and did not make a significant contribution to a coherent streetscape between Don and Esk Street.
52. Previously, the key effects assessment in McStay (2017), section 10, was quoted. That paragraph is now examined in detail.
53. It is true, as McStay (2017) found in section 10, that the proposed demolition will signal the end of the Langlands Block. That is regrettable, but the building is already in a significant state of disrepair and the loss of much of the Langlands Block already means that its significance as an item in a greater whole was significantly diminished by choices to demolish heritage along the Dee Street frontage many years ago.



Figure 5

54. McStay (2017) says that the façade is considered to be a key characteristic of Invercargill City centre. That is not evident from the planning documents and it is not evident from the community's lack of response to this application for demolition. Of all the striking heritage

elements and façades that I observed in Invercargill City centre I considered the Caledonian to be one of the least impressive. I find the claim by McStay (2017) that there would be a loss of façade continuity along Dee Street puzzling because there simply isn't a great deal of architectural continuity in that section of Dee Street.

55. I do not agree with McStay (2017) that the demolition and façade removal will adversely affect other heritage values within the Dee Street streetscape and as I understand it, that was not Dr Cawte's opinion either. Nor do I agree with McStay (2017) that the loss of heritage may produce a greater risk of adverse cumulative effects in the future. If McStay was concerned at a precedent effect, then it is not a concern because each case stands or falls on its individual merits under the Plan. Dr Cawte, was of the opposite opinion on cumulative effects viz. that the contribution to the vitality and economic regeneration of the City core was likely to lead to a cumulative beneficial effects for heritage rather than adverse effects.
56. Overall, I considered the potential adverse effects on heritage values in McStay (2017) to be somewhat overstated but no issue arises from that because Dr Cawte did not rely on McStay (2017) to recommend that consent be declined. Rather, he supported the grant of consent.
57. Dr Cawte in assessing the direct effects also had regard to the mitigation proposed. There were two types of mitigation proposed. First, mitigation in the form of use of historic materials and historic references in the overall development. Secondly, off-sets volunteered by the Applicant.
58. Concerning the incorporation of heritage values in the new development, these were set out in Dr Cawte's evidence at [4.17].
59. The off-sets have to be considered pursuant to RMA s 104(1)(ab) that directs decision-makers to have regard to:

“Any measure proposed or agreed to by the Applicant for the purpose of ensuring positive effects in the environment to off-set or compensate for any adverse effects on the environment that will result or may result from allowing the activity”.

60. The first off-set proposed by the Applicant is a financial contribution of \$50,000 to a Council Managed Heritage Fund to assist with heritage work in Invercargill. There is no science to the calculation of the sum. Mr Joll did not consider the contribution material to his opinion that consent should be granted. Cain Duncan thought a greater amount was warranted based on the substantial savings from not restoring and adaptively reusing the façade. But that is not a basis for calculating the value of an off-set.
61. The other off-set offered by ILT is a commitment to putting in place procedures for retaining the existing heritage buildings in the ILT’s portfolio as set out in Condition 4 in Appendix 1.
62. In combination, Dr Cawte considered that the direct mitigation offered by ILT and the off-sets resulted in the proposal causing no more than minor effects in relation to heritage. Particularly, if the anticipated positive flow-on effects from revitalisation materialise, as anticipated.
63. Having considered all the evidence, I find that the scale of effects on heritage from the loss of the Caledonian to be small.

Cumulative effects on heritage

64. The Plan recognises the special heritage characteristics of the Invercargill Central Business District because of the significant and largely original collection of heritage items in a comparatively confined space. The sheer number of heritage items is illustrated in Map 9. I asked Dr Cawte how many items had been lost since the Plan’s development. Other than the new ‘Auction House’ on Don Street he was

unaware of any demolition of identified heritage. While the Plan does not set any limits in relation to the loss of heritage it is plain that the Plan intends as an environmental outcome the retention of the preponderance of heritage values in the Business 1 zone and especially the Heritage Precinct. Therefore, any loss of heritage values that engenders significant cumulative effects would be inconsistent with the overall thrust of the Plan.

65. I consider based on the scale of the direct effects and based on the sheer quality and quantity of heritage in the Business 1 Zone that this proposal will not cause any significant adverse cumulative effects. A more probable outcome is that the positive effects will have cumulative benefits to the remaining heritage.

Urban design effects

66. Attached as Appendix 4 to the AEE is a detailed design statement prepared by Warren + Mahoney. In relation to the urban context the opening statement accurately states:

“The site is located in the heart of the historical and cultural centre of Invercargill. Historically this was a lively and beautiful place to visit. These qualities have been eroded to a degree over the last few decades”.

67. In discussing the urban grain, the design statement notes:

“The urban grain of this part of Invercargill is defined by a series of elongated plots laid out in a group plan typical of many colonial towns developed in the 19 Century. Each plot has a 20 metre frontage into the streets running east to west. The site faces onto Don Street and is made up of three of these original plots. The design of the new hotel building reflects the historical urban development pattern and grain by proposing three distinct

structures which are connected by glazed bridges, creating interstitial laneway spaces between them. These outdoor spaces respect the historical lanes that date back to the original Plan and will become attractive, intimate and sheltered urban spaces enhancing the character at street level. These spaces are not dissimilar in scale to the famous laneways in Melbourne and the successful network of lanes in Queenstown and many other cities”.

68. Having examined the design, I consider that the design ethic used is appropriate. It is appropriate to the historical context but it is also appropriate to a modern context where pedestrian orientated activity is to be facilitated by adding a more porous centre.
69. Warren + Mahoney considered the building materials typically used in Invercargill. The use of brick is a tradition in Invercargill and that is illustrated by the photographic essay in the section of the design statement called “Masonry Tradition in Invercargill”. Ian Adamson pointed out that Warren + Mahoney considered use of brick in the midsection of the main tower but discounted this possibility because it would not provide sufficient earthquake resilience. However, a form of terracotta is proposed that is a material as close as feasible to the masonry tradition while achieving appropriate earthquake resistance.
70. The tall eight-storey tower, without doubt, will dominate this part of the City centre. A form and identity assessment based on a three degree model demonstrates that the building is not of a scale and form that is out of character with the built form of Invercargill. When a building is proposed of significant scale, particularly within a successive heritage precinct, it is important that the design elements are appropriate. A significant concern is appropriate façade articulation. That issue received considerable consideration by Warren + Mahoney. In relation to the façade articulation the design statement states:

“The main street façades onto Don and Dee Streets and the upper level façades in the south and east are visible from afar and will have a high degree of articulation. The lower portion of the building a simple solid void relation sets up a more traditional rhythm of repeating windows set in a masonry wall. A simple repeating off-set between the two levels is designed to create a more contemporary twist than this traditional approach. The building draws certain curves from the apparent building on the site making a subtle reference to the fire windows along the Dee Street elevation. Its size and shape will echo the former building.

The upper portion of the building is separated by a glazed level. Above this level lies a more transparent volume and suspended above the city. This form has an angled roofline to create a strong and beautiful silhouette on the skyline of Invercargill. Inside these two forms is three levels of executive and standard guest rooms with an event space on the upper most level.

As the upper forms are so visible from many vantage points of the City, they will be highly articulated with a degree of depth to the façade to create strong shadows. This depth provides a dual function to also shade the more highly glazed interior spaces and to prevent them from overheating during Summer. Screens are randomly placed on the façade between the windows and terraces of the executive rooms to create a texture effect and creating exciting image when fully lit into the evening and at night”.

71. The design statement examines the shading effects as part of the environmental analysis of solar and wind. That analysis demonstrates adequate outcomes having regard to the character of the locality.

72. The design statement then assesses the proposal against the ICC Urban Design Guidelines and reaches the conclusion that overall it meets those guidelines.
73. Importantly, the design diagrams detail street paving and furniture that ILT will construct as part of the development and the diagrams show how that integrates with the building design to secure an activated and pedestrian friendly frontage.
74. Roger Hodgkinson in his submission considered that the ILT could have done more to produce a building that proclaimed Invercargill's commitment to sustainability. He was, at pains to point out, however that in general terms he supported the proposal. He was noting his disappointment that the sustainability bar had not been placed higher by the ILT. In supporting that contention, he argued for wood construction as a fully sustainable material rather than concrete. He also argued for better energy efficiency so that the building was more energy self-sufficient. All of these matters are interesting but beyond the scope of my consideration under the RMA s 104. In the absence of Parliamentary direction about building materials and energy efficiency, I must consider compliance with the Building Code will be a necessary and sufficient compliance with building regulations. I must consider the proposal before me and I am not in a position to dictate alternative materials or design.
75. Cain Duncan is not a planner but displayed considerable knowledge of planning based on his work experience. He provided a thoughtful submission that included two concerns that are relevant to the urban design topic. The first concern was that the materials were known and approved to ensure that Warren + Mahoney proposed would be secured by the application. The second concern was whether or not the Port Cochere would operate in a pedestrian and friendly manner contrary to the intention of the Plan to prioritise pedestrian access in this area.

76. Regarding the importance of the façade materials, Ian Adamson the project architect submitted at the hearing an A3 plan (SK.036) showing the types of materials intended for the façade. He also produced examples of the German manufactured terracotta and other products that would likely be used in the exterior. Ian Adamson agreed with me that the diagram was an important diagram showing the intended materials for the façade. Ian Adamson agreed that it was important that the diagram formed part of the application material (and therefore the consent) to demonstrate the materials intended for the façade. Mr Adamson did not support going so far as to specify materials down to product lines for the obvious reason that this would be unduly restrictive.
77. There is tension here. On the one hand the façade materials are critical to the overall impact of the building as a landmark and the intended architectural outcomes therefore need to be secured in a substantial way. On the other hand, the Applicant needs to have some flexibility in final implementation of the design. Mr Duncan understood this point and proposed a certification process in the consent conditions.
78. My resolution of that matter is to amend Condition 1 so that the consent relates to the material supplied by ILT in the application and the material supplied at the hearing. That will incorporate SK.036 showing the façade materials recommended by Ian Adamson. While, Condition 1 requires the application to be implemented in general accordance with the application including defending of materials, it is expected that the materials and façade treatment will be faithful to the design principles and design elements that Ian Adamson articulated. It is not my intention by using the words “in accordance with” in Condition 1 to allow a degree of flexibility in the use of materials and treatment of façade that materially underachieves the aspirations of design statement and design outcomes in the AEE and Ian Adamson’s aspirations in his evidence.

79. Mr and Mrs Ophuis live at 3/55 Dee Street, Invercargill. They live on the top floor apartment which has a balcony and outdoor space of approximately 30m² with frontage to Dee Street. That provides commanding views to the west and south. Views to the north are less attractive because they are punctuated by iron rooves from buildings along the frontage of Dee Street. The Ophuis' had a number of concerns regarding impacts of development and operation but were also concerned about privacy. The deck is their outdoor living space and they are concerned that residents will be looking down on them from the very tall building.
80. Mr Adamson addressed this concern by reference to Diagram SK.031. That diagram shows that the outdoor area of the Ophuis' is about 40 metres from the southern façade of the tower block and a further distance from the lift cavity. On the top floor people will be accessing the event space and on other floors people will be accessing their rooms. The glazing on the southern end of the corridors is floor to ceiling and provides expansive views across the Invercargill district. Unless a person went to the window at the building edge and looked down, they would not be overlooking the Ophuis deck. Even if people looked from these elevated points at the deck, the deck is far enough away to create a sense of separation and privacy appropriate for this context. I do not consider it necessary to change the design to prevent this overlooking. If any concerns arise following development a relatively simple solution is for the Ophuis to place a trellis or similar facility on the northern edge of their deck. In doing so they would not lose any significant views. Mr Ophuis recognised the best views were to the west and south.

Transportation effects

81. The transportation effects were not in contention to any significant degree.

82. A few amendments were made to the application including a reduction in car parks by two. Mr Leckie giving transportation evidence for ILT considered that the provision of 32 car parking spaces is sufficient.²²
83. An issue for some submitters was the impact of the vehicle crossings associated with the Port Cochere on the Dee Street frontage. There is an ingress and egress circulation route over that frontage with anticipated maximum demand of one vehicle per minute in peak periods. Given a generous access width of 5 metres that means a person walking would need to cross a distance of 5 metres over a period of 30 seconds. That is not place an onerous demand on pedestrians. The key issue is to ensure appropriate visibility of pedestrians and physical cues in the entrance and egress that ensure pedestrians are prioritised and protected. There are a number of treatments proposed as outlined in the general design but there will also be elements in the specific design. I am satisfied that these matters of specific design in combination with the general design elements contained in the application drawings will be appropriate. A condition is included at Condition 16 to secure an appropriate specific design.

Construction and operational effects

84. The demolition and construction programme is estimated to take two years. It will a highly disruptive process but redevelopment always is.
85. The Applicant has proposed a Demolition Management Plan that addresses nine areas of potential effects associated with demolition of existing buildings. The detail of that Management Plan will be important in managing the effects. I consider it is appropriate to manage these effects by means of a Management Plan and I am satisfied that the condition specifies outcomes in sufficient detail recognising the

²² Leckie SOE [4.19].

consideration of these matters will be best left to detailed project management.

86. There is also provision prior to construction for the certification of a Construction Management Plan.
87. Dr Trevathan, an acoustic consultant, anticipated activities that may exceed the noise standards in NZS 6803:1999 such as piling. That is because the long build period means the standard calls for lower noise limits than for shorter periods of construction. That recognises the long term effects of construction noise on health and safety. Condition 12 proposed by the Applicant requires these demolition and construction activities to comply with the long term limits in table 2 of NZS 6803:1999 *as far as is practical*.
88. Requiring the Applicant to take all practical steps to minimise impact of Construction Management Plan is appropriate. Nevertheless, for people working and living near the construction site the impacts will be significant but short-term.
89. The potential for adverse effects from noise was comprehensively assessed in Appendix 15 to the AEE which comprised a report from Acoustic Engineering Services in Christchurch. Affected third parties including those carrying out residential activities in the locality therefore had comprehensive information as to the anticipated effects of demolition and construction.
90. The Ophuis' were concerned about the potential noise from the transformer substation located on the boundary of their property as shown in the Plan view for level 00 in the Warren + Mahoney drawings.
91. The Applicant proposes that operational noise limits be those specified in Rule 3.13.2 of the Proposed Invercargill District Plan (see Condition 14 attached). The standards for the Business 1 Zone are a day time limits

of 0700 – 2200 of 65 dB 85 dB LAeq and LMax. The night time levels are 50 dB and 75 dB respectively. These are materially higher than the standards in the Residential Zone reflecting the different amenity anticipated in those zones. To some extent the Ophuis' will have to expect, because of their choice to live in the City, higher levels of noise then would exist in the Residential Zone. However, I do consider it appropriate that acoustic attention is given to the design of the transformer station because of its potential for ongoing noise levels without relief. I therefore have made an adjustment to Condition 14 to require an engineer to certify that appropriate steps have been taken to minimise noise through the use of insulation.

Consideration of Plan provisions under s104(1)(b) RMA

92. The Plan is at an advanced stage and the planners. Messrs Dale and Joll, agree that even though not fully operative it is the Plan that provides the most contemporary guidance in relation to the sustainable management of the resources of the site and its environs.
93. At the start of this decision is a summary statement of the intent of the provisions of the Plan justified by referencing through footnotes. This decision need not set out all of the objectives and policies. However, a number of key points in relation to the Plan provisions are made in this section of the decision.
94. I am satisfied that the Plan provisions implement the Southland Regional Policy Statement at the specific level of the City Centre. The Southland Regional Policy Statement Objective HH.1 concerning the protection of historic heritage states: "Historic heritage values are identified and protected from inappropriate use and development". And Objective HH.2 states: "The built heritage of Southland is appropriately recognised and where possible utilised in the sustainable manner".

95. Importantly, Policy HH.2 of the Southland Regional Policy Statement concerning the protection of historic heritage states:

“Avoid, mitigate and where appropriate, remedy adverse effects in historic heritage values for inappropriate subdivision, use and development. On a case-by-case basis take into account factors such as the significance of the heritage values, financial costs and technical feasibility when making decisions relating to the protection of historic heritage”.

96. The starting point for evaluation of the significance of effects on heritage from the proposal is consideration of objectives and policies concerning heritage in the Business 1 Zone where the site is located. Objective 4 in section 2.22 of the Proposed Plan provides an unseemingly unqualified direction to protect heritage values of the Central Business District. Objective 4 states:

“Objective 4: Protection of Heritage Values of the Central Business District”.

97. In implementing that direction Policy 22 states:

“Policy 22: Heritage Value: to promote the retention of the character and scale of the heritage structures, the buildings and places within the City Centre”.

98. Read in isolation it appears that this proposal runs contrary to the strategic direction for heritage in the Central Business District. However, this part of the Plan should not be read in isolation and it is necessary to look both to the Plan as a whole and the higher order instruments that it implements.

99. It seems that Objective 4 in the Business 1 zone uses the concept of protection in the same way as Policy HH.2 of the Southland Regional Policy Statement. The first step is to identify the heritage of local

significance and then individual applications affecting these identified items will be assessed for their appropriateness on a case-by-case basis. That is consistent with the rest of the Plan.

100. Heritage as a distinct topic is addressed in section 2.8 of the Plan and “appropriateness” in the management, use and protection of heritage resources is the hallmark of the Plan’s objectives. The following objectives are relevant:

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

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

Objective 3: Heritage values are appropriately managed to avoid or mitigate potential adverse effects of natural processes and climate change”.

101. Because “appropriate” is an intensively factual enquiry and necessarily done on a case-by-case basis these objectives contemplate case-by-case management. That is further reinforced by Policy 3 that simply requires *avoidance or remediation or mitigation* of the effects on heritage with no precedence other than word order.
102. Policy 2 contemplates through identification the prioritisation of sites and this is somewhat imperfectly implemented in the simple class system established in Appendix II to the District Plan. Method 4 of the heritage section of the Plan provides for resource consents to ensure the adverse effects on heritage values are avoided, remedied or mitigated. It is therefore the mechanism by which an assessment is made of the appropriateness and activity as required by the objectives and policies.
103. The rules relating to heritage are contained in section 3.8 of the Plan. The modification of buildings is dealt with as a restricted discretionary

activity under Rule 3.8.4 with its own list of assessment criteria. Rule 3.8.6 makes demolition a discretionary activity. Rule 3.8.10 sets out the assessment criteria for an application for demolition.

104. The Supreme Court has said assessment criteria are important to the consideration of an application²³. The Plan is stating to the community through these criteria matters that will be taken into the account in exercise for discretion. Because of their importance I set out the matters in Rule 3.8.10 in full.

“3.8.10

Applications under Rules 3.8.6 - 3.8.9 above shall address the following matters, which will be among those taken into account by the Council:

- (A) The extent to which the heritage values including the design of any buildings and the context of Heritage are likely to be retained, protected and/or enhanced.
- (B) Whether the activity is likely to have cumulative adverse effects on heritage values.
- (C) In the case of relocation of a heritage building, measures that may be necessary to protect the fabric of the building during relocation.
- (D) Potential for the re-use and/or recycling of any material or heritage features from the historic building.
- (E) Consideration of any relevant Invercargill City Council heritage design guidelines.

²³ *Sustain Our Sounds Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 40.

- (F) The extent and effect of any earthworks, tunnelling, digging, vibration or excavation that may destabilise the site, structure, place or area.
 - (G) The results of consultation undertaken including any written advice obtained as follows:
 - (a) In the case of the site having identified tangata whenua values, comment from the relevant iwi.
 - (b) Any recommendations of Heritage New Zealand Pouhere Taonga, and the New Zealand Archaeological Association File Keeper.
 - (c) Where the site history indicates that there may be historical artefacts or other physical remains, any advice obtained from a suitably qualified and experienced archaeologist
- Note: All advice obtained is to be provided to the Council with the resource consent application.
- (H) The reasons for the proposed activity and reasons why alternative less adverse options for achieving the same or similar outcome have been discounted. For clarification, reasons for discounting alternative options can include amongst other matters financial cost, natural hazards, safety and technical feasibility.
 - (I) The creation and maintenance of a record of heritage features of the building on its original site (e.g. photos of existing vistas for public record of the history of the site).
 - (J) Any proposals to strengthen the structural integrity and heritage value of the building, including the benefits of

alterations for the purpose of implementing Building Code upgrades for seismic, fire and access purposes.

- (K) Any proposals to strengthen or replace high risk elements, such as parapets, façade decoration and chimneys, with high quality light weight material.
- (L) The extent to which the proposed alterations, additions to or demolition of a listed heritage building have been informed by the advice of qualified professionals such as conservation architects, heritage consultants, engineers and quantity surveyors as appropriate. Such advice should include a thorough analysis of the alternative options available and the extent of professional advice obtained and should be proportional to the scale and intensity of the effects of the works being undertaken.

105. In addition, to the assessment criteria the assessment of “appropriateness” must have an eye to other relevant objectives and policies. For example, the extent to which the proposal enhances amenity values is a relevant consideration by reason of Objective 3 of the Central Business District Zone.

106. Because the issues relating to management of heritage and enhancing the amenity of the Central Business District is a complex web of environmental factors it is not surprising that the management of the Business 1 Zone will be achieved by a holistic approach in the administration of the District Plan. Therefore, Objective 5 states, somewhat cryptically:

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

107. Further information about what the community anticipates as being “appropriate” is found in Policy 2 of the Plan addressing the Central Business District. Policy 2 introduces precincts and gives a full explanation of the purpose of the precincts. The content of that policy and explanation is important and is quoted below in its entirety:

“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.

Explanation

- (A) *Within the City Centre, the Council has identified the area delineated as the Priority Redevelopment Precinct as the priority area to retain and augment retail and other business activity. It has commenced a programme of ongoing streetscape improvements, and will be encouraging owners and tenants of adjacent properties to upgrade and where necessary replace their buildings, many of which are showing signs of decay, deferred maintenance, and obsolescence.*
- (B) *The Council wishes to see the Entertainment Precinct within the City Centre as the location of choice for entertainment establishments, including restaurants, bars and nightclubs. The District Plan provides for these activities by identifying a precinct in which the noise limits and hours of operation are more permissive than elsewhere in the City. To minimise reverse sensitivity effects, the Council will be encouraging any residential activities to install a higher*

level of sound attenuation within the Entertainment Precinct.

(C) *If the City Centre is to be a vibrant and attractive place for business to locate and people to visit, it must offer an environment which is safe, comfortable and attractive for pedestrians. Frontages linking the CBD anchors have been identified in the Plan as the Pedestrian-Friendly Frontages Precinct. The ground floor frontages of new development in these areas will be required to enhance the pedestrian experience”.*

108. The Priority Redevelopment Precinct, Entrainment Precinct And Pedestrian Friendly Precinct anticipate new development and replacement buildings that will provide entertainment facilities that make the Central Business District a vibrant pedestrian-friendly place alongside public investment on street infrastructure. Given the large number of heritage items within those precincts the Plan anticipates that new development and replacement buildings will cause some loss of heritage.

Overall section 104 assessment

109. I have considered the scale of potential adverse effects and positive effects. I have evaluated their significance against the objectives and policies of the Plan and considered the non-statutory documents.

110. I am satisfied that the proposal is appropriate and fully meets the intended outcomes of the Plan and Part 2, RMA. It will revitalise a key site in the Central Business District and provide facilities of the type that the Plan wants to see implemented in that locality. The available options for the Caledonian have been fully evaluated by an expert team and demolition with mitigation is the only sensible course. Mitigation by retention of the façade was correctly discounted given the limited

benefits and significant cost to the project's ideals. The reuse and incorporation of heritage elements as part of the mitigation menu together with the off-sets approach is appropriate.

111. Overall, I am satisfied that this proposal will make a significant contribution to advancing the sustainable management of the use of land and of the physical resources in Invercargill's Central Business District.



John Maassen
Commissioner

Appendix 1: Consent 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. Construction shall commence on the approved hotel development within 12 months of the completion of demolition. The consent holder shall notify the Council's Director of Environmental and Planning Services of the date that demolition is completed.
3. Prior to demolition of the heritage building at 73 – 81 Dee Street commencing, the consent holder shall provide the following 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 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 veranda 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 include the following:
 - An introduction to; the ILT, the buildings included, the purpose of the report, and the broader goals for its properties and the area.
 - Description of each building and short history.
 - An assessment of heritage values of each building (to help inform design).
 - A maintenance plan which includes maintenance tasks and timeline including the identification of any priorities.
 - The development of a broad strategy for each building in terms of how and what ILT would like to see occur (in term of business operation etc.), how the building could be utilised (i.e. Maybe a rear laneway provides new and unique opportunities for redevelopment).
 - On the basis of above, a broad ‘Scope of Works’ for each professional service report required that could be sent to consultants in due course.

- An overall timeline for upgrading buildings – that identifies such things as commencement of planning, engagement of each consultant, and any milestones (e.g. completion of concept design).

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 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 that it provides suitable measures to avoid or mitigate the effects of demolition activities. Prior to the submission of the DMP for certification it is to be provided to NZTA for comment and a copy of any feedback provided to Council. 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. Prior to the submission of the CMP for certification it is to be provided to NZTA for comment and a copy of any feedback provided to Council. 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 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.

10. The Construction Management Plan certified by the Council under condition 9 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 7 and 9 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. Before operation commences an acoustic consultant must demonstrate for certification by the Council's Director of Environmental and Planning Services that the electrical substation has been insulated as far as practical to minimize disturbance to adjoining residential land uses in Dee Street
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 THE ROAD NETWORK

16. Prior to construction of the new development commencing, the consent holder shall provide to the Council's Director of Environmental and Planning Services for details of the porte cohere 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 cohere design within 10 working days of receipt. Should the Council refuse to certify the porte cohere 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 Rounding 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.