

BEFORE THE INVERCARGILL CITY COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an application for Resource Consent to demolish, alter and redevelop land and buildings on the Central Business District in a block bounded by the east side of Dee Street, the south side of Esk Street, the west side of Kelvin Street and the north side of Tay Streets

BETWEEN **HWCP Limited**
(Applicant)

AND **H & J Smith Holdings Limited**
(Submitter)

**STATEMENT OF EVIDENCE OF JASON CHARLES ACTON SMITH
ON BEHALF OF H & J SMITH HOLDINGS LIMITED**

INTRODUCTION

1. My name is Jason Charles Acton Smith. I reside in Invercargill and am the Managing Director of H & J Smith Holdings Limited, and I am authorised to give this evidence on behalf of the Submitter.
2. H & J Smith Holdings Limited is a family owned enterprise with its head office based in Invercargill and which operates retail stores in Invercargill, Gore, Balclutha, Te Anau and Queenstown. H & J Smith Holdings Limited is the parent company of a number of subsidiary companies including H & J Smith, a Department Store operating from Tay St, H & J's Outdoor, an outdoor adventure store, and Paper Plus Invercargill, a franchise of the Paper Plus Group operated by H & J Smith. These Stores make up the Complex, which is used to describe all three stores through this evidence.

BACKGROUND

3. H & J Smith Limited (HJSL) has been trading in Invercargill since 1900, moved to the current site in 1913, and secured the remaining buildings on site to create the Department Store, Outdoor Store and Paper Plus store on the block over many years. Significant investment and foresight have created this large retail centre in the Central CBD, which has employed many thousands of Southlanders over the 119 years of trading, and currently there are more than 180 people employed within the complex today. Not all are full time employees given the nature of the retail model, and the numbers vary based on day of the week, and the seasons as well.
4. HJSL and its Executive have been involved in the redevelopment of the CBD for many years, through key parties such as Ian Capitaneas, who served as a Councillor on the Invercargill City Council for 15 years, our current CEO, John Green, who was involved in the Working Group that generated the Pocock Report for the enhancement of the CBD, as well as myself who was part of the Inner City Group for the Southland Regional Development Strategy (SORDS).
5. This involvement and commitment to the development of the CBD and city service has been provided to bring our experiences of retail trading and customer behaviour to the various forums and working parties that the City has implemented to create a more compelling vision for the CBD. This vision is now been presented by HWCP, which has built on the various previous groups work

and recommendations, and in fact is a development that in principle is supported by HJSL, as it provides an implementation of the vision from the working groups over the many years. On this basis, a letter of support in principle was provided for the original application by HWCP reflecting this general support for the concepts presented at that stage.

6. However, as the complete details of the Application were reviewed and considered from HJSL's perspective in terms of impact on our business, our staff and our customers, the concerns about the application were formed and hence a submission was lodged to the Application. The concerns we have and which are expressed in the report and further modelling we have undertaken to support the same have been shared with HWCP in attempts to resolve these concerns to allow HJSL to withdraw their submission and give full support to the Application. These negotiations have been unsuccessful, so we are left with the unfortunate position of maintaining our objection to the Application, and given we believe the effects of the Application (in particular the economic effects) are more than minor and contrary to the District Plan, we are seeking the Application be declined by the Commission.
7. We will provide evidence to counter the Section 42A report and supporting material from the Applicant, as detailed in Mr Vivian's evidence, which is complete, and supports the position that the effects created by the Application are **more than minor and contrary to policies of the District Plan**. The key economic evidence is presented in Ms Hampson's evidence, which outlines the processes employed to arrive at an assessment of the economic impact on the complex as part of the CBD **throughout** the development proposed by the Applicant over (at a minimum but depending on timing of commencement and completion) the next 3-5 years.
8. My evidence will bring certain aspects of all the material in support or opposition to the Application together, with a primary focus on the direct economic impact we believe will occur from this Application on our complex, as well as the wider retailers within the Invercargill CBD, many of whom remain concerned about the impact on their businesses. This impact has already commenced, with anecdotal evidence from within our stores that there is a decline in customers visiting our businesses, especially since the decanting of the stores and other businesses on the HWCP block, which we have noted in our evidence as commencing from August 2018. The actual customer transactions through our Stores have also been declining, though this can vary by store and month, dependant on the promotional activity we are running at the time.

PRECIS OF THE EVIDENCE

9. There are 3 key areas of concern that I believe need to be addressed and considered in this Application, which are also covered by other submitters through this process. The evidence below will build on these points, and draw on my experience in this market, as well as our evidence and contributions from the other submitters to provide a conclusion that supports our assertion that the effects of this Application are **more than minor**, and thus the Application should be declined.

ECONOMIC EFFECTS OF THE APPLICATION

10. The evidence from Ms Hampson has been developed as a model which incorporates the key data from our own sales history for the 3 stores within the complex over 41 months, and Marketview Data to complement and augment this data as explained by Ms Hampson. Therefore, we have used real data to establish a sound baseline to show the potential impact of this Application on the turnover of our stores. We have used customer transactions instead of average sales or turnover only to better illustrate the effects, given the wide variances of sales turnover achieved in our business and across other retailers in the study area specified, as it is the behaviour of customers that is most important to success of retailing businesses.
11. This behaviour is the primary concern, as the total sales demand in the market has not been forecast to decline in the CBD, but rather shift to where it takes place. Our complex is recognised as a location that “effectively bookends the prime shopping strip of Esk St”¹ and we experience shopping behaviour similar to most other destination stores. However, even destination stores need foot traffic, and the Application will significantly reduce the active foot traffic in the Core CBD around the HWCP site and through to our complex through their disruption to the traffic flows on the surrounding streets, and the impact on the footpaths and general amenity within Esk St, which will diminish the appeal of this Core CBD for customers to spend time shopping and enjoying the area.
12. This foot traffic will be relocated to other retailers as per the model developed by Ms Hampson, and particularly to the CBD Fringe, starting with the new Kmart complex on Clyde St, through to the Leven St stores around The Warehouse and Farmers in the northern part of Leven St. A further change is shown in the model with an increase in customer transactions potentially relocating to the Core CBD when the proposed Anchor Tenant eventually opens, which is indicatively noted as November 2021. The key question remains – what of the impact through this

¹ Invercargill City Centre – Retail Strategy, March 2017

period to the existing retail and other business who will be affected by this development. The HWCP Application is silent on this point, referring instead to broad general comments in the NZIER report about the benefit to the economy for Invercargill and Southland **post development**.

13. I concur with Mr Duncan McKenzie in his evidence that “the NZIER Report appears to have the primary objective of making a case for support from the Provincial Growth Fund and Invercargill City Council, because the development will not be financially sustainable on its own.”² The viability of the development is not our express concern, rather the viability of our business and the small businesses remaining in the construction zone created by the Application over the proposed period. In my opinion, even in the most optimistic period of demolition and redevelopment through to reopening, these impacts will be significant, and threaten the potential for these businesses to be a part of this proposed economic windfall predicted in the NZIER report.
14. Retailing is a challenging business at the moment, given the growth of the Internet and other shopping opportunities, including leakage to other shopping areas such as Dunedin or latterly Queenstown which offer some options that do not presently exist in Invercargill. The ability for a retail business to grow and thrive irrespective of size is the ability to buy and sell products that customers desire at a profitable level, allowing the businesses to employ the staff to service the customers, market their businesses effectively, and retain some funds to further develop their business to better serve customers.
15. This analogy is vital to understand how the economic impact presented in our evidence will affect the many people employed in the retail sector in the Core CBD, both during the development, and post development. With any shift of customer behaviour, especially a significant shift as we predict in the evidence, the ability to meet sales targets, employ people and have funds for marketing your business, all before any funds for future redevelopment, is severely diminished through any demolition and development period. Should a shift in customer behaviour be seismic away from the Core CBD, due to the amenity of the area being lowered creating an unattractive and undesirable shopping experience, then this change flows straight through to the bottom line profitability or otherwise of the businesses.
16. In these circumstances, poor performing retail business will be forced to make changes to staff employment, ranges of goods being offered and marketing spends, to ensure that the business remains in a state to trade into the future. This precarious nature is the risk of the retail business,

² Evidence – D McKenzie, point 4.9

but clearly this risk is heightened through the effects of the Application, and there has been no expression of these challenges for the local businesses through the HWCP Application. In fact these challenges have been left with the various businesses to absorb and look to the bright future once the development is completed, with no certainty as to the timing of the commencement or completion of the development. It must be noted that the impact to these businesses has already commenced with the decanting of the various businesses in the HWCP block to date.

17. The inability to generate and retain profits through this period will then place the businesses in a very difficult trading position, as they will not be able to fund enhancements to their store layouts, product ranges and ambience, which will in turn inhibit their ability to compete effectively with the new stores in the HWCP Mall and their offerings. This impact will be felt after the development and will restrict how the existing businesses who have struggled through the development can benefit from the increased number of customers and their propensity to purchase predicted in the NZIER Report, again affecting these businesses economically.

18. Mr B Simpson presents further evidence in his submission which reinforces our concerns and he expresses a real concern that “this project has the potential to see many local businesses go out of business.”³ His considered view again challenges the thinking of HWCP towards the current retail businesses in the CBD, and he summarises this thinking further with his view of the proposal “may erode the quality of the inner city, rather than enhance it.”⁴ Some businesses in the Core CBD have already taken the difficult decision to close their doors at the end of their lease, which reduces the amenity and variety for the customers as a whole in the City, as Mr Simpson has predicted.

19. Such significant impact to a retail business is based on the scale of the business in determining the total impact in monetary terms, but will have a similar effect on the performance of the business irrespective of the size of the business. The advantage in this situation for a smaller business is that they can contemplate a move from the affected area to re-establish their business in a more appealing location, which other retailers such as Macpac have chosen to do. Due to the scale of our complex at over 10,000 square metres of retail space, this option is simply not

³ Evidence – Mr B Simpson, point 61

⁴ Evidence – Mr B Simpson, point 64

available to us; hence we have to persevere in our location, with the predicted impact from our modelling currently weighing heavily on our thinking.

20. These impacts will affect the retailers on the northern side of Esk St, who we believe will also face declining turnover by the traffic changes for vehicles, delivery services and their customers through this period. HWCP have stated they are committed to provide the best access possible, but irrespective of these endeavours, the changes will provide another reason for the customers to **not visit** the Core CBD, which our model has shown will have quite significant impact on our business and by association the other retailers remaining in the Core CBD. The impacts shown in our evidence reaches a peak of a decline of customer activity of nearly 20% through the demolition and commencement of construction phases, which is, without question, a considerable impact on our business, with the flow-on effects through declining revenue mentioned above forcing our business to reshape our staff, offering and marketing to remain viable. Our Directors have considered this impact very carefully as we have developed the model, and believe that this impact may be more than the predicted 20% decline.
21. Two real examples of this type of economic impact to existing shopping behaviours and therefore turnover provide further support of how challenging these types of impacts can be. We have been provided confidential information from a comparable retailer in Christchurch about the catastrophic impact on their business which occurred from the 2011 Earthquakes, which devastated the Inner City. Whilst recognising this Application is not of the same scale or nature as these Earthquakes, the information provided has shown the impact on their turnover, immediately after the Earthquake and in subsequent years, to be very significant and their turnover has not returned to either the previous level of turnover pre-Earthquake, nor the natural growth of sales that should have occurred without the Earthquake. This is a clear example of similar effects on our complex which the baseline model developed and as shown in Ms Hampson's evidence supports.
22. The second example is the impact of a significant roading development on John's Road in Christchurch on a business called Raeward Fresh, which was developed by a company associated with the Thomas Family, of which my sister is a Director. This roading development changed the shopping behaviour through affecting the accessibility of the site from its previous free flowing form, with the installation of a bypass in front of the store. This store has suffered a 50% decline in turnover since the bypass has been in operation, and will be struggling to maintain

a profitable business. This type of impact could also affect the Core CBD, through the many changes that will be required to customer access into and around the Core CBD, providing further reasons for customers to change their habits and shop elsewhere. These habits take a large amount of effort to change, which once formed may take more years after the completion of the HWCP Mall.

23. This silence on the potential impact of these compounding economic effects from the HWCP Application and evidence is a significant oversight in the Application and as demonstrated in our evidence, (which in terms of evidence before you is uncontested), the impact is **significant** for the Core CBD, and when considered with the uncertainty of the commencement or completion of the Development, the economic effects of the proposed Application must be considered to be well above the threshold of **more than minor**.

LINKAGE TO THE REMAINDER OF THE CBD

24. The proposed development of a large shopping precinct in the HWCP block, which is located in the heart of the CBD and recognised as such through the SORDS' plans for the Inner City, should be a central part of the CBD and create a landing point for customers to experience the broader aspects of the CBD as well as the shopping precinct itself. The proposed car parking within the HWCP Mall should be another location for customers to arrive and then explore the HWCP Mall and the wider Core CBD further in a comfortable and sheltered manner. It should supplement the existing car parks, one of which is attached to our complex via a Sky bridge, and the other at the end of Esk St.
25. However, the proposed Development as designed has effectively turned its back on the retail and other facilities and experiences located further down Esk St, and the fashion precinct that has evolved in Kelvin St. It provides no weather proof linkage to the east along to the "bookend" that is our complex, and so in this manner fails to make the most of the opportunity to enhance the shopping experience within the wider Core CBD. The climate of the city demands enhanced sheltered linkages which provide the protection from the elements and that would in turn enhance the amenity of the Core CBD, which should have been sought from this development, as a minimum, in line with the District Plan rules for verandas expected from other buildings such as our complex.
26. A sky bridge was considered for a linkage to our complex from the HWCP Mall, and this option was discussed in detail with HWCP and the Invercargill Licensing Trust to determine how this

could be achieved to create a suitable linkage. Due to the design of the HWCP Mall in the first version of the Application being rather undefined at the Kelvin St edge with only a large flat area proposed on the southern corner of Kelvin and Tay Sts, the linkage was proposed to cross further north along Kelvin St, and enter the Kelvin Hotel and then into the HWCP Mall at that point. However, the proposed location and configuration apparently agreed with the proposed Anchor Tenant on the first two floors on the eastern edge of the HWCP Mall meant that the linkage from the Kelvin Hotel to the HWCP Mall would need to be a compromised entry into the Car Park on the 3rd floor, rather than a direct linkage into the second floor, which would have been the preferred option.

27. Therefore, this design option has been discarded which is unfortunate when compared to equivalent linkages observed throughout New Zealand and Australia. However, the second revision of the plans has now presented another building on the corner of Kelvin and Tay Sts, so a Sky bridge through this proposed building into the HWCP Mall should be considered further.
28. Prior to the hearings, discussions have occurred with both Invercargill City Council (ICC) and HWCP on the development of a suitable link at street level, creating a more weather proof solution for the customers to be able to explore the wider Core CBD along Esk St to the complex, as well as along Kelvin St in both Northerly and Southerly directions. This proposal would require development of suitable plans in conjunction with ICC, who manage the street level aspects required to achieve this outcome.
29. As part of the Resource Consent conditions for this Application, HJSL would seek a condition requiring a commitment on both HWCP and ICC to create a suitable plan for the better weather protection from the entrance of the HWCP Mall to the entrance of the Complex along Esk St, as well as protection along Kelvin St in both directions, with particular emphasis on the Esk St / Kelvin St pedestrian crossing. It is expected that this plan would cover most of these areas, with the Crossing becoming a 4 way or "Barn Dance" fully covered crossing to provide a weather proof crossing point. The applicant should be responsible for the development of this plan, to the satisfaction of HJSL, and funding arrangements for this plan would remain with HWCP and ICC to resolve between themselves.

PLANNING AND HEALTH AND SAFETY

30. The second version of the Application has developed further planning for key activities such as Traffic, Demolition, Construction and Communications, which is a positive step forward from the

initial Application. This clarity is of benefit to the affected parties such as ourselves, as the opportunity now exists to enable affected parties such as ourselves to be consulted with through the development of these management Plans.

31. However due to the extent , uncertainty as to timing and unique nature of this development as well as the potential for the same to have significant impacts on surrounding property owners and tenants these plans should be required to be signed off with the affected parties As a condition of the Resource Consent sought by HWCP, HJSL submits it needs to be involved in the development and approval of all of the Management Plans that are developed by HWCP concerning the development of the HWCP Mall. Simply providing them to ICC for their approval is not acceptable, given the scale of the development, and the direct impact any activities on this site could have on our complex let alone ICC's involvement in the proposed development. Final certification of the Management Plans must be by an independent party.
32. Of particular concern is the issue of the safe removal of the Asbestos from within the buildings on the HWCP Block during the demolition phase in particular. Asbestos is a lightweight substance that has the potential to float easily in the prevailing wind through the HWCP Block and across Kelvin St on the next major building, which is our complex. Given we have windows for ventilation and light on the Kelvin St edge, as well as major entrances on Kelvin, Tay and Esk Sts, all within a potential flight path of Asbestos in a westerly breeze, this presents a potential hazard for our operation which would therefore potentially affect our staff, customers and visitors.
33. The concerns about Asbestos on site is one of the many Health and Safety concerns about a development of this scale, and explains why we seek to be involved in the creation and acceptance of these plans from HWCP **before** they are submitted to an independent third party for their approval. We would welcome this engagement, and would provide a constructive view of how we best address these potential hazards, in a desire to mitigate, reduce or remove any of these hazards from the building process occurring on the HWCP Block.

CONCLUSION

34. This submission is provided to outline the reasons why, whilst generally being supportive of the redevelopment that as a directly affected party of the proposed demolition and redevelopment, we have significant concerns that need to be addressed through this process.

35. It is not our wish to be here today objecting to the Application as we have previously confirmed to HWCP representatives. Rather we would prefer to be a vocal supporter of this development. However as we have demonstrated in the economic evidence from Ms Hampson, the direct impact on our business is significant over an unknown but likely extended period, and the direct effects of this impact will force a significant change on our business, which would not have been required if the Application was not proposed or more certainty around its timing and effects were known and subject to effective conditions which we could be involved in the formulation of.
36. We are left with no option but to oppose this Application, and strive to find a suitable solution which addresses these concerns on behalf of the many people who we employ to provide service to our customers in our complex. We believe this evidence clearly establishes this development does not meet the necessary gateway tests expressed in the RMA, as the effects on a directly affected party, namely the uncontested economic effects established in Ms Hampson's evidence and the specific planning issues raised in Mr Vivian's evidence are obviously **more than minor** and contrary to the Objectives and Policies of the District Plan and therefore the Commissioners have no option but to decline the application.

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J.C.A. Smith