

Resource Management Act 1991

DECISION ON CHANGE OF CONDITIONS

(Section 127)

S127 Application number:	RMA/2018/148/A
Original application number:	RMA/2018/148
Applicant:	HWCP Management Limited
Site address:	Block generally bounded by Dee, Tay, Kelvin and Esk Streets, as specified in the original application
Legal description:	Multiple lots as described in the original application
Zoning:	Business 1 Zone
Overlays and map notations:	Entertainment Precinct; Redevelopment Precinct; Pedestrian Friendly Frontages and Centre City Heritage Precinct
Activity status:	Discretionary activity
Description of application:	Change of conditions pursuant to Section 127

Background

- [1] On 4 June 2019, Commissioners granted HWCP Management Limited (the “Applicant”) resource consent to develop “Invercargill Central” subject to 52 conditions, most of which were volunteered by the Applicant. The development is large and has complex aspects. Unsurprisingly, the Applicant has encountered features of the conditions that are problematic for one reason or another during the journey of implementation.
- [2] Bonisch Consultants Limited lodged an application to vary some of the conditions on behalf of the Applicant by letter dated 5 November 2019. Rachel Ducker a consultant planner prepared a report on behalf of the Invercargill City Council (“Council”) recommending approval of those changes to the conditions, with modifications, and recommended that the application be approved without notification. That report is referred to the “CP Report”. Some of the amendments to the conditions recommended in the CP Report are accepted by the Applicant but several notable others are not. This decision will therefore focus on the gaps between the CP report and the Applicant’s proposal.
- [3] I accept the application is one appropriately classified as a variation because it does not alter the scope of the application . I accept that the effects of amending the conditions are minimal and that notification is not required. The conditions concern matters that are described in the Commissioners’ decision dated 4 June 2019 as significant management issues (paragraph 1.1.51 of the Commissioners’ decision) appropriately addressed by conditions. The changes to conditions that are proposed is to improve their workability and ensure their reasonable operation.
- [4] The conditions amended by the application are summarised in table 1 below.

Table 1: Scope of Application

Condition number	Topic
3	Communications
4-8	Activation Management Plan
10	Heritage recording
13	Façade Retention Plan
17	Heritage fabric salvage
19-22	Demolition management
23	Amendments to the Demolition Management Plan
26	Vacant Site Management Plan
28	Construction Management Plan
43	Construction Traffic Management Plan implementation
45	Access design certification
50	Principal pedestrian entrance
Advice notes	Asbestos

- [5] Attached as **Annexure 1** are the approved amended conditions for the resource consent as a new entire set of conditions. It incorporates all of the changes made by the Applicant but mostly as modified in the CP Report but also with changes I have made to improve clarity and resolve points of difference. The history of the Applicant's changes and the Council's response is set out in the CP Report. Conditions changed from the CP Report by this decision are identified in grey. The significant changes relate to conditions 10, 17(a), 17(b) and 19(a) and 19(b).

Condition 8

- [6] I agree with the Applicant the addition in the CP Report for active involvement in the AMG is otiose.

Condition 10

- [7] Condition 10 was inserted to ensure an appropriate recording of the heritage values of buildings that will be wholly or partially demolished. The original condition included the following:

“The level of recording is to be commensurate with the significance assessment contained in the application, is to follow Heritage New Zealand Pouhere Taonga (HNZ) Standards for building recording and is to be undertaken under the supervision of a qualified heritage expert, agreed with the Council.”

- [8] The Applicant’s propose a new condition because the original condition was unworkable since it implied that all heritage buildings had to be addressed in the heritage recording process prior to any demolition starting. On this point, the CP Report accepts that there is a need for refinement. However, the proposed condition put forward by the Applicant also specifies a standard at which the heritage fabric and values is to be reported. That standard is HNZPT (2018), Level 3. A Level 3 standard presumably refers to that level identified in Heritage New Zealand (November 2018) *“Archaeological Guidelines Series No 1: Investigation and Recording of Buildings and Standing Structures”*. Level 3 reporting is described in that series as a low level of building recording. There was no evidence in the application concerning the precise publication the proposed condition referred to when it referred to NZHPT (2018). Nor was there justification for the choice of Level 3. Another part of the condition that somewhat contradicted the Level 3 determination, potentially, was retained and reads:

“The nature and detail of recording in (i) and (ii) shall be commensurate with the significance assessment contained in the consent application; follow New Zealand Heritage Pouhere Taonga (HNZ) Standards for Building Recording, be undertaken

under the supervision of a qualified heritage expert agreed by the Council and must be submitted to both Council and HNZ. The recording required in (i) and (ii) may be staged in accordance with demolition stages contained in the Demolition Management Plan certified under condition 1."

- [9] The CP Report amended the proposed condition to restore the requirement that any assessment be consistent with the significance assessment contained in the consent application. That was based on Advice from Mr Miller a heritage advisor to the Council. In response to this suggestion Mr Cotton for the Applicant considered that the recommended condition of the Officer's Report went against the "approval received from Heritage New Zealand".¹
- [10] The purpose of the original condition 10 was not to replicate archaeological controls that are managed by HNZ. The purpose of the condition was to ensure a satisfactory record of the building's heritage elements so that there was a sufficient record of the history and the heritage building that will be lost. .
- [11] I consider that there is an appreciable chance that the Applicant and the Council's consultant planner are at cross-purposes on this issue and the Applicant is conflating archaeological requirements with the heritage focus of Condition 10.
- [12] I am not in a position to make a determination on the appropriate level of recording but I accept the consultant planner for the Council's contention that it will not be a "one size fits all" process.
- [13] What is required is a reasonable level of recording "commensurate with the significance assessment". That reasonable level can be determined for the Applicant by HNZ or by the Council. It requires sensible

¹ Email G Cotton to Kate Mortlock dated 16 November 2019.

discussion by heritage experts. If either of HNZ or the Council provide an approval as to the level of recording then that is sufficient. I have structured the condition to ensure these matters are addressed reasonably and apply recognised standards.

- [14] I accept the proposition that recording can be done in stages that reflects the phasing of development. The original clause proposed by the Applicant commenced with a statement of requirement that the recording occurred before demolition but then in (ii) applied a different time frame for the final record. That was confusing and so the condition has been restructured.

Condition 17

- [15] Condition 17 originally stated:

“Prior to demolition commencing, and as part of the Demolition Management Plan required under condition 21, the consent holder must ensure that each heritage building is surveyed by a qualified heritage expert agreed with the Council, to identify heritage fabric to be salvaged. The consent holder must ensure that the majority of the salvaged material is re-used in the replacement buildings and opportunities for such use are to form part of the Construction Management Plan, required under Condition 28. Where onsite re-use is not practicable, salvaged material must be securely stored and made available for purchase and re-use on other building projects in Invercargill for a minimum period of two years following completion of Stages 1 to 6.”

- [16] The original condition 17 was a single condition. The Applicant proposes to break it up into two. The central idea of the amendment is to ensure that materials are only required to be re-used in the replacement buildings ‘as far as practicable’.

- [17] The Officer's Report has restored the concept of re-using the 'majority' of salvageable materials in the original condition. On that topic the Officer's Report states:

"The consent holder has been consulted regarding this change and does not support retention of the 'majority of the salvaged material'. Alternative phrases such as 'best endeavours' or 'where practicable' have been suggested. I note that 'the majority' is a concept included in the current consent condition and no specific justification has been provided to support removing it. The certified Heritage Fabric Survey focused on salvaging representative examples of heritage fabric rather than taking a more purist approach. Therefore, I recommend that the term 'majority' is retained so that the amount of heritage fabric re-used is not significantly reduced. This would enable Council to make a more informed decision when the consent holder presents proposals to incorporate heritage fabric within the new development and also in circumstances where this cannot be achieved for practical reasons."

- [18] The purpose of condition 17 was to ensure that reasonable attention was paid to opportunities to re-use fabric in the development where that would contribute to an appreciation of the heritage values the site once possessed. The aim of the condition wasn't to promote recycling, that would be difficult given the significant new components of the build out. There has to be sensible qualifications to the requirement for re-use.

- [19] These qualifications are twofold. First, it is reasonably practicable. That has economic dimensions. Secondly, it is not salvaging for any purpose but in a way that contributes to an appreciation of the heritage values. Where those qualifications are not met but the material is still

salvageable then it is to be made available for use by others. Hopefully, my amended condition captures that intention.

- [20] The amount of salvageable material and that can meet these reasonable qualifications is impossible to ascertain at this stage. The word “majority” is vague and unable to be justified at this point. It is expected there will be circumstances where attention to detail can provide opportunities in the design to bridge the new with the old by re-use or refashioning in old or new interpretations and arrangements. The Applicant is required by the second sentence of Condition 10 to consider these opportunities carefully.

New condition 19(a) and 19(b)

- [21] Condition 19 was offered by the Applicant during the hearing. Its aim was to demonstrate that there was sufficient finance in place to complete stages 1 to 3 before demolition for obvious reasons. At that point the Applicant indicated that bank funding was imminent. However, compliance with this condition has proved difficult for a number of reasons:

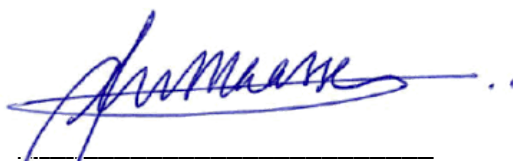
- (a) The Applicant will obtain funding from different sources including the Provisional Growth Fund and from capital deployed by the Council.
- (b) A trading bank will not provide an unqualified approval of lending. The approval will be nested in detailed banking requirements and, no doubt, will be subject to ongoing review. That is typical of commercial funding arrangements for development of this type.
- (c) The financial arrangements have significant commercial sensitivity.

- [22] The Applicant's amended condition promotes a different concept. That is that the Applicant provides information that credibly demonstrates the commitment of the consent holder to proceed with stages 1 to 3. The amendment identifies that evidence of the commitment could include such things as: building consent approvals, tenancy agreements to lease and project funding commitments or proposals.
- [23] I have made amendments to Conditions 19(a) and (b) as proposed by the Applicant but with wording changes that still reflect the original concept. I accept the idea that the Council can make a reasonable judgement based on a range of information that is collectively sufficient to credibly demonstrate that the consent holder is in a position to complete stages 1 to 3. Once demolition proceeds then completion of condition stages 1 to 3 is a requirement of the consent.

Conclusion

- [24] I attach the conditions as Annexure 1 amended and approved by this decision. I consider the application can be determined on a non-notified basis for the reasons contained in the CP Report and I adopt the CP Report's reasoning for the amended conditions subject to the further reasoning and amendments recorded in this decision.

DATED 18th day of November 2019



J. W. Maassen
Commissioner

ANNEXURE A - 2018/148A
COMMISSIONER APPROVED AMENDED CONDITIONS

GENERAL

1. The development must 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 (Plan Ref: Buchan Resource Consent Amendment Rev 0A, 29 March 2019). The approved consent documentation has been entered into Council records as number RMA/2018/148.
 2. Any management plans required by this consent must be certified by the Council before it is relied upon and when certified must be implemented except in the case of the Critical Path Plan, required under Condition 20. In the case of the Critical Path Plan, the redevelopment of stages 1-3 must be implemented in accordance with it other than as to dates of completion. For the dates of completion, the consent holder must take all reasonably practicable steps to achieve them. A management plan may only be varied by agreement with the Council.
- 3A** Before commencing the demolition of any buildings, a Communication Plan must be prepared and approved by the Council. Once approved, the Communication Plan must be updated regularly so that it serves its intended purpose of reporting planned site work and management and the plan must be updated at least when:
- i. Commencing the construction of each new stage of development.
 - ii. Portions of the site are to remain vacant for a period of more than six months.
- 3B** The Communication Plan required by Condition 3A must include at least the following information:
- i. Identify affected parties for the above project stages including but not limited to; adjoining land owners and occupiers; land owners and occupiers on the opposite side of the street to the proposed works; the NRG; iwi and NZTA.
 - ii. Procedures for updating stakeholders and the community about the project.
 - iii. Procedures for consulting affected parties prior to high noise generating activities occurring.
 - iv. Procedures regarding the receipt, recording, and resolution of complaints.
 - v. Procedures for consultation on vacant site management (required for 3A ii only).
- 3C.** During the period of the exercise of this consent until completion of Stages 1, 2, 3, 4, and 6 the consent holder must maintain a website with an independent domain name and separate url that must:

- i. Display this consent;
- ii. Inform the public of progress in demolition and redevelopment of the site;
- iii. Display certified management plans;
- iv. Identify consultation opportunities;
- v. Display any other information reasonably required by the Council related to informing the public of information or decision in accordance with the consent conditions;
- vi. Display the outcomes of any consultation under this consent and issues resolved;
- vii. Provide details of contact persons, including persons responsible to address issues relating to site management and health and safety and consent compliance;

ACTIVATION MANAGEMENT AND CITY CENTRE VIBRANCY

4. At least 30 working days prior to the commencement of any demolition activity, the consent holder must submit an Activation Management Strategy (AMS) relating to the activation of Esk Street for certification by the Council. The purpose of the AMS is to set out a framework for measures to be adopted to ensure ongoing activation of Esk Street.
5. The outcomes of the AMS are to plan to:
 - i. Maintain temporary retail activity at a reasonable scale to retain, as far as reasonably possible, functional amenity at the edges of the site facing Esk Street;
 - ii. Ensure reasonable measures are provided to off-set the loss of activation associated with construction hoardings.
6. The AMS must include but not be limited to the following:
 - i. Purpose and relationship with other management plans;
 - ii. The appointment of a representative to be the primary contact person for an Activation Management Group to coordinate activation of Esk Street; and
 - iii. Measures to activate Esk Street, including temporary retail and/or food and beverage offerings, illustrative hoardings and signage.
7. Prior to submitting the AMS to Council for certification, the consent holder must consult with the members of the NRG (submitter 21 to the application) regarding the measures to activate Esk Street, and must provide Council with a record of that consultation and the measures taken in the AMS to address issues raised during consultation.

Note: *The Council will either certify, or refuse to certify, the AMS within 15 working days of receipt. Should the Council refuse to certify the AMS, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.*

8. Once the AMS is certified the consent holder must comply with the AMS until such times as all demolition and construction activities fronting Esk Street are complete.
- 8A Any proposed amendments to the AMS must be submitted to the Council for certification at least 10 working days prior to those amendments being implemented. Any proposed amendments in regard to the measures to activate Esk Street must be subject to further consultation with the Activation Management Group and the NRG as per above.
9. Prior to the commencement of any demolition, the consent holder must set up a fund to be managed by NRG, which can be utilised to undertake marketing or other measures NRG considers necessary to maintain vibrancy of the city centre. The fund must be in the amount of \$20,000 and \$20,000 on the anniversary of the first payment each succeeding year, until such time as the Anchor Tenant is operational. For the purposes of this condition "Anchor Tenant" means an entity that will occupy at least 5,000m² of the site.

HERITAGE

10. Before commencing the partial or full demolition of any building listed in Appendix 3.2 and 3.3 of the Invercargill City District Plan (ICDP) for each stage, the consent holder must prepare and submit field notes for the heritage recording of each listed building sufficient to enable completion of a final record in accordance with this condition . A final record must be submitted within 6 months of the field notes being lodged with the Council
- The nature and detail of the fields notes and recording must:
- i. Be of a quality approved in advance in writing by HNZ or the Council;
 - ii. Be reasonable and commensurate with the significance assessment contained in the consent application with the aim of receiving an appropriate and accessible record of the history and heritage values of the site and building;
 - iii. Follow Heritage New Zealand Pouhere Taonga (HNZ) standards for building recording where applicable,
 - iv. Be undertaken under the supervision of a qualified heritage expert agreed by Council and
 - v. Be submitted to both Council and HNZ.
- Recording under this condition may be staged in accordance with the demolition stages contained in the Demolition Management Plan certified under Condition 21.
11. The consent holder must preserve and maintain the Bank of New South Wales Building as a heritage building in accordance with the covenant document registered on the Record of Title of 1 Dee Street (RT SL195/230).

12. The consent holder must ensure that the design of any new buildings adjoining or adjacent to the Bank of New South Wales Building is reviewed by a conservation architect agreed with the Council to ensure that the design protects the structure and heritage values of Bank of New South Wales Building. The consent holder must implement any recommendations of the review. The consent holder must submit the conservation architect's recommendations from their review to the Council as part of the application for any building consent relating to any new building adjoining or adjacent to the Bank of New South Wales Building.
- 13A. At least 30 working days prior to works commencing on the façades of Coxheads' Building (31-35 Esk Street), the Cambridge Arcade Building (59-61 Esk Street), and the Southland Times Building (67 Esk Street), (or adjacent to them including before commencement of the Government Life Buildings) the consent holder must submit a Façade Retention Plan (FRP) to the Council for certification. The FRP must be prepared by a suitably qualified engineer and a suitably qualified conservation architect, both agreed with the Council. The objective of the FRP is to ensure the protection of those buildings' heritage fabric and values during the demolition and pre-construction phases. The FRP must include, but not be limited to, the following matters:
- a. Monitoring pins are established as appropriate;
 - b. Design and detailing of temporary works to provide stability for each retained façade as a stand-alone element. The design can allow propping to the exterior or interior sides of the façade.
 - c. Confirmation that the temporary works design for retained facades will be supervised/reviewed by a suitably qualified engineer.
- Note:** Such design is to provide flexibility for reducing the disruption to the public in the event the façade retention is erected for an extended period of time awaiting its connection to a new building structure.
- Note:** The Council will either certify, or refuse to certify, the FRP within 20 working days of receipt. Should the Council refuse to certify the FRP, then they shall provide a letter outlining why certification is refused, based on the parameters contained in this condition.
- 13B. At least 30 working days prior to work commencing for the incorporation of the retained facades into the project as detailed in Condition 13A the consent holder must submit a Façade Retention and Restoration Plan detailing how the façade is to be incorporated into the final construction plans and restored to the Council for certification. The FRRP must be prepared a suitably qualified conservation architect and engineer, approved under Condition 13A. The objective of the FRRP is to protect the retained heritage fabric and values during the reconstruction process. The FRRP must include but not be limited to, the following matters:
- a. Design and documentation of the works required to integrate the façade into the new building fabric;
 - b. Confirmation that the façade retention and restoration site works will be undertaken under the supervision of a suitably qualified engineer;
 - c. Design and documentation for retaining or reinstating the heritage fabric on the Southland Times Building façade, Coxhead Building and Cambridge Building facades.

Note: The Council will either certify, or refuse to certify, the FRRP within 20 working days of receipt. Should the Council refuse to certify the FRRP, then they shall provide a letter outlining why certification is refused, based on the parameters contained in this condition.

14. The consent holder must implement the FRP certified under Condition 13. The consent holder must submit any proposed amendments to the FRP to the Council for certification at least 10 working days prior to those amendments being implemented.
15. After the work on the Southland Time Building façade as required under condition 13(e), the consent holder must maintain the unpainted brickwork and at all times keep it in an unpainted state.
16. The consent holder must ensure that the heritage verandah posts listed in District Plan Appendix 3.4 are removed under the supervision of a qualified heritage expert and are made available to the Council for storage on their removal. The heritage verandah posts are to be re-used in either the replacement buildings in Stages 1-3 on the site or as part of streetworks surrounding the site for a minimum period of two years following completion of Stages 1 to 6. The verandah that replaces the existing Fairweather's Building (58 Tay Street) must be etched or have similar physical reference made to the pressed metal decoration of the existing verandah.
- 17A. Before a building is partially or fully demolished the Consent Holder must complete a Heritage Fabric Survey, that identifies salvageable heritage fabric. The Survey must be:
 - i. prepared by a qualified heritage expert satisfactory to the Council and
 - ii. approved by the Council.
- 17B. The salvageable material identified in the Heritage Fabric Survey approved under Condition 17A, must be re-used in the replacement buildings where reasonably practicable and where it can appropriately be integrated into the final design to contribute to an appreciation of the heritage values the site once possessed. Opportunities for re-use or disposal of salvaged materials must be documented and approved by the Council. Where the Council accepts that onsite re-use of salvageable material is not reasonably practicable in a way that it can be appropriately integrated into the final design so that it contributes to an appreciation of the heritage values the site once possessed, salvaged material must be securely stored and made available for purchase and re-use on other building projects in Invercargill for a minimum period of two years following completion of Stages 1 to 6.
18. The consent holder must disseminate to the public all information gathered during the historical research, archaeological investigations, and which is collected during the recording of the post-1900 buildings upon the completion of each stage of construction. Such dissemination may include, but is not limited to, the installation of interpretive panels and the display of archaeological material in publicly accessible areas such as the food court, laneways, or courtyards.

DEMOLITION MANAGEMENT

- 19A. The consent holder must before commencing any demolition:
- i. Provide the Council with written documentation demonstrating:
 - a. the consent holder's commitment to develop Stages 1 – 3 as identified on the Staging Plan approved in Condition 1; and
 - b. the consent holder's commitment to commence construction of Stages 1-3 within 9 months of demolition;
 - ii. Receive written acceptance from Council that the Council is satisfied the documentation supplied under (i) provides credible evidence of a commitment to proceed with Stages 1-3 of the development.
Council must assess this documentation within 10 working days of receipt. The assessment of credible evidence may include consideration of the progress towards; advancing the development and obtaining project funding; and entering into tenancy agreements.
- 19B. Upon receiving written acceptance of compliance with Condition 19A, the consent holder may demolish Stages 1 to 4 and 6, as identified on the Staging Plan approved in Condition 1, provided that Stages 1 to 3 must then be built in one stage and
- i. Stages 4 and 6 may be built concurrently with or after Stages 1 – 3;
 - ii. The buildings located within Stage 5 of the Staging Plan approved in Condition 1, must remain in place until an agreement is entered into for the lease of a new building within Stage 5.
20. At least 20 working days prior to the demolition of any existing buildings commencing, the consent holder must provide to the Council for certification a Critical Path Plan prepared by an independent and suitably qualified construction expert showing the critical path for building work involving demolition and development for stages 1-3. The purpose of the Critical Path Plan is to demonstrate a reasonable construction programme that will achieve:
- i. Demolition completion within 18 months;
 - ii. Completion of Construction of Stages 1-3 within 4 1/2 years of the date of commencement of this consent under s116 of the RMA.
21. At least 40 working days prior to the demolition of any of the existing buildings commencing, the consent holder must provide a Demolition Management Plan (DMP) to the Council for certification. The purpose of the DMP is to provide measures to avoid or mitigate the effects of demolition activities on neighbouring sites, businesses and the adjacent streets and to demonstrate how the following particular objectives will be achieved:
- i. The effects of demolition activities on heritage and archaeological resources are managed;
 - ii. The effects of demolition activities on adjoining buildings are managed;
 - iii. Demolition activities are managed so that dust nuisance shall not arise beyond the boundaries of the site;
 - iv. Demolition activities are managed to control discharge of sediment from the site and from entering the stormwater network;
 - v. Demolition activities are managed to minimise noise and vibration as far as reasonably practicable;

- vi. A secure site is provided from a health and safety perspective and maintain a safe pedestrian (including access to the adjoining footpath) and transport network is maintained on adjoining roading corridors.

The DMP may be prepared in stages and must include, but not be limited to, the following matters:

- a. Details of how demolition will be staged and measures to minimise disruption to pedestrian access to the adjacent footpaths;
- b. Measures to investigate the presence of asbestos containing material (ACM).
- c. Measures to avoid undertaking earthworks that would pose a risk to human health until Conditions 32 and 33 have been fulfilled;
- d. Measures to facilitate the recovery of heritage materials for re-use, in accordance with Conditions 17 and 18;
- e. Measures to provide adequate protection of heritage kerbstones listed in Appendix 3-4 of the District Plan;
- f. Measures to avoid the collapse of weakened structures and the management of hazards to health and safety;
- g. A Demolition Traffic Management Plan (DTMP) which must include measures for the control of vehicle and pedestrian movements, including full or partial road closures, to ensure the safety of the public, and the continued safe and effective operation of the road network. The DTMP must also demonstrate how demolition activity will be staged across the site to minimise the need for road and footpath closures. Where the TMP includes measures relating to State Highway 1 and State Highway 6, the consent holder shall obtain input from the New Zealand Transport Agency (NZTA);
- h. A Demolition Noise and Vibration Management Plan (DNVMP) outlining how noise and vibration nuisance will be mitigated during demolition activities. The plan must specify any restrictions on work hours, physical noise mitigation to be employed, and limitations on the timing of specific activities including high noise generating activities. The DNVMP must address the relevant measures in Annex E of NZS 6803:1999 "Acoustics – Construction Noise" and Appendix B of DIN 4150-3:1999 "Structural vibration – Part 3 Effects of vibration on structures" or equivalent standard. The DNVMP must be consistent with Conditions 24 and 25; ij. The DMP and DNVMP for demolition works within 50 metres of the former Bank of NSW building must include a specific section prepared with the input of a qualified heritage expert agreed with the Council, specifying how demolition and vibration effects on the former Bank of New South Wales Building (corner of Dee and Tay Streets) are to be managed to minimise adverse effects on heritage fabric;
- j. Measures for erosion and sediment control, including the prevention of sediment being carted on to roads or entering the public stormwater system during demolition activity and prior to construction starting;
- k. Measures for the suppression of dust to be employed during demolition activity and prior to construction starting. Such measures are to ensure dust emissions beyond the site boundary are not offensive or objectionable to pedestrians on the adjacent street network or business occupiers;

- l. Details of the steps to be taken to ensure that demolition plant (particularly cranes) does not extend into Invercargill Airport Limited's "Horizontal Surface" as specified in Designation 74 in the District Plan;
 - m. Details of how the site boundary perimeter fencing will be managed to provide an acceptable level of amenity and safety for pedestrians. These details are to include the use of B class hoardings where necessary. All hoardings are to be customised to share with the public the story of the redevelopment and the history of key buildings or art in conjunction with Arts Murihiku or other similar community groups.
22. The consent holder must not commence demolition of the buildings within the stages authorised by this consent until the Council has certified in writing that the DMP fulfils the requirements of Condition 21 for that stage. The DMP (including, DNVMP and TDMP's) may be reviewed and amended as required to achieve the outcomes of this consent, with any amended plan to be submitted to, and certified by, the Council.
23. The consent holder must implement the DMP (including, DNVMP and TDMP's) certified under Condition 21 for the duration of the demolition activity occurring on the site. The consent holder must submit any proposed amendments to the DMP (including, DNVMP and TDMP's) to the Council for certification at least 10 working days prior to those amendments being implemented. A copy of the most recently certified document must be kept on site.
24. The consent holder must ensure that all demolition activities which exceed the noise limits for the zone and truck movements occur only between the hours of 7.30am – 9.00pm Monday to Saturday, and between 9.00am – 8.00pm Sundays. No activities must occur on public holidays except in cases of operational necessity, with prior agreement of the Council.
25. The consent holder must ensure that all demolition activities comply with the long-term limits set out in Table 2 of NZS6803:1999 "Acoustics – Construction noise" as far as is practical. The DNVMP required under Condition 21(i) must include measures for higher noise generating activities that cannot practically comply with NZS6803:1999.

VACANT SITE MANAGEMENT

26. Where portions of the site are to remain vacant for a period of more than six months, then at least 30 working days following the demolition of any buildings on that portion of the site, the consent holder shall provide a Vacant Site Management Plan (VSMP) to Council for certification. The purpose of the VSMP is to achieve the following objectives:
- i. The amenity effects of such vacancy on neighbouring sites, businesses and the adjacent streets are reasonably managed;
 - ii. Temporary public use for activation of vacant portions of the site is reasonably provided.
- The VSMP must include, but not be limited to, the following matters:
- a. Details of how that area will be maintained in a clean and tidy manner;

- b. Details of how the site boundary perimeter fencing will be managed to provide an acceptable level of amenity and safety for pedestrians. These details are to include the use of B class hoardings where necessary. All hoardings are to be customised to include viewing ports and to share with the public the story of the redevelopment and the history of key buildings or art in conjunction with Arts Murihiku or other similar community groups;
- c. Details of any short-term interim use of the site for commercial, civic, or car parking activities;
- d. Provision of a mid-block pedestrian route between Tay Street and Esk Street where such provision can be made in a safe and practicable manner;
- e. Provision of lighting;
- f. Measures for erosion and sediment control and prevention of sediment being carted on to roads or entering the public stormwater system.
- g. A separate VSMP is to be developed for stage 6. In addition to matters listed above, suitable weather protection and night lighting is to be provided along the Kelvin Street and Tay Street frontages
- h. Measures for the suppression of dust to be employed whilst the site is vacant to ensure dust emissions beyond the site boundary are not offensive or objectionable to pedestrians on the adjacent street network or business occupier;

Prior to submitting the VSMP to Council for certification, the consent holder must consult with the NRG regarding the content of the VSMP and must provide Council with a record of that consultation and the measures taken in the VSMP to address issues raised during consultation.

Note: *The Council will either certify, or refuse to certify, the VSMP within 20 working days of receipt. Should the Council refuse to certify the VSMP, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.*

- 27. The consent holder must implement the VSMP certified under Condition 26 for the duration of the site remaining vacant. The consent holder must submit any proposed amendments to the VSMP to the Council for certification at least 10 working days prior to those amendments being implemented. Any proposed amendments to the VSMP must be subject to further consultation with the NRG as per above.

CONSTRUCTION MANAGEMENT

- 28. Prior to construction of each new stage of the development commencing, the consent holder shall provide to Council a Construction Management Plan (CMP) for the buildings within that stage for certification. The purpose of the CMP is to provide measures to avoid or mitigate the effects of construction activity on neighbouring sites and the adjacent streets and to demonstrate how the following particular objectives will be met:

- i. Construction activities shall be managed so that dust nuisance shall not arise beyond the boundaries of the site;
- ii. Construction activities shall be managed to control the discharge of sediment from the site and prevent it from entering the stormwater network;
- iii. Construction activities shall be managed to minimise noise and vibration as far as reasonably practicable;
- iv. To provide a secure site from a health and safety perspective and maintain a safe pedestrian and transport network on adjoining roading corridors.

The CMP may be prepared in stages and must include, but not be limited to, the following matters:

- a. A Construction Traffic Management Plan (CTMP) 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. The CTMP is to also demonstrate how construction activity will be staged across the site to minimise the need for long periods of road and footpath closures. Where the TMP includes measures relating to State Highway 1 and State Highway 6, input from the NZTA is required;
- b. A Construction Noise and Vibration Management Plan (CNVMP) outlining how noise and vibration nuisance will be mitigated during construction activities. The plan shall specify any restrictions on work hours, physical noise mitigation to be employed, and limitations on the timing of specific activities, including high noise generating activities. The CNVMP must address the relevant measures in Annex E of NZS 6803:1999 "Acoustics – Construction Noise" and Appendix B of DIN 4150-3:1999 "Structural vibration – Part 3 Effects of vibration on structures" or equivalent standard. The CNVMP is to be consistent with Conditions 31;
- c. The CMP and CNVMP for Stage 5 must include a specific section prepared with the input of a qualified heritage expert agreed with the Council, specifying how construction and vibration effects on the Bank of New South Wales Building (corner of Dee and Tay Streets) are to be managed to minimise adverse effects on heritage fabric;
- d. Measures for erosion and sediment control and prevention of sediment being carted on to roads, or entering the public stormwater system;
- e. Measures for the suppression of dust to be employed during construction activity to ensure dust emissions beyond the site boundary are not offensive or objectionable to pedestrians on the adjacent street network or business occupiers;
- f. Measures to provide adequate protection of kerbstones listed in Appendix 3-4 of the District Plan;
- g. Details of how the site boundary perimeter fencing will be managed to provide an acceptable level of amenity and safety for pedestrians. These details are to include the use of B class hoardings where necessary. All hoardings are to be customised to share with the public the story of the redevelopment and the history of key buildings and identities or art in conjunction with Arts Murihiku or other similar community groups;

- h. Details of the steps to be taken to ensure that construction plant (particularly cranes) does not extend into Invercargill Airport Limited's "Horizontal Surface" as specified in Designation 74 in the District Plan.

Note: *The Council will either certify, or refuse to certify, the CMP within 20 working days of receipt for construction stages of less than 5,000m² gross floor area and 30 working days of receipt for construction stages of more than 5,000m² gross floor area. Council may seek that the CMP be peer reviewed at the Consent Holder's cost. Should the Council refuse to certify the CMP, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition.*

29. The consent holder must not commence construction of the buildings authorised by this consent until the Council has certified in writing that the CMP fulfils the requirements of Condition 28. The CMP may be reviewed and amended as required to achieve the outcomes of this consent, with any amended plan to be submitted to the Council for certification at least 10 working days prior to those amendments being implemented.
30. The consent holder must implement the CMP certified by the Council under Condition 28 for the duration of the construction activity occurring on the site, and a copy must be maintained on site.
31. The consent holder must ensure that construction activities which exceed the noise limits for the zone and truck movements shall occur only between the hours of 7.30am – 9.00pm Monday to Saturday, and between 9.00am – 8.00pm Sunday. No activities shall occur on public holidays except in cases of operational necessity, with prior agreement of the Council. The consent holder must ensure that all construction activities comply with the long-term limits set out in Table 2 of NZS6803:1999 "Acoustics – Construction noise" as far as is practical. The CNVMP required under Condition 28(c) must include measures for higher noise generating activities that cannot practically comply with NZS6803:1999.

SOIL CONTAMINATION MANAGEMENT

32. At least 10 working days prior to earthworks being undertaken, the consent holder must submit a Detailed Site Investigation (DSI) to the Council which has been prepared under the direction of a Suitably Qualified and Experienced Practitioner (SQEP) as defined in the NES for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCO). For the purposes of this condition, the term "earthworks" does not include works required as part of the archaeological survey.
33. In the event that the DSI identifies contamination above guideline values specified in the NESCO, at least 10 working days prior to any excavated material being removed from the site, the consent holder must submit a Site Management Plan (SMP) prepared by a SQEP to the Council. The consent holder must implement the SMP.

34. The consent holder must ensure that all earthworks are managed in accordance with any SMP required under Condition 34 and recommendations from a SQEP.
35. The consent holder must ensure that all contaminated soil removed from the site is disposed of at a facility whose waste acceptance criteria permit the disposal. The consent holder must provide the Council with the details of the facility, including its permit, prior to any contaminated soil being removed from the site.
36. If contaminated material is to be retained on site and capped, the consent holder must ensure a Long Term Site Management Plan is prepared by a SQEP, with the plan to clearly identify the location on the site of contaminated material. The applicant must supply to Council a copy of the plan within two months of the completion of earthworks.

NOISE MANAGEMENT

37. At the time of lodgement of a Building Consent for any residential apartments, the consent holder must submit an acoustic design certificate from a suitably qualified acoustic engineer to the Council, demonstrating that internal sound levels will be achieved when assessed in accordance with the requirements of Rule 3.13.9(A). An alternative means of ventilation (other than opening windows) must be provided so that compliance with Rule 3.13.9 can be achieved concurrently with any Building Code ventilation requirements.

SAFETY & EFFICIENCY OF ROAD NETWORK AND ACCESS POINTS

38. The consent holder must provide a visibility splay of a minimum of 5m x 2m on the eastern side of the exit lane to the car park building access on to Tay Street and on both sides of the western service lane access on Tay Street which services the Reading Cinema.
39. Prior to the eastern service lane located behind the Kelvin Hotel becoming operational, the consent holder must install an audio warning device to alert pedestrians to exiting vehicle movements adjacent to the Esk Street exit. All traffic utilising the eastern service lane shall do so in a north bound direction only.
40. The consent holder must ensure that existing emergency egress access routes and service lane access to Tay Street are maintained from the rear of the existing cinema complex at 29 Dee Street. Any variation to this is to meet the egress provisions of the New Zealand Building Code and must be approved by Fire and Emergency New Zealand and Council before being adopted.
41. The consent holder must ensure that all contractors' vehicles (including any cranes) are to be parked on-site wherever reasonably practicable throughout the demolition and construction process.
42. At least 20 working days prior to service lanes becoming operational, the consent holder must submit a Traffic Management Plan (TMP) prepared by a

suitably qualified traffic engineer to the Council for certification. The purpose of the TMP is to set out the measures to be adopted to provide for the safety and efficiency of the pedestrian environment in and around the service lanes.

The TMP must include, but is not to be limited to:

- a. Details of access hours for service vehicles using the service lanes, to minimise deliveries between the hours of 9am to 5pm;
- b. Details of gateways, including setbacks at the eastern service lane access and egress points;
- c. Details of pedestrian warning systems, including signage and footpath treatments;
- d. Measures to ensure that tenants and third parties are aware of the TMP.

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

43. The consent holder must implement the TMP certified under Condition 42. The consent holder must submit any proposed amendments to the TMP to the Council for certification at least 10 working days prior to those amendments being implemented.
44. At least 20 working days prior to construction of any new accessways on to the State Highways, the consent holder must provide details of the access layout demonstrating how it has been designed to ensure pedestrian safety and visibility of vehicles entering and exiting the access to the Council for certification. The consent holder must provide NZTA with a copy of this design and a copy of any feedback NZTA provides must be forwarded to the Council with the request for certification.

Note: the Council will either certify, or refuse to certify, the access design with 10 working days of receipt. Should the Council refuse to certify the access design, then they shall provide a letter outlining why certification is refused based on the parameters contained in this condition⁴⁵. The consent holder must implement the access design certified under Condition 44. The consent holder must submit any proposed amendments to the access design to the Council for certification at least 10 working days prior to those amendments being implemented.

SERVICING AND INFRASTRUCTURE

46. The consent holder must notify the Council by 1 December annually of the civic infrastructure requirements that the development will require to be delivered during the following twelve months starting 1 July.
47. The consent holder must notify Council by 1 March 2020 of the infrastructure needs of the development in years 1, 3, 5, and 10 of the Council's 2021 Long Term Plan.

FAÇADE TREATMENT

48. The consent holder must, in respect of the façades of the Coxheads' Building, the Cambridge Arcade Building and the Southland Times Building, ensure that:
- i. All windows remain glazed, free of any obstruction and are not obscured in any way so that the activity behind is visible; and
 - ii. The floor area behind the windows is occupied and not left vacant.

DESIGN AND PEDESTRIAN FRONTAGE

49. At least 15 working days prior to the commencement of construction of any stage of the development, the consent holder must provide the Council with a design statement prepared by a suitably qualified design expert certifying that the buildings and the stage comply with the approved plans and meet the design outcomes set out in the "Invercargill Central Design Statement" Rev OA dated 29 March 2019 and prepared by Buchan.
50. The consent holder must ensure that all occupied ground floor tenancies in spaces adjacent to Esk or Tay Street have pedestrian access and a pedestrian entrance from the street comprising a double door set with no less than 860mm leaf size for each door.
- Additionally the consent holder and any occupier must:
- i. retain the pedestrian entrance from the street frontage as a point of public access during business hours (whether or not there is internal access from the building); and
 - ii. maintain the glazed street frontage as full display windows, excluding the pedestrian entrance.

MONITORING

51. Every six months from the date that this consent is granted, the consent holder must provide the Council with a report setting out progress towards implementing the consent, consultation undertaken with nearby landowners, the steps taken to comply with the conditions of consent, including the certified plans, and details of any complaints received and how they were addressed.
52. In accordance with RMA section 128 the Council may serve notice on the Consent Holder on 1 March or 1 October of its intention to review the conditions of this consent:
- a. To deal with any adverse effects on the environment which may arise from the exercise of the consent and which is appropriate to deal with at a later stage; or
 - b. For the purpose of addressing adverse effects that the Council considers are not adequately addressed by approved management plans; or
 - c. To address effects not anticipated by this consent.
 - d. If the information made available to the consent authority by the applicant for the consent for the purposes of the application contained inaccuracies which materially influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions.

ADVICE NOTES

- i. In the conditions where a document is to be certified by, or provided to Council, the consent holder shall provide the document to the Council's Director of Environmental and Planning Services. Certification shall be based on the recommendations of an Independent Commissioner.
- ii. For clarification an Independent Commissioner shall be a person who holds the Making Good Decisions certification awarded by the Ministry for the Environment.
- iii. No works shall be undertaken within State Highway 1 or State Highway 6 without the prior approval of the NZTA pursuant to section 51 of the Government Roading Powers Act 1989. Such works may include but are not exclusive to the design and formation of the access and associated slip lanes to the Tay Street parking building, the two service access lanes, as well as potential occupation or damage to the road associated with the demolition or construction activities.
- iv. Any works undertaken on Council land, including temporary road stopping, works to Council-controlled infrastructure, alterations to on-street car parking, alterations to the existing streetlights, landscaping, and street furniture etc and any right to occupy are subject to separate approval processes.
- v. The granting of this consent does not imply pre-approval of Council investment or provision of network infrastructure to the site.
- vi. An Archaeological Authority is required under section 44 of the Heritage New Zealand Pouhere Taonga Act (2014). The applicant is advised to discuss these requirements with HNZ prior to undertaking any modification of the site or pre-1900 buildings.
- vii. The consent holder is responsible for paying any monitoring charges set under the Council's Fees and Charges Schedule.
- viii. If ACM is confirmed the preparation of 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. Any asbestos discovered during the demolition of the buildings must be removed under the Health and Safety at Work (Asbestos) Regulations 2016;