



Resource Management Act 1991

## Report / Decision on Change or Cancellation of Condition(s)

(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; Priority Redevelopment Precinct; Pedestrian Friendly Frontages and Centre City Heritage Precinct  
**Activity status:** Discretionary activity  
**Description of application:** Change of conditions pursuant to Section 127

### Introduction

The applicant is seeking to vary conditions of resource consent RMA 2018/148 for Invercargill Central. Invercargill Central is a comprehensive redevelopment of the majority of the Invercargill City Centre Block bounded by Dee, Esk, Kelvin and Tay Streets to establish a mixed use commercial centre.

RMA 2018/148 was granted on a notified basis by the Hearings Panel (Panel) (John Maassen, Chairperson/Commissioner; Gina Sweetman, Commissioner and Jane Black, Commissioner) on 4 June 2019. A copy of this consent decision is included in **Attachment 1**.

The applicant initially applied to amend various conditions of RMA 2019/148 on 11 October 2019. The application was subsequently modified several times with the current version of the application submitted on 11 November 2019. The current scope of the application relates to amending conditions 3, 10, 13, 17, 19, 21, 23, 28, 43, 45 and 50 and an advice note viii to support condition 21. The applicant has subsequently agreed to add changes to conditions 4-8, 22, 26 to the scope of the application following discussions with Council.

### Background

#### Scope of RMA 2018/148

The scope of the existing resource consent includes the following:

- a. The demolition of all 30 buildings on the site, except for:
  - i. the former Bank of New South Wales (BNSW) Building on the corner of Dee and Tay Streets; and
  - ii. the retention of the façades of the Southland Times Building (67 Esk Street), Coxheads' Building (31-35 Esk Street) and the Esk-Street end of the Cambridge Arcade Building (59-61 Esk Street).
- b. Construction of a number of new buildings across the site, comprising:
  - i. A seven-storey building on the corner of Dee and Esk Streets, comprising retail, offices, parking and residential apartments.
  - ii. A series of two-storey buildings along Esk Street, comprising retail and food and beverage outlets at ground floor, and food and beverage outlets and offices on the second floor.
  - iii. A new three-storey building behind the Southland Times façade containing a large anchor retail tenant split over two floors, which includes separate retail on the ground floor along the Esk Street frontage, and a childcare centre on the third floor.

- iv. A seven-storey hotel fronting Kelvin Street, with the potential for retail or commercial services at ground level<sup>1</sup>. A one-way service lane will run along the rear of the proposed hotel and the Hotel, linking Tay Street to Esk Street.
- v. A six-storey parking building containing 859 parking spaces with frontage and vehicle access to Tay Street. This building will include a mix of retail and food and beverage activities at ground floor. A ground level connection will be provided through the centre of the site to the retail and food and beverage activities on Esk Street. The southern wall of the car parking building will be illuminated with a 'southern lights' moving display.
- vi. A five-storey medical centre, with frontage to Tay Street and a five-storey civic building, with frontage to Dee Street is proposed to be established on either side of the BNSW Building.
- vii. A piazza to the north of the medical centre and east of the civic building will be linked by escalators/stairs to the retail and food and beverage outlets between Esk and Tay Streets.
- viii. A new entrance to Reading Cinemas will provide internal access to the development.

No works are proposed to the Bank of NSW building.

Demolition of Stages 1-3 is proposed over an 18-month period, as outlined in the proposed Demolition Management Plan.

Construction is proposed to occur over six-stages, as follows:

- a. Stage 1 – the Southland Times precinct and anchor retail tenant.
- b. Stage 2 – the parking building, with retail and food and beverage outlets.
- c. Stage 3 – retail, food and beverage outlets, and offices along Esk Street and linking through to Tay Street.
- d. Stage 4 – the building at the corner of Esk and Dee Streets.
- e. Stage 5 – the medical centre and civic building wrapping around the BNSW building.
- f. Stage 6 – the hotel.

#### Planning framework

The provisions that triggered the need for resource consent under the Proposed Invercargill District Plan Decision Version 2017 (Proposed District Plan) were:

- Demolition (controlled activity – rule 3.4.2);
- Construction Noise (discretionary activity – rule 3.13.18);
- Earthworks (discretionary activity – rule 3.17.7)
- Transport (discretionary activity – rules 3.20.4 and 3.20.11);
- Heritage (restricted discretionary, discretionary, and non-complying – rules 3.8.4, 3.8.6, 3.8.7, 3.8.8, 3.8.9);
- Residential activity within an Entertainment Precinct (discretionary – rule 3.23.2);
- Veranda design (restricted discretionary – rule 3.23.10);
- Building height (restricted discretionary – rule 3.23.12);
- Pedestrian friendly frontages (buildings more than two stories)– (discretionary activity rule 3.23.17);
- Corner building heights (discretionary – rule 3.23.20);

Overall, the application was assessed as a non-complying activity under the Proposed District Plan. Consent was required under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) as a discretionary activity under clause 11(2) of the NESCS.

Consent was granted with 52 conditions (refer to **Attachment 1**). No appeals were lodged on the consent decision.

#### Boundary adjustment RMA/2019/138

A boundary adjustment was approved in September 2019 to undertake a subdivision and various amalgamations to create three new allotments across the subject site with areas of 795m<sup>2</sup>, 1.5137ha and 1,063m<sup>2</sup>. The three lot boundaries approved in the subdivision consent application align with the stage boundaries approved in land use consent RMA/2018/148. Consolidation of these parcels will enable the development stages to be undertaken by different parties.

#### **Application**

<sup>1</sup> As lodged and publicly notified, the proposal was for a new commercial building. The proposal was amended to be for a hotel during the course of the hearing.

The consent conditions sought to be amended in RMA 2018/148/A are outlined in Table 1. These conditions are generally sought to provide for a staged approach to demolition and construction and to provide certainty on what is required to satisfy the various consent conditions. The consent holder has also submitted a range of management plans for certification under conditions 4 (Activation Management Plan), 13 (Façade Retention Plan), 20 (Critical Path Plan) and 21 (Demolition Management Plan) which are pre-requisites before demolition works can commence. Collectively the preparation and lodgement of these management plans for certification, and this application to vary the conditions, are being sought by the consent holder to facilitate the commencement of site demolition and redevelopment.

Application RMA 2018/148/A has been amended several times since lodgement following discussions between the consent holder and Council. The scope of the application is outlined in Table 1 and documented in the applicant's letter and proposed tracked changed conditions dated 5 November 2019 (received on 11 November 2019). No changes are proposed to the consented plans approved under condition 1.

**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

**Description of site and existing environment**

The application site (known as the Block) encompasses the area bounded by Dee, Esk, Kelvin and Tay Streets in the Invercargill CBD, excluding the Kelvin Hotel (20 Kelvin Street) and Reading Cinema (29 Dee Street) which are owned by third parties and not part of the application site. Figure 1 shows the Block and the excluded buildings.



Figure 1. Application site (shown in light green). Source: ICC Aerial and Photo Viewer

The Block formerly contained commercial premises and is now predominantly vacant. No residential activity is located within the Block boundaries.

The surrounding area comprises a mix of similar commercial uses with some visitor accommodation, and residential use on Tay and Dee Streets. H&J Smiths is located opposite the site on Kelvin St. Wachner Place, a public open space, is located on the western side of Dee Street.

Dee and Tay Streets are State Highways (SH6 and SH1 respectively) that both comprise four dual lanes in each direction separated by central medians. Angled public car parking is available on the north and south sides of Tay Street and the western side of Dee Street. Bus parking is available on the eastern side of Dee Street.

Kelvin Street is a two lane local road with parallel parking and a taxi stand on the western side. Esk Street comprises a single lane, one-way road with angle parking on each side of the road. Esk Street operates as a mixed-use space with traffic calming measures allowing for free movement of pedestrians. The eastern end of the street is two-way to allow for service vehicles to enter the lane behind the Kelvin Hotel.

**Statutory considerations**

Section 127 of the Resource Management Act 1991 states:

**“127. Change or cancellation of consent condition on application by consent holder**

- (1) *The holder of a resource consent may apply to the consent authority for a change or cancellation of a condition of a consent, subject to the following:*
  - (a) *the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*
  - (b) *no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
- (2) *Repealed*
- (3) *Section 88 to 121 apply, with all necessary modifications, as if-*
  - (a) *the application were an application for resource consent for a discretionary activity; and*
  - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who –*
  - (a) *made a submission on the original application; and*

(b) may be affected by the change or cancellation.

### Type of application

In my opinion this application can be considered as a variation to the original resource consent. The nature of the consented activity will not change as a result of the proposed amendments to the conditions. In addition, the adverse effects will not be materially different from those associated with the original consent as discussed in this report.

### Written approvals [Sections 95D(e), 95E(3)(a) and 104(3)(a)(ii)]

No written approvals have been provided with the application.

### Actual and potential effects on the environment [Section 95A and Section 104(1)]

Pursuant to Section 127(3) the application must be assessed as a discretionary activity. As such, the Council's assessment is unrestricted and all actual and potential effects of this proposed changes must be considered. In my opinion the effects on the environment associated with the proposed change of conditions relates to:

- Retaining city centre vitality and vibrancy commensurate with the approved consent
- Noise
- Heritage
- Positive effects related to administration of the consent

These effects are discussed in relation to the proposed changes to conditions in numerical order as they currently appear in RMA 2018/148. This assessment also considers the effect of the proposed changes to conditions on persons who made a submission and may be affected by the change of cancellation of the condition as required under section 127(4).

#### (1) Condition 3 Communications

The proposed inclusion of Conditions 3A and 3B is essentially an amalgamation of the relevant parts of Condition 21 Demolition Management Plan, Condition 26 Vacant Site Management Plan, Condition 28 Construction Management Plan which all require a separate communications plan. Conditions 3A and 3B propose to consolidate the requirement for multiple communications plans into a single communications plan that can be progressively updated throughout the development process.

The proposed changes to condition 3 will have nil adverse environmental effects as it is limited to an administrative process. The consolidation of the various communications plans as they relate to each of the specialist management plans will have positive effects by improving the efficiency of administering and certifying each of the interconnected resource consent conditions. This proposed change in conditions does not affect any persons who made a submission or may otherwise be affected by the change of cancellation of the condition.

I generally accept the condition wording suggested by the consent holder. However, as the communications plans required under conditions 21, 26 and 28 currently require Council certification as a component part of their respective management plans, and is a critical tool to engage with the community and affected parties, I consider it reasonable to require that the Communications Plan is approved by Council. On this basis I recommend the following changes to the proposed wording submitted by the consent holder (shown in red):

- 3A A Communication Plan shall be prepared and submitted to Council for approval prior to the demolition of any buildings commencing. Once approved, it shall be ~~and~~ updated regularly and at least at the following stages:
- Prior to the construction of each new ~~phasestage~~ of development commencing.
  - Where portions of the site are to remain vacant for a period of more than six months.

These changes have been discussed and accepted by the consent holder.

#### (2) Conditions 4-8 Activation Management Plan

The consent holder has agreed to minor changes to conditions 4-8 regarding activation management and the inclusion of these into the application scope. The changes seek to better reflect the purpose of this document as

a framework or strategy for managing the activation of Esk Street, rather than a comprehensive management plan

The proposed changes to Conditions 4-8 will have a nil effect on the environment. It will not affect any persons who made a submission or may otherwise be affected by the change of the condition. It will provide for greater flexibility for the consent holder and Council to respond to activation issues throughout the whole development process. The framework for activation measures provided in the AMS is intended to be refined and implemented through a collaborative approach via an Activation Management Group with membership from Council, the consent holder and the NRG (submitter 21).

The consent holder has indicated acceptance of the following proposed wording with the exception of 8 i. which they consider unnecessary. I disagree with the consent holder's position as condition 6 ii. implied that the consent holder was responsible for activation whereas it now contemplates representation on an Activation Management Group. Condition 8i aims to ensure that the consent holder actively contributes to that group to achieve a similar outcome to the original condition.

4. At least 30 working days prior to the commencement of any demolition activity, the consent holder must submit an Activation Management ~~Plan-Strategy~~ (AMPAMS) relating to the activation of Esk Street for certification by the Council. The purpose of the AMPAMS is to set out ~~the a framework for~~ measures to be adopted to ensure ongoing activation of Esk Street.

5. The outcomes of the AMPAMS are to plan to:

i. Maintain~~ing~~ 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. ~~Ensuring-Ensure~~ reasonable measures are provided to off-set the loss of activation associated with construction hoardings.

6. The AMPAMS 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 in regard to the 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 AMPAMS 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 AMPAMS to address issues raised during consultation.

**Note:** The Council will either certify, or refuse to certify, the AMPAMS within 15 working days of receipt. Should the Council refuse to certify the AMP, 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:

i. Actively participate in the Activation Management Group comprising membership from the consent holder, Council and the NRG to implement the AMS.

ii. -eComply with the AMPAMS until such times as all demolition and construction activities fronting Esk Street are complete.

8A Any proposed amendments to the AMPAMS 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.

### (3) Condition 10 Heritage Recording

I agree with the consent holder's position that condition 10 is unworkable in its current form as it implies that recording all heritage buildings should be completed prior to demolition of any building, regardless of whether the building is proposed to be demolished in a later stage of the development. I support the two-stage process for recording heritage and updating references to the Invercargill City District Plan (ICDP) appendix generally as proposed with the following minor amendments (shown in red):

10. Prior to part or full demolition of any building commencing or any building alteration works to the heritage buildings on the site listed in ~~District Plan~~ Appendix ~~113.2~~ and ~~113.3~~ of the Invercargill City District Plan (ICDP) for each stage commencing, the consent holder must:
  - i. Prepare and submit field notes for each listed building outlining the heritage fabric and values of the building as described under NZHPT (2018) to the ~~Level 3 standard~~ consistent with the heritage significance.
  - ii. Prepare and submit a final record of the significant heritage fabric and values as required under NZHPT (2018) level 3 ~~standard~~ consistent with the heritage significance. ~~Such~~ These records ~~are to~~ shall be submitted within 6 months of the field notes being lodged with Council.

The level of recording in i and ii shall be commensurate with the significance assessment contained in the consent application; follow Heritage New Zealand Pouhere Taonga (HNZ) standards for building recording, be undertaken under the supervision of a qualified heritage expert agreed by Council – and must be submitted to both Council and HNZ.

Recording required in i and ii may be staged in accordance with the demolition stages contained in the Demolition Management Plan certified under Condition 21.

~~ensure that recording is undertaken of those buildings. 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. The consent holder must lodge a recording of each building in its pre demolition state with the Council and with HNZ for their records prior to demolition commencing. The consent holder must lodge the recording of the demolition or building alteration works with the Council and HNZ within six months of the works being completed.~~

The consent holders do not support the proposed change to condition 10 i. and ii. to correspond with the appropriate level of heritage significance. However, based on advice from Mr Robin Miller (Origin Consultants), a heritage adviser to Council on this project, I consider that this change is appropriate given that the buildings within the development area have varying levels of significance which have previously been identified.

I consider that the effects of amending this condition on heritage values or persons are nil. The recording will still be undertaken consistent with the intent of the original condition. A sample record provided to Council showed that the consent holders have taken a comprehensive approach to heritage recording which was supported by Origin Consultants.

#### **(4) Condition 13 Façade Retention Plan**

This application proposes to split condition 13 into two parts. The first part (13A) requires the provision of a Façade Retention Plan to protect the heritage fabric while the buildings behind are being demolished, whereas the second part (13B) provides for a Façade Restoration and Replacement Plan following the demolition process to guide repair and restoration of the features of the facades and integrate the facades with the new building.

I support the consent holder's proposal to split this condition in two which has previously been discussed with Council and its heritage adviser. In reaching this conclusion I accept the advice of Council's heritage adviser on this project, Mr. Robin Miller. Mr Miller has advised that it would be difficult for the consent holder to provide the required information on repair and restoration prior to investigations to open up the building fabric. However, he condition as it currently stands requires a Façade Retention Plan to be submitted before any works commence on these buildings can proceed, which arguably includes any demolition works.

I agree with the consent holder that splitting Condition 13 into two parts, is consistent with the overall intent of the condition which is to protect the heritage fabric and values of the retained heritage facades. I consider the effects of the variation to Condition 13 to be positive as it will enable a more comprehensive assessment of the facades by the consent holder's heritage adviser to inform the restoration works and integration of the retained

facades into the new development. This proposed change in conditions does not affect any persons who made a submission or may otherwise be affected by the change of condition as it achieves the same outcome as the consented development.

I understand that the consent holder intends that the façade retention and restoration works will be supervised by a qualified engineer. Therefore, the proposed minor wording change to the amendment sought (shown in red) is proposed. I understand that the proposed amendment to this condition is accepted by the consent holder.

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:

- ea. Design and documentation ~~for a detailed demolition/temporary works management and construction plan for each façade retention scheme~~of the works required to integrate the façade into the new building fabric;
- b. d. Confirmation that the ~~demolition and temporary works construction~~ façade retention and restoration site works will be undertaken under the supervision of a suitably qualified engineer;
- b.c. eb. Methods-Design and documentation for retaining or reinstating the ~~decorative plasterwork~~heritage fabric on the Southland Times Building façade, Coxhead Building and Cambridge Building facades.

## **(5) Condition 17 Heritage Fabric Salvage**

Condition 17 requires a survey of all heritage buildings and identification of salvageable materials by a heritage expert agreed by Council prior to any demolition commencing. The consent holder has requested that this condition is split into two stages comprising a Heritage Fabric Survey (17A) and a process for considering use of salvageable materials in the new development (17B).

I support the consent holder's request to amend this condition which has previously been discussed with the consent holder and both Council's heritage adviser, Mr. Robin Miller, and the consent holder's heritage adviser Mr. William Fulton of Fulton Ross Team Architects. However, upon further reflection, I consider it appropriate for a minor amendment to the proposed condition variation to retain the reference to the "majority of salvaged material" being re-used in the development and to include a process within this condition for discussion and approval by Council particularly in cases where salvaged heritage fabric is not proposed to be re-used within the new development. This proposed amended wording is shown in red:

17B The majority of Mmaterial identified for salvage in the Heritage Fabric Survey approved under Condition 17A, shall be re-used in the replacement buildings. as far as practicable. Opportunities for re-use or dispose of salvaged materials shall be documented and submitted to Council for discussion and approval. to re-use or dispose of salvaged materials shall be documented and submitted to Council for consideration and discussion., 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 Council accepts that 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.

This proposed change will have positive effects in terms of assisting in administering the consent by separating the salvage process from the Construction Management Plan and creating a more formal opportunity for Council

to consider opportunities for re-use of salvaged material. 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 practical” 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.

## **(6) Conditions 19-22 Demolition Management**

### **Condition 19 Commencement of Demolition – Funding**

Condition 19, which was offered by the consent holder during the hearing process, sets out a requirement for the consent holder to provide confirmation from a registered trading bank that funding for Stages 1-3 of the development has been obtained before any building demolition works can occur. Achieving compliance with this condition has generated considerable debate as the consent holders are financing the development through multiple funding sources and it is not possible to provide confirmation from a bank alone showing that funding is available.

Mr. Rob Enright, a commissioner appointed to consider certification of the management plans under RMA 2018/148, issued a minute (included in **Attachment 2**) regarding condition 19 and his understanding of the requirements to comply with this condition.

Various options to reword this condition to make it more achievable, without changing the important link between demolition and the rebuild, have been discussed by the consent holder and Council. The amendments to the condition proposed by the consent holder are a result of these discussions. However, I note a minor error in the condition wording which could be corrected as follows (as shown in red):

19. \_\_\_ The consent holder must not undertake any demolition prior to:

- i. \_\_\_ ~~Providing the Council with written confirmation from a registered trading bank that funding for develop~~ Stages 1 – 3 ~~of the development~~ as identified on the Staging Plan approved in Condition 1 ~~has been obtained, and commence construction of Stages 1-3~~ within 9 months of demolition; and
- ii. \_\_\_ Receiving written acceptance from Council that the documentation demonstrates credible evidence of a commitment to proceed with Stages 1-3 of the development.  
Council shall assess this documentation within 10 working days of receipt. An assessment of credible evidence may include progress towards; advancing the development and obtaining project funding; and entering into tenancy agreements.

I support the proposed amendment to condition 19 (with the above minor correction). I consider the changes achieve the same outcome as the original condition 19, yet provides a more practical approach to achieve this outcome. It enables Council to determine progress towards advancing the development such as efforts to obtain funding and entering into tenancy agreements, rather than specific evidence of approved bank funding that comes with a range of privacy and legal complications. The adverse environmental effects of this change to condition are considered to be nil and it will not affect any persons who made a submission or may otherwise be affected by the change of condition as it achieves the same outcome as the approved condition.

### **Condition 21 Demolition Management Plan**

The consent holder is seeking changes to the Demolition Plan (DMP) under condition 21 to enable it to be prepared in stages to reflect the proposed sequencing of the demolition works, to streamline the process for meeting the information requirements regarding asbestos containing material, contaminated land investigations and deleting requirements under 21o. to provide details on re-use of the salvaged heritage materials from the site in the DMP as follows:

~~o. Details of the heritage fabric to be salvaged, its storage and re-use, as required under Condition 17.~~

I support the changes proposed to this condition by the consent holder and have taken advice from Mr. David Robotham contaminated land specialist from ENGEO in reaching this conclusion. In particular, condition 21b.

required compliance with the Health and Safety at Work (Asbestos) Regulations 2016 which is not consistent with good condition drafting practice. Therefore, I support the consent holder's proposal to relocate the second part of this condition to the advice note section of the consent. Regarding condition 21 c., I understand that a Detailed Site Investigation (DSI) is to be prepared. However, that is a separate part of the process which will occur after demolition. On this basis, I consider it more appropriate to streamline this condition and only require consideration of any risks to human health arising from contaminated land during the demolition phases which are likely to be associated with very minor ground disturbance as part of the demolition process.

I agree with the consent holder that the proposed deletion of condition 21o. is appropriate as the salvage of heritage materials is sufficiently provided for in condition 17.

I also consider the following further amendment to condition 21j. (proposed to be renumbered to i) to be appropriate:

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;

The issue regarding demolition in close proximity to the former BNSW building was discussed with the consent holder at an informal meeting relating to the conditions on 31 October 2019. At this meeting the consent holders advised that work near the former Bank NSW building would not be undertaken until a much later stage and this requirement did not need to be satisfied at this point in time. Based on this discussion, I consider it appropriate to add this minor change into the scope of the amendment of condition 21 as it is consistent with the staged approach to demolition sought in the remainder of condition 21 and would enable this work to be deferred until demolition in proximity to this building is proposed. In preparing this amended condition, I have consulted Mr. James Glen, acoustic and vibration adviser of Powell Fenwick regarding the likely effect of this proposal. Mr. Glen has advised that he considers that provided the demolition works are set back 50 metres from this building and compliance with the proposed demolition methods is maintained, demolition works are unlikely to cause any damage to the Bank NSW building.

On balance, I consider that the effects of the proposed amendments to condition 21 are less than minor. This proposed change in conditions does not affect any persons who made a submission or may otherwise be affected by the change of condition as it achieves the same outcome as the consented development. I am satisfied that the amendment to this condition will not have any adverse effects on the significant heritage values of the Bank NSW building.

## **Condition 22 and Condition 23 DMP Demolition and Implementation**

The proposed changes to conditions 22 and 23 delete references to a communications plan. These are inconsequential changes arising from the redrafting of the conditions that are now proposed to be included as a standalone condition in condition 3A. The proposed change to condition 22 also clarifies that demolition can be staged, which is consistent with the consent. The adverse effects of these proposed changes to conditions 22 and 23 are nil. A consolidated communications plan is still required as part of condition 3A and demolition was always contemplated in stages. This proposed change in conditions does not affect any persons who made a submission or may otherwise be affected by the change of condition as it achieves the same outcome as the granted consent.

## **(7) Condition 26 Vacant Site Management Plan**

Condition 28 proposes to amend the condition to remove reference to the communications plan. This amendment was sought to implement the proposed approach for a consolidated communications plan in proposed condition 3A rather than requiring multiple communications plans under separate conditions.

I support the proposed change to this condition, and consider that the effects of this change are positive in terms of improving the efficiency of administering the resource consent. This proposed change in condition does not affect any persons who made a submission or may otherwise be affected by the change of condition as it achieves the same outcome as the consented development.

## **(8) Condition 28 Construction Management Plan**

The proposed amendment to condition 28 proposes a staged approach to preparing construction management plans and seeks to delete the requirements for a communications plan.

I support the proposal to amend condition 28 and ensure consistency with the proposed staged construction approach which is consistent with the staged construction approach included in the approved plans. I also consider that additional consequential changes to condition 28 is required to implement this staged approach to construction as outlined in red below:

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:

....

- dc. 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;

The effects of the proposed amendments to condition 28 on the environment are nil. This proposed change in condition does not affect any persons who made a submission or may otherwise be affected by the change of condition. These changes are consistent with the consented condition with the exception that they introduce a staged approach.

### **(9) Conditions 43 and 45 Minor Correction to Condition**

The consent holder has sought to amend conditions 43 and 45 as they refer to the wrong conditions.

I support this proposed change and consider that it has nil adverse effect on the environment.

### **(10) Condition 50 Principal Pedestrian Entrance**

The consent holder has applied to amend condition 50 by deleting the reference to the "principal" pedestrian entrance from the street and replacing it with a requirement for double doors with a minimum dimension. I have proposed the following minor amendment to this wording which has been accepted by the consent holder.

50. The consent holder must ensure that all occupied ground floor tenancies in spaces adjacent to Esk or Tay Street have their ~~principal~~ pedestrian entrance from the street comprising ~~—The dimensions of which are to be a double door set with no less than 860mm leaf size for each door.~~

Additionally the and 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.

I understand that the intent behind the requirement in condition 50 for specifically the need for the 'principal' pedestrian entrance was to assist in maintaining activation of the Esk and Tay Street frontages to maintain the contribution they make to the vitality of the central business district. I also note that the visualisations contained

in the approved plans, which are not proposed to be amended by this section 127 application, clearly show double glass doors onto Esk Street.

I have consulted Ms. Pilar Domingo Garcia, a Senior Urban Designer from Harrison Grierson providing advice to Council on this project. Ms. Domingo Garcia has provided verbal advice that she does not support the proposed change on the grounds that she considers that removal of the word 'principal' does substantially change the intended outcome that the street entrance is the main entrance and may affect street activation.

I agree with Ms. Domingo Garcia in principle that retaining street activation, including through substantial openings on the street frontage, is important to the vitality and vibrancy of the Invercargill city centre. However, in these circumstances the approved plans clearly show double doors along the street frontages and these plans are not proposed to be amended by this application. Condition 50 is also proposed to be amended to require a double door set with a minimum door leaf (single panel) of 860mm. Condition 50ii. continues to require the glazed street frontage as full display windows. For these reasons, I consider the risk of the street frontages not being activated or comprising a small entrance or back of house facilities to be low and acceptable. Therefore, I consider the effect of the proposed change to condition 50 to be less than minor. This proposed change in condition does not affect any persons who made a submission or may otherwise be affected by the change of condition as it achieves the same outcome as the consented development.

### **(11) Advice Notes**

The consent holder proposes to relocate part of Condition 21 Demolition regarding asbestos containing material to an advice note as follows:

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;

I support this proposed change as I consider it appropriate for a condition to refer to requirements under other legislation. I consider that the effects of this change will be nil as the consent holder has obligations under the Health and Safety at Work (Asbestos) Regulations 2016.

### Conclusion

For the reasons discussed above, I consider the adverse effects of the proposed changes to the conditions to be less than minor. I do not consider that any persons, including previous submitters to RMA 2018/148 will be affected by the proposed changed conditions. I consider that the proposed changes to conditions will not fundamentally change the overall outcome of the consented development and there will be no material change to any adverse effects.

### **Notification assessment [Section 95A and 95B]**

Sections 95A and 95B set out the steps that must be followed to determine whether public notified or limited notification of an application is required.

#### **Public notification**

- Step 1. The application does not meet any of the criteria for mandatory notification in section 95A(2).
- Step 2. The application does not meet any of the criteria in section 95(A)(5)(b) precluding public notification.
- Step 3. The application does not meet any of the criteria in section 95 A(8) requiring notification.
- Step 4. There are no special circumstances that warrant public notification (section 95A(9)).

**In accordance with the provisions of section 95A, the application must not be publicly notified.**

#### **Limited notification assessment**

- Step 1. There are no affected groups or persons in relation to customary rights, customary marine titles or statutory acknowledgements as outlined in section 95B(2) and (3).

- Step 2. There are no rules or NES preventing limited notification, and the application is not for a controlled activity land use consent under the ICDP (section 95B(6)).
- Step 3. As discussed above, no persons are considered to be affected under section 95E (sections 95B(7) and (8)).
- Step 4. There are no special circumstances that warrant notification to any other persons (section 95B(10)).

**In accordance with the provisions of section 95B, the application must not be limited notified.**

#### **Recommendation (A) - Notification**

That the application be processed on a **non-notified** basis in accordance with Sections 95A – 95F of the Resource Management Act 1991.

#### **Relevant objectives, policies, rules and other provisions of the Plan and proposed Plan [Section 104(1)(b)(vi)]**

Regard must be had to the relevant objectives and policies in the ICDP. The proposed changes to conditions relate primarily to development staging and the efficient administration of the resource consent. In my opinion the proposed changes to conditions, with the exception of condition 50 which is addressed below, will not result in any material changes to the application and are generally consistent with the following objectives and policies:

*BUS1Z-O1 Maintenance and enhancement of the primacy of the Invercargill Central Business District as the primary centre for retailing, business, culture, entertainment, education and social services for Invercargill City and the wider Southland region.*

*BUS1Z-P1 Business 1 (Central Business District) Zone:*

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

*BUS1Z-P3 Urban Design:*

*To encourage the incorporation of the following urban design principles into the design of buildings and open space:*

- 1. Buildings and land uses respect their context*
- 2. Buildings and land uses reflect and enhance the character of Invercargill*
- 3. Buildings and land uses offer diversity and choice for people*
- 4. Buildings and land uses are clearly linked by appropriate connections*
- 5. Buildings and land uses demonstrate creativity, encouraging innovative and imaginative solutions*
- 6. Custodianship - Buildings and land uses should be environmentally sustainable, safe and healthy*
- 7. Collaboration – stakeholders collaborate to achieve good urban design outcomes.*

*BUS1Z-P4 Pedestrian-Friendly Frontages:*

*To create an environment along the identified frontages that will offer safety, comfort and a stimulating and enjoyable pedestrian experience within the recognised retail area.*

*BUS1Z-P15 Demolition or Removal Activities:*

- 1. To encourage owners to consider the restoration, and adaptive re-use of buildings in preference to demolition.*
- 2. To manage the adverse effects of demolition or removal on amenity values by ensuring the clean-up, screening and maintenance of sites.*
- 3. To encourage active utilisation of sites post-demolition by encouraging their prompt redevelopment, and in the meantime encouraging use of the site for such activities as car parking or public open space.*

*BUS1Z-P20 Connectivity and Circulation:*

- 1. To promote connectivity and legibility of access to and within the Central Business District to enable people to find their way around easily and conveniently.*
- 2. To promote pedestrian-friendly routes along the identified pedestrian-friendly frontages.*

Condition 50 proposes to delete reference to “principal” pedestrian entrances which requires a more detailed consideration of the ICDP’s objectives and policies. The proposed amended condition is considered to be consistent with policy BUS1Z-P4 as it will retain the requirement for pedestrian access from street frontages via large double doors. The approved plans clearly illustrate that the façade treatments and design will assist in creating an enjoyable and stimulating pedestrian experience. It is also considered to be consistent with policy BUS1Z-P20 which promotes connectivity and pedestrian friendly frontages as it will still retaining access to shops from street frontages.

Overall, I am satisfied that the proposal is consistent with the ICDP’s policies and objectives.

**Relevant provisions of a National Environmental Standard, National Policy Statement, Regional Plan, Regional Policy Statement or Coastal Policy Statement [Section 104(1)(b)]**

I am satisfied that the ICDP gives effect to the relevant provisions of the higher order documents referred to in s104(1)(b). As such, I have not addressed them specifically in my report.

**Part 2 of the Resource Management Act and any other relevant matters [Section 104(1) and 104(1)(c)]**

Taking guidance from recent case law<sup>2</sup>, the ICDP is considered to be the mechanism by which Part 2 is given effect to in Invercargill City. The Plan has recently been reviewed, and was competently prepared through an independent hearing and decision-making process in a manner that appropriately reflects the provisions of Part 2. Accordingly, no further assessment against Part 2 is considered necessary.

**Section 104(3)(d) notification consideration**

Section 104(3)(d) states that consent must not be granted if an application should have been notified and was not. No matters have arisen in the assessment of this application which would indicate that it ought to have been notified.

**Recommendation (B) – Substantive decision**

That, for the reasons outlined above, the application **be granted** pursuant to Section 127 of the Resource Management Act 1991.

The conditions of consent shall now read as in accordance with **Attachment 3**.

**Advice Note:**

The lapse date of the consent remains unchanged, i.e. 25<sup>th</sup> June 2024. The consent will lapse on this date unless it is given effect to before then.

**Reported and recommended by:** Rachel Ducker, Consultant Planner

**Date:** 14 November 2019

**Peer reviewed by:** Craig Friedel, Consultant Planner

**Date:** 14 November 2019

**Decision**

<sup>2</sup> R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316

That the above recommendations be adopted for the reasons outlined in the report.

**Hearings Panel or Commissioner**

Name:

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Signature:

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Date:

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## Appendix 1 – Consent 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.
3. 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;

viii. A dialogue box for email communication to the consent holder by email of any issues. The consent holder must keep a record of these communications and their resolution must be kept; and

ix. Display monitoring reports demonstrating compliance with consent conditions.

#### 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 Plan (AMP) relating to the activation of Esk Street for certification by the Council. The purpose of the AMP is to set out the measures to be adopted to ensure ongoing activation of Esk Street.
5. The outcomes of the AMP are:
  - i. Maintaining 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. Ensuring reasonable measures are provided to off-set the loss of activation associated with construction hoardings.
6. The AMP 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 in regard to the 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 AMP 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 AMP to address issues raised during consultation.

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

8. Once certified the consent holder must comply with the AMP until such times as all demolition and construction activities fronting Esk Street are complete. Any proposed

amendments to the AMP 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 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 5,000m<sup>2</sup> of the site.

#### HERITAGE

10. Prior to demolition commencing or any building alteration works to the heritage buildings on the site listed in District Plan Appendix 11.2 and 11.3, the consent holder must ensure that recording is undertaken of those buildings. 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. The consent holder must lodge a recording of each building in its pre-demolition state with the Council and with HNZ for their records prior to demolition commencing. The consent holder must lodge the recording of the demolition or building alteration works with the Council and HNZ within six months of the works being completed.
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.
13. 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. 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 to the façade as a stand-alone element. The design can allow propping to the exterior or interior sides of the façade.

**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.*

- c. Design and documentation for a detailed demolition/temporary works management and construction plan for each façade retention scheme;
- d. Confirmation that the demolition and temporary works construction will be undertaken under the supervision of a suitably qualified engineer;
- e. Methods for retaining or reinstating the decorative plasterwork on the Southland Times Building façade.

**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.*

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 II.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.

17. 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.
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

19. The consent holder must not undertake any demolition prior to providing the Council with written confirmation from a registered trading bank that funding for Stages 1 – 3 of the development as identified on the Staging Plan approved in Condition 1 has been obtained.
  - i. Upon providing such confirmation, 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 be built in one stage;
  - ii. Stages 4 and 6 may be built concurrently with or subsequent to Stages 1 – 3;
  - iii. The buildings located within Stage 5 of the Staging Plan approved in Condition 1, shall remain in place until such time as 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 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). 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;
- c. Measures to facilitate a Detailed Site Investigation being undertaken as part of the demolition process and measures to avoid undertaking earthworks that would pose a risk to human health until Conditions 32 and 53 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 II.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 Communication Plan with affected parties, including adjoining land owners and occupiers and those on the opposite side of the street to the proposed works. The Communication Plan shall include procedures to ensure consultation prior to high noise generating activities occurring, and the receipt, recording, and resolution of complaints;
- h. 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);
- i. 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;

- j. The DMP and DNVMP 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;
- k. 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;
- l. 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;
- m. 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;
- n. 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.
- o. Details of the heritage fabric to be salvaged, its storage and re-use, as required under Condition 17.

**Note:** *The Council will either certify or refuse to certify the DMP within 20 working days of receipt for demolition stages of less than 5,000m<sup>2</sup> gross floor area and 30 working days of receipt for demolition stages of more than 5,000m<sup>2</sup> gross floor area. Council may seek that the DMP be peer reviewed at the consent holder’s cost. 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.*

22. The consent holder shall not commence demolition of the buildings authorised by this consent until the Council has certified in writing that the DMP fulfils the requirements of Condition 21. The DMP (including Communication Plan, 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 Communication Plan, 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 Communication Plan, 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;
- i. A Communications Plan with affected parties, including adjoining landowners and occupiers and those on the opposite side of the street to the vacant site. The Communications Plan must include procedures to ensure consultation on the vacant site management occurring, and the receipt, recording and resolution of complaints.

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 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 must include, but not be limited to, the following matters:

- a. A Communication Plan with affected parties, including adjoining landowners and occupiers and those on the opposite side of the street to the proposed works. The communication plan shall include procedures to ensure consultation prior to high noise generating activities occurring, and the receipt, recording, and resolution of complaints;
- b. 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;

- c. 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;
- d. The CMP and CNVMP 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;
- e. Measures for erosion and sediment control and prevention of sediment being carted on to roads, or entering the public stormwater system;
- f. 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;
- g. Measures to provide adequate protection of kerbstones listed in Appendix II.4 of the District Plan;
- h. 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;
- i. 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 5,000m<sup>2</sup> gross floor area and 30*

*working days of receipt for construction stages of more than 5,000m<sup>2</sup> 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 (NESCS). 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 NESCS, 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 43. 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 condition.*

45. The consent holder must implement the access design certified under Condition 45. 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 0A 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 their principal pedestrian entrance from the street and 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 Roadway 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.

# Appendix 2 – Figures attached to the Panel’s decision

Plate 1

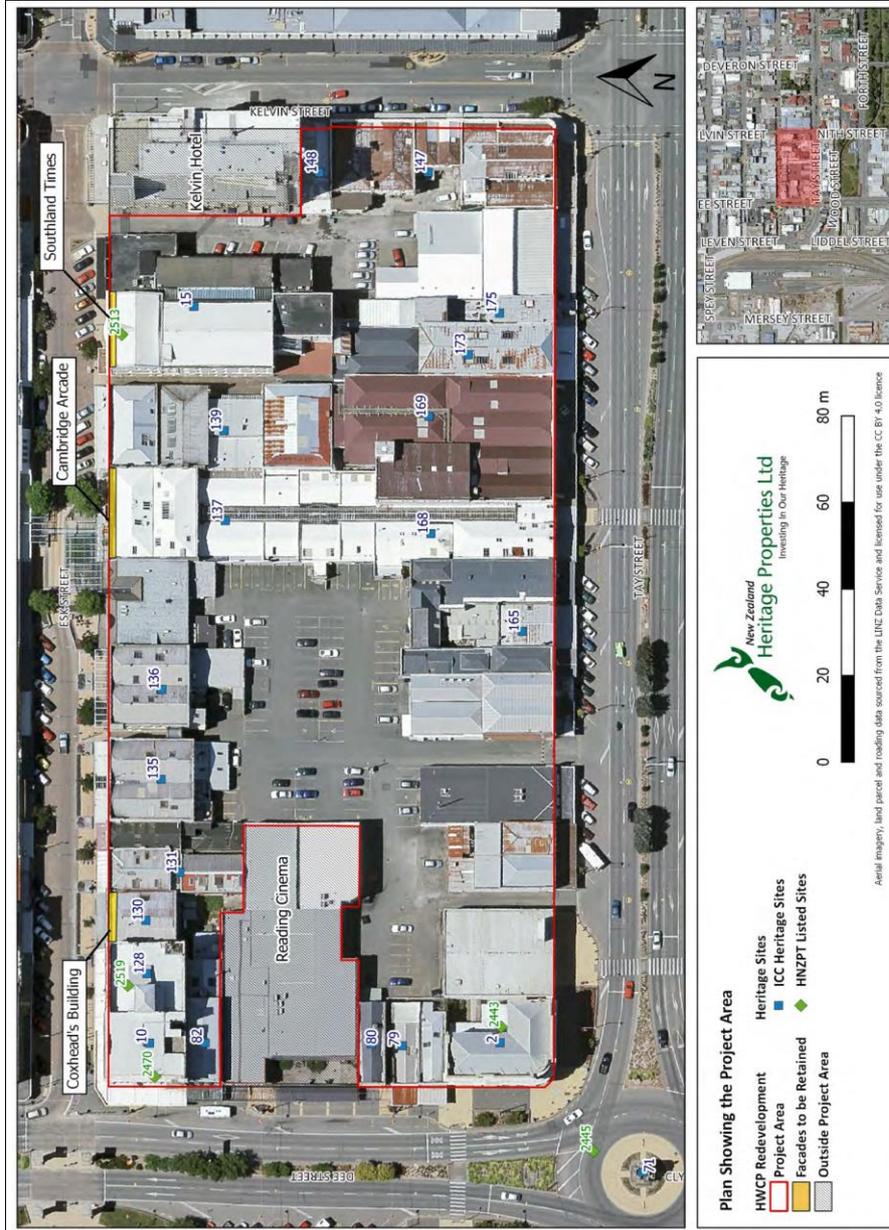


Figure 12. Location of project area with facades to be retained and heritage sites.





Figure 4-7. Early Survey Plan of Block I of the Invercargill Hundred, encompassing the town of Invercargill and the surrounding areas (Garvie, 1856b).



Figure 1-1. Seismic rating summary (BMC, 2018).

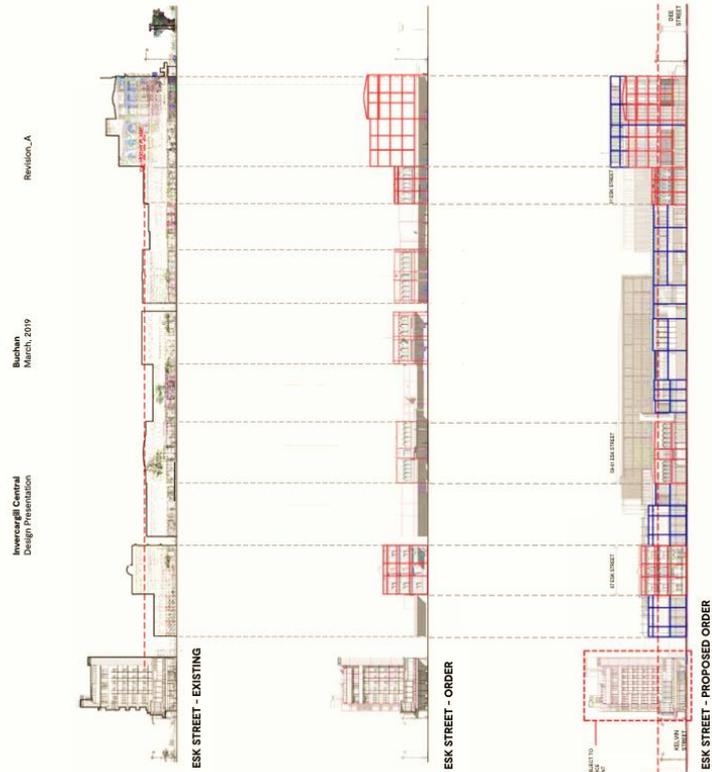


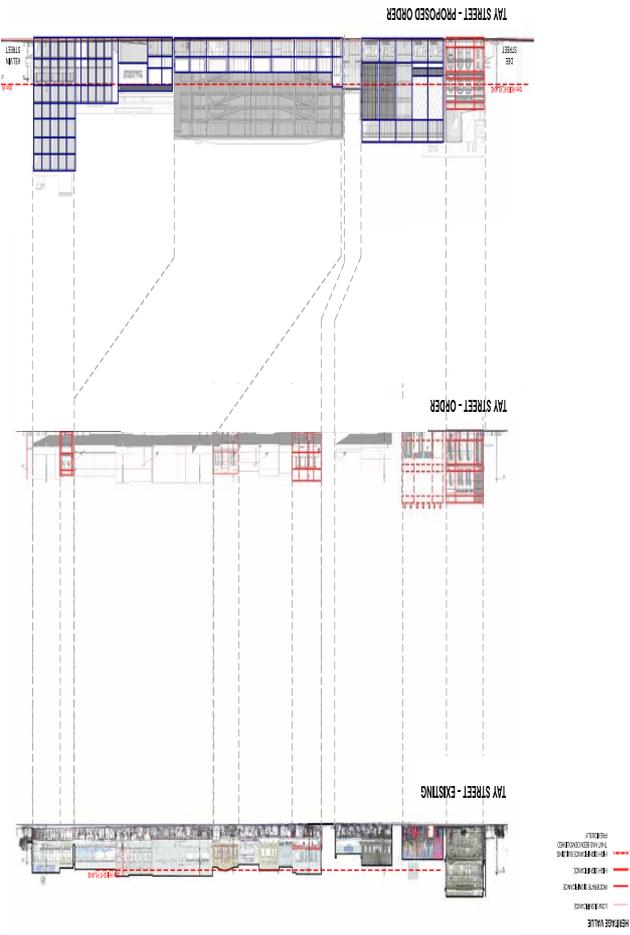
# Appendix 3 – Buchan Ordering and Composition Analysis

## Design Narrative /

### FACADE ORDERING

- It was important that the new development retained a sense of place – a connection to its history.
- Facade order is not only about creating a sense of vertical scale which was appropriate but also in grain along the length of each facade.
- This simplified grid informed the structure of the proposed through facade primarily by driving variation along the facade edges in a rhythm consistent with the existing.





Design Narrative /  
**FACADE ORDERING ANALYSIS**  
TAY STREET

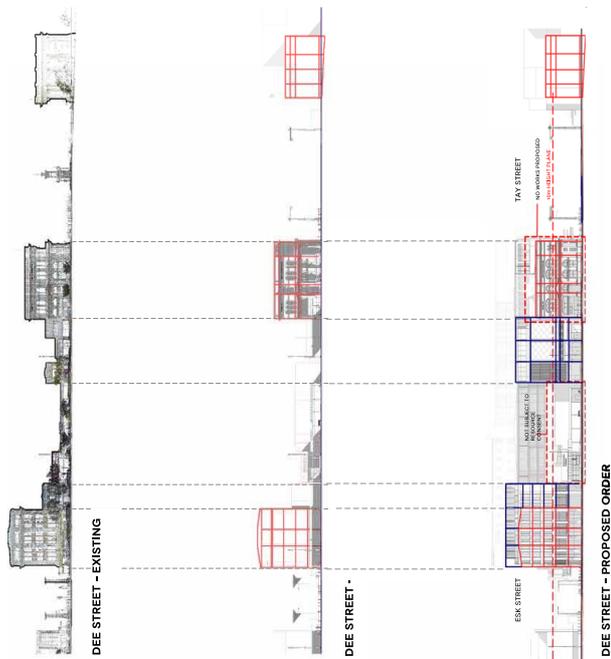
Inverclyde Central  
Design Presentation  
Buchanan  
March 2019  
Revision A

Design Narrative /  
**FACADE ORDERING ANALYSIS**  
 DEE STREET

Invercargill Central  
 Design Presentation

Buchan  
 March, 2019

Revision LA



**BUCHAN**  
 Invercargill Central  
 Resource Consent Hearing

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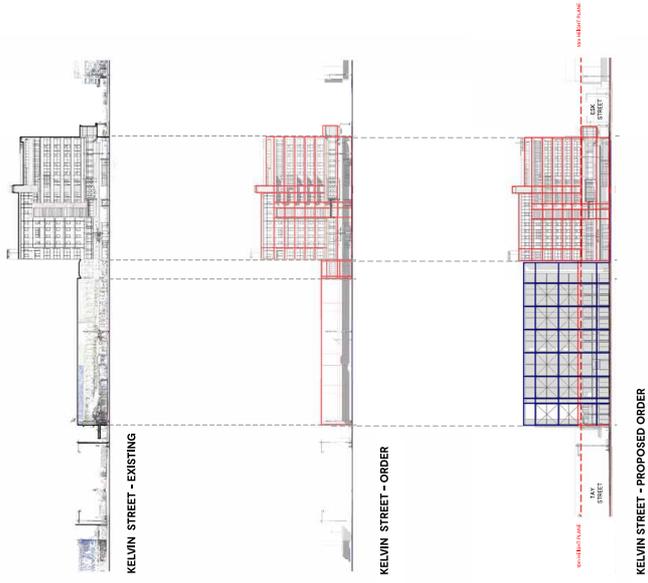
Design Narrative /  
**FACADE ORDERING ANALYSIS**  
KELVIN STREET

Invercargill Central  
Design Presentation

Buchan  
March, 2019

Revision\_A

- HEIGHT VALUES**
- EXISTING BUILDINGS
  - PROPOSED BUILDINGS
  - HIGH RISE BUILDINGS
  - PROPOSED HIGH RISE BUILDINGS



**BUCHAN**  
Invercargill Central  
Residential Conversion Housing

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## HWCP Minute 2

RMA/2018/148

Dated: 16 September 2019

Issued by: Commissioner Rob Enright

- 1 This minute is issued for the purposes of case management. It sets out a preliminary view, which can be altered in light of input from the consent holder, consent authority, or further advice to the Commissioner. Any advice will be disclosed to all parties. I also reserve the ability to amend or correct the minute, following further review.
- 2 This preliminary statement relates to the proper interpretation of Condition 19, including whether I have any role or jurisdiction to make recommendations as to whether it has been completed or satisfied. Certainty on this issue will reduce scope for delay in the process for exercise of the consent.

### Condition 19

- 3 Condition 19 relevantly states:

#### DEMOLITION MANAGEMENT

- 19 The consent holder must not undertake any demolition prior to providing the Council with written **confirmation** from a **registered trading bank** that **funding for Stages 1 – 3** of the development as identified on the **Staging Plan approved in Condition 1 has been obtained**.
  - i. Upon providing such confirmation, 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 be built in one stage;
  - ii. Stages 4 and 6 may be built concurrently with or subsequent to Stages 1 – 3;
  - iii. The buildings located within Stage 5 of the Staging Plan approved in Condition 1, shall remain in place until such time as an agreement is entered into for the lease of a new building within Stage 5.

[Emphasis added]

### Commissioner Decision dated 4 June 2019 (Decision):

- 4 Funding issues are identified in the Decision as follows:
  - (a) At [3.1.3] the Decision identifies the six-stages for construction. At [3.1.4], the programme for demolition is identified:

[3.1.4] Demolition had originally been proposed over a two-year period, but was refined through the Hearing process, so that it would involve:

    - (a) The Applicant providing confirmation that funding for Stages 1 to 3 has been obtained.
    - (b) The buildings in Stages 1 to 4 and 6 being demolished.
    - (c) Stage 4 being built concurrently with or subsequent to Stages 1 to 3.
    - (d) The buildings in Stage 5 remaining in place until a lease agreement for the new building is secured.
  - (b) At [4.5] the Decision addresses the risk of demolition occurring without redevelopment. In exercising the consent, demolition is almost certain, but timing and extent of new development is not. At [4.5.1] the Decision relevantly notes:

[4.5.1]..If consent is granted, then we must be satisfied that the new development will diligently follow demolition. That is crucially important in this case because demolition will not be incremental and will cover a large area in the CBD Core.

- (c) This underscores the importance of condition 19, intended to confirm funding for identified stages of the consented development (**development**). Quantum of funding is not stated, but for a project of this scale, it is likely to be substantial. It is relevant to interpretation of condition 19 that the decision-makers identified that economics of the development were marginal, and that Council funding was anticipated but not secured:

4.5.2 Mr O'Donnell identified that the economics of the development were marginal and that is probably why external sources of funding are sought. We have no doubt that the HW Richardson Group are committed to building the HW Richardson Tower to operate as their headquarters, although even that may be placed on the back burner if the wider retail precinct development does not occur. We have no detailed information on the business case for the retail precinct, although it was offered to us confidentially. We declined, as we do not have the expertise to analyse such information without expert help, and in any event we cannot receive information that is not available to submitters, even if a confidentiality direction is made.

4.5.7 From all that, we take the current state of play to be as follows:

- (a) This proposal was conceived by the Applicant with little input from the Council.
- (b) The Council has not committed any ratepayer funds to the project and that will require processes under the Local Government Act 2002. It is unlikely that the Council will fund elements of the proposal destined to be held in private hands, which is most of the retail precinct.
- (c) The Council recognises development of this type will require expenditure in public infrastructure, to ensure an appropriate outcome adjacent to the site and between other CBD blocks, to ensure the District Plan objectives for a highly pedestrianised and attractive CBD are achieved.
- (d) The Council has not committed to occupying space as identified in the proposal around the Bank of New South Wales, which is described in the Master Plan as the 'Civic' Quarter.

- (d) These findings on the evidence led to the discussion at [4.5.9] ff that state the requirement to correctly manage sequencing of the development, and “..ensure there is **credible evidence** that redevelopment will promptly follow demolition..” with the consent holder being required to implement the consent as a whole, not pick and choose parts of the consented development.<sup>1</sup> That discussion must be read subject to rights of surrender under s138 RMA (and the Decision identifies availability of variation of consent conditions under s127 RMA) but is obviously a correct summary of the legal position. It is necessary context to the materiality of Condition 19.

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<sup>1</sup> There is of course no suggestion this is the case; it is discussed in the Decision at [4.5.1] cited below.

- (e) The Decision notes that the landowner has a duty to implement the consent<sup>2</sup> (if, and to the extent that, there is any difference between consent holder and landowner<sup>3</sup>).
- (f) To address the issue, the applicant volunteered the consent condition that is now Condition 19. This largely satisfied the Decision-maker's concerns, briefly summarised above.<sup>4</sup>

## Discussion

- 5 On a first read, the Condition is inherently simple. It does not require certification from the consent authority. The consent holder lodges confirmation from a registered trading bank that "...funding for Stages 1-3 of the development..has been obtained".
- 6 The consent holder must be satisfied that the bank is a "registered trading bank", and that funding is "confirmed" on an unconditional basis, and is therefore capable of reliance or enforcement by the consent authority as against the consent holder (and potentially, the bank<sup>5</sup>). Subject to that factual precondition, the consent holder has no discretion to reject an unconditional bank certificate. The Condition is arguably satisfied.
- 7 What is problematic is if the bank certificate is in any way conditional. Funding may be confirmed, subject to a range of conditions precedent or subsequent.
- 8 This may create a 'catch-22' situation. It is usually the case that a bank will state conditions for provision of finance, and it may not be commercially realistic to expect certification by the bank on an unconditional basis. Finance is usually provided subject to a range of conditions that must be met by the borrower, with an obvious one being continued solvency and meeting terms of payment. In contrast, the consent authority may not be satisfied with those conditions, creating uncertainty as to whether the project proceeds, whether in whole or part.
- 9 A condition may be read as subject to implied parameters if that is necessary to make the condition workable. For example, the consent authority could decide to accept conditions stated by the bank, if these are reasonable and workable. The consent authority would usually take advice prior to making that determination. This might include financial or legal advice. But the consent authority could also decide to reject conditions that are unreasonable or uncertain.

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<sup>2</sup> Decision at [4.5.11]:

"The first point we would make is that any consent is an integrated consent and any person relying on the consent must, together with the landowner, implement it as a whole, subject to any variation allowed under RMA, section 127. A consent holder is not able to pick and choose what parts of the consent package it wishes to implement. As we understand it, the landowner will be legally responsible for consent implementation under RMA's legal framework. That provides some security that the consent will be properly implemented. The Council should be aware of the implications of that before allowing implementation of the consent."

<sup>3</sup> I have not yet had opportunity to review the full suite of documents, as this may not be relevant to my delegated role, and will clarify this in due course.

<sup>4</sup> Decision at [4.5.13]

<sup>5</sup> Whether the bank has any liability is a legal question beyond scope of my role; it is simply noted.

- 10 An obvious answer is for the consent authority to require some form of enforceable security, to avoid any issue arising from a conditional certificate of funding. The option of a bank bond was suggested to the decision-maker during the hearing<sup>6</sup>, but not included in the conditions themselves. Such a condition (which may be onerous to the consent holder, in the sense that it may come at a financial cost) cannot be implied into the conditions. It could be a matter of side agreement between Council and consent holder.
- 11 My preliminary view is that how Condition 19 is exercised should be initially addressed by discussion between the consent authority and consent holder. If the consent holder presents certification from a registered trading bank, on an unconditional basis, then arguably no issue arises.<sup>7</sup> If there are conditions precedent to funding that must be satisfied, then the certificate should be rejected. If there are conditions subsequent, then the consent authority has arguable discretion to reject these because this is not anticipated by the consent framework.
- 12 I am not yet satisfied that I have delegated authority to address the funding condition. But I am entitled to clarify the scope of my jurisdiction as delegated Commissioner. As noted, condition 19 does not expressly state a certification role for Council. This may be contrasted with other conditions, where certification is expressly required. But the funding condition is arguably an “essential” condition and a certifier role may therefore be required or implied. If the consent holder and consent authority agree on this point, this would assist in answering jurisdiction.
- 13 Other options are:
- (1) A precautionary approach is for the consent holder to seek a section 127 RMA variation to make the condition wording more explicit as to how to address any conditions subsequent that may be stated by a registered trading bank and scope for enforceable security. This could be addressed by the Commissioner(s) in parallel and on a fast-track basis (but would require amended delegation powers);
  - (2) A side agreement between consent holder and Council, but taking care that the consent authority is able to receive an unconditional certificate of funding to satisfy the strict wording of the condition;
  - (3) An agreed due diligence process, that may or may not involve Commissioner input, but again resulting in a bank certificate that satisfies the funding condition;
  - (4) The at minimum position is that the bank confirmation must be unconditional and capable of reliance by the consent authority. If any conditions are stated, then the consent authority could reject the bank confirmation;
  - (5) I may seek legal advice on the above, which is (as noted) is a preliminary statement of view, but before doing so, I invite comment by the consent holder and consent authority.

---

<sup>6</sup> Decision at [6.4.15], [7.5.3]

<sup>7</sup> Subject to the additional matters noted at [14] below

- 14 Three other issues that arise in relation to condition 19 are:
- (a) whether the quantum of funding is sufficient to meet Stages 1-3 (and how the consent authority can satisfy itself as to this);
  - (b) how to approach a situation where there are multiple funders;
  - (c) Approved plans in Condition 1.
- As to (a), the condition does not state a set amount. This is an issue of due diligence but the condition is not express as to the role to be played by the consent authority in cross-checking that funding is adequate for delivery of Stages 1-3. I seek the views of the consent holder and consent authority as to how they see this operating.
  - As to (b), written confirmation by multiple funders is not anticipated by the condition wording. This may not be relevant, but if it is, then the consent holder may wish to address this further.
  - As to (c), Condition 19 is not to be read in isolation. It is part of a suite of conditions to manage effects. Condition 19 cross-references the plans approved in Condition 1. The “Staging Plan” and “Stages 1-3” identified by Condition 19 mean the consented plans identified in Condition 1 of the Decision. Any variation to the consented plans must follow proper RMA process.<sup>8</sup>

Dated this 16<sup>th</sup> day of September 2019



**Rob Enright**  
**Commissioner for Invercargill City Council**

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<sup>8</sup> For example, S127 RMA applies, subject to meeting the preconditions.

## HWCP Minute 2

RMA/2018/148

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- (c) The Council recognises development of this type will require expenditure in public infrastructure, to ensure an appropriate outcome adjacent to the site and between other CBD blocks, to ensure the District Plan objectives for a highly pedestrianised and attractive CBD are achieved.
- (d) The Council has not committed to occupying space as identified in the proposal around the Bank of New South Wales, which is described in the Master Plan as the 'Civic' Quarter.

- (d) These findings on the evidence led to the discussion at [4.5.9] ff that state the requirement to correctly manage sequencing of the development, and “..ensure there is **credible evidence** that redevelopment will promptly follow demolition..” with the consent holder being required to implement the consent as a whole, not pick and choose parts of the consented development.<sup>1</sup> That discussion must be read subject to rights of surrender under s138 RMA (and the Decision identifies availability of variation of consent conditions under s127 RMA) but is obviously a correct summary of the legal position. It is necessary context to the materiality of Condition 19.

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<sup>1</sup> There is of course no suggestion this is the case; it is discussed in the Decision at [4.5.1] cited below.

- (e) The Decision notes that the landowner has a duty to implement the consent<sup>2</sup> (if, and to the extent that, there is any difference between consent holder and landowner<sup>3</sup>).
- (f) To address the issue, the applicant volunteered the consent condition that is now Condition 19. This largely satisfied the Decision-maker's concerns, briefly summarised above.<sup>4</sup>

## Discussion

- 5 On a first read, the Condition is inherently simple. It does not require certification from the consent authority. The consent holder lodges confirmation from a registered trading bank that "...funding for Stages 1-3 of the development..has been obtained".
- 6 The consent holder must be satisfied that the bank is a "registered trading bank", and that funding is "confirmed" on an unconditional basis, and is therefore capable of reliance or enforcement by the consent authority as against the consent holder (and potentially, the bank<sup>5</sup>). Subject to that factual precondition, the consent holder has no discretion to reject an unconditional bank certificate. The Condition is arguably satisfied.
- 7 What is problematic is if the bank certificate is in any way conditional. Funding may be confirmed, subject to a range of conditions precedent or subsequent.
- 8 This may create a 'catch-22' situation. It is usually the case that a bank will state conditions for provision of finance, and it may not be commercially realistic to expect certification by the bank on an unconditional basis. Finance is usually provided subject to a range of conditions that must be met by the borrower, with an obvious one being continued solvency and meeting terms of payment. In contrast, the consent authority may not be satisfied with those conditions, creating uncertainty as to whether the project proceeds, whether in whole or part.
- 9 A condition may be read as subject to implied parameters if that is necessary to make the condition workable. For example, the consent authority could decide to accept conditions stated by the bank, if these are reasonable and workable. The consent authority would usually take advice prior to making that determination. This might include financial or legal advice. But the consent authority could also decide to reject conditions that are unreasonable or uncertain.

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<sup>2</sup> Decision at [4.5.11]:

"The first point we would make is that any consent is an integrated consent and any person relying on the consent must, together with the landowner, implement it as a whole, subject to any variation allowed under RMA, section 127. A consent holder is not able to pick and choose what parts of the consent package it wishes to implement. As we understand it, the landowner will be legally responsible for consent implementation under RMA's legal framework. That provides some security that the consent will be properly implemented. The Council should be aware of the implications of that before allowing implementation of the consent."

<sup>3</sup> I have not yet had opportunity to review the full suite of documents, as this may not be relevant to my delegated role, and will clarify this in due course.

<sup>4</sup> Decision at [4.5.13]

<sup>5</sup> Whether the bank has any liability is a legal question beyond scope of my role; it is simply noted.

- 10 An obvious answer is for the consent authority to require some form of enforceable security, to avoid any issue arising from a conditional certificate of funding. The option of a bank bond was suggested to the decision-maker during the hearing<sup>6</sup>, but not included in the conditions themselves. Such a condition (which may be onerous to the consent holder, in the sense that it may come at a financial cost) cannot be implied into the conditions. It could be a matter of side agreement between Council and consent holder.
- 11 My preliminary view is that how Condition 19 is exercised should be initially addressed by discussion between the consent authority and consent holder. If the consent holder presents certification from a registered trading bank, on an unconditional basis, then arguably no issue arises.<sup>7</sup> If there are conditions precedent to funding that must be satisfied, then the certificate should be rejected. If there are conditions subsequent, then the consent authority has arguable discretion to reject these because this is not anticipated by the consent framework.
- 12 I am not yet satisfied that I have delegated authority to address the funding condition. But I am entitled to clarify the scope of my jurisdiction as delegated Commissioner. As noted, condition 19 does not expressly state a certification role for Council. This may be contrasted with other conditions, where certification is expressly required. But the funding condition is arguably an “essential” condition and a certifier role may therefore be required or implied. If the consent holder and consent authority agree on this point, this would assist in answering jurisdiction.
- 13 Other options are:
- (1) A precautionary approach is for the consent holder to seek a section 127 RMA variation to make the condition wording more explicit as to how to address any conditions subsequent that may be stated by a registered trading bank and scope for enforceable security. This could be addressed by the Commissioner(s) in parallel and on a fast-track basis (but would require amended delegation powers);
  - (2) A side agreement between consent holder and Council, but taking care that the consent authority is able to receive an unconditional certificate of funding to satisfy the strict wording of the condition;
  - (3) An agreed due diligence process, that may or may not involve Commissioner input, but again resulting in a bank certificate that satisfies the funding condition;
  - (4) The at minimum position is that the bank confirmation must be unconditional and capable of reliance by the consent authority. If any conditions are stated, then the consent authority could reject the bank confirmation;
  - (5) I may seek legal advice on the above, which is (as noted) is a preliminary statement of view, but before doing so, I invite comment by the consent holder and consent authority.

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<sup>6</sup> Decision at [6.4.15], [7.5.3]

<sup>7</sup> Subject to the additional matters noted at [14] below

- 14 Three other issues that arise in relation to condition 19 are:
- (a) whether the quantum of funding is sufficient to meet Stages 1-3 (and how the consent authority can satisfy itself as to this);
  - (b) how to approach a situation where there are multiple funders;
  - (c) Approved plans in Condition 1.
- As to (a), the condition does not state a set amount. This is an issue of due diligence but the condition is not express as to the role to be played by the consent authority in cross-checking that funding is adequate for delivery of Stages 1-3. I seek the views of the consent holder and consent authority as to how they see this operating.
  - As to (b), written confirmation by multiple funders is not anticipated by the condition wording. This may not be relevant, but if it is, then the consent holder may wish to address this further.
  - As to (c), Condition 19 is not to be read in isolation. It is part of a suite of conditions to manage effects. Condition 19 cross-references the plans approved in Condition 1. The “Staging Plan” and “Stages 1-3” identified by Condition 19 mean the consented plans identified in Condition 1 of the Decision. Any variation to the consented plans must follow proper RMA process.<sup>8</sup>

Dated this 16<sup>th</sup> day of September 2019



**Rob Enright**  
**Commissioner for Invercargill City Council**

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<sup>8</sup> For example, S127 RMA applies, subject to meeting the preconditions.

## RMA 2018/148A

### PROPOSED 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 A Communication Plan shall be prepared and submitted to Council for approval prior to the demolition of any buildings commencing. Once approved, it shall be ~~be~~ and updated regularly and at least at the following stages:
- i. \_\_\_\_\_ Prior to the construction of each new ~~phasestage~~ of development commencing.
  - ii. \_\_\_\_\_ Where portions of the site are to remain vacant for a period of more than six months.
- 3B The Communication Plan required by Condition 3A shall include the following information at a minimum:
- 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;
  - vi. \_\_\_\_\_ 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 ~~Plan Strategy~~ (~~AMPAMS~~) relating to the activation of Esk Street for certification by the Council. The purpose of the ~~AMP-AMS~~ is to set out ~~the a framework for~~ measures to be adopted to ensure ongoing activation of Esk Street.
5.        The outcomes of the ~~AMP-AMS~~ are to plan to:
  - i. Maintaining 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. ~~Ensuring~~ Ensure reasonable measures are provided to off-set the loss of activation associated with construction hoardings.
6.        The ~~AMP-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 ~~in regard to the~~ 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 ~~AMP-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 ~~AMP-AMS~~ to address issues raised during consultation.

**Note:** *The Council will either certify, or refuse to certify, the ~~AMP-AMS~~ within 15 working days of receipt. Should the Council refuse to certify the AMP, 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:
  - i. Actively participate in the Activation Management Group comprising membership from the consent holder, Council and the NRG to implement the AMS.
  - ii. ~~Comply with the AMP-AMS~~ until such times as all demolition and construction activities fronting Esk Street are complete.
- 8A        Any proposed amendments to the ~~AMP-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 5,000m<sup>2</sup> of the site.

## HERITAGE

10. Prior to ~~part or full demolition of any building commencing or any building alteration works to the heritage buildings on the site~~ listed in ~~District Plan Appendix 113.2 and 113.3 of the Invercargill City District Plan (ICDP) for each stage commencing~~, the consent holder must:

- i. ~~Prepare and submit field notes for each listed building outlining the heritage fabric and values of the building as described under NZHPT (2018) to the Level 3 standard consistent with the heritage significance.~~
- ii. ~~Prepare and submit a final record of the significant heritage fabric and values as required under NZHPT (2018) level 3 standard consistent with the heritage significance. Such These records are to shall~~ be submitted within 6 months of the field notes being lodged with Council.

~~The level of recording in i and ii shall be commensurate with the significance assessment contained in the consent application; follow Heritage New Zealand Pouhere Taonga (HNZ) standards for building recording, be undertaken under the supervision of a qualified heritage expert agreed by Council -and must be submitted to both Council and HNZ.~~

~~Recording required in i and ii may be staged in accordance with the demolition stages contained in the Demolition Management Plan certified under Condition 21.~~

~~ensure that recording is undertaken of those buildings. 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. The consent holder must lodge a recording of each building in its pre-demolition state with the Council and with HNZ for their records prior to demolition commencing. The consent holder must lodge the recording of the demolition or building alteration works with the Council and HNZ within six months of the works being completed.~~

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 ~~to for each retained the~~ 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:

- ~~ea.~~ Design and documentation ~~for a detailed demolition/temporary works management and construction plan for each façade retention scheme~~ of the works required to integrate the façade into the new building fabric;
- ~~b.~~ ~~d.~~ Confirmation that the ~~demolition and temporary works construction~~ façade retention and restoration site works will be undertaken under the supervision of a suitably qualified engineer;
- ~~b.c.~~ ~~eb.~~ Methods ~~Design and documentation~~ for retaining or reinstating the ~~decorative plasterwork~~ 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 in an unpainted state.
- 16. The consent holder must ensure that the heritage verandah posts listed in District Plan Appendix II.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. Prior to demolition commencing a Heritage Fabric Survey, which identifies heritage fabric to be salvaged, must be prepared by a qualified heritage expert agreed with the Council and submitted for Council approval.
- ~~17B The majority of Mmaterial identified for salvage in the Heritage Fabric Survey approved under Condition 17A, shall be re-used in the replacement buildings. as far as practicable. Opportunities for re-use or dispose of salvaged materials shall be documented and submitted to Council for discussion and approval. to re-use or dispose of salvaged materials shall be documented and submitted to Council for consideration and discussion., 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 Council accepts that 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.~~
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

19. The consent holder must not undertake any demolition prior to:
- i. ~~providing the Council with written documentation of its commitment to confirmation from a registered trading bank that funding for develop~~ Stages 1 – 3 ~~of the development~~ as identified on the Staging Plan approved in Condition 1 ~~has been obtained and commence construction of Stages 1-3~~ within 9 months of demolition; and
  - ii. Receiving written acceptance from Council that the documentation demonstrates credible evidence of a commitment to proceed with Stages 1-3 of the development.  
Council shall assess this documentation within 10 working days of receipt. An assessment of credible evidence may include progress towards; advancing the development and obtaining project funding; and entering into tenancy agreements.
- 19B
- ~~i. Upon providing such confirmation~~ 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 be built in one stage;
  - ii. Stages 4 and 6 may be built concurrently with or subsequent to Stages 1 – 3;
  - iii. The buildings located within Stage 5 of the Staging Plan approved in Condition 1, shall remain in place until such time as 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). ~~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;~~
- c. ~~Measures to facilitate a Detailed Site Investigation being undertaken as part of the demolition process and m~~Measures to avoid undertaking earthworks that would pose a risk to human health until Conditions 32 and 53-33 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 ~~H.43-4~~ of the District Plan;
- f. Measures to avoid the collapse of weakened structures and the management of hazards to health and safety;

~~g. A Communication Plan with affected parties, including adjoining land owners and occupiers and those on the opposite side of the street to the proposed works. The Communication Plan shall include~~

~~procedures to ensure consultation prior to high noise generating activities occurring, and the receipt, recording, and resolution of complaints;~~

~~hg.~~ 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);

~~ih.~~ 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;

~~kj.~~ 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;

~~lk.~~ 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;

~~ml.~~ 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;

~~nm.~~ 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.

~~o.~~ Details of the heritage fabric to be salvaged, its storage and re-use, as required under Condition 17.

22. \_\_\_ The consent holder shall 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 ~~Communication Plan~~, 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 ~~Communication Plan~~, 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 ~~Communication Plan~~, 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;
- i. ~~A Communications Plan with affected parties, including adjoining landowners and occupiers and those on the opposite side of the street to the vacant site. The Communications Plan must include~~

~~procedures to ensure consultation on the vacant site management occurring, and the receipt, recording and resolution of complaints.~~

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 Communication Plan with affected parties, including adjoining landowners and occupiers and those on the opposite side of the street to the proposed works. The communication plan shall include procedures to ensure consultation prior to high noise generating activities occurring, and the receipt, recording, and resolution of complaints;~~

~~ba.~~ 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;

~~eb.~~ 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;

**dc.** 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;

**ed.** Measures for erosion and sediment control and prevention of sediment being carted on to roads, or entering the public stormwater system;

**fe.** 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;

**gf.** Measures to provide adequate protection of kerbstones listed in Appendix ~~H3~~-4 of the District Plan;

**hg.** 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;

**ih.** 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 5,000m<sup>2</sup> gross floor area and 30 working days of receipt for construction stages of more than 5,000m<sup>2</sup> 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 (NESCS). 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 NESCS, 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 CTMP certified under Condition [4342](#). The consent holder must submit any proposed amendments to the CTMP 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 condition.

45. The consent holder must implement the access design certified under Condition [4544](#). 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 0A 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 their ~~principal~~ pedestrian entrance from the street comprising ~~.- The dimensions of which are to be a double door set with no less than 860mm leaf size for each door.~~
- Additionally the and 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 Roadings 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;