

BEFORE THE INVERCARGILL CITY COUNCIL

Under the Resource Management Act 1991 (RMA)

In the matter of an application for Resource Consent to demolish a Category II heritage building listed under Heritage New Zealand Pouhere Taonga (HNZPT) list - Business 2 & Industrial 1 Zones at 100-116 Gore Street, Bluff; RMA/2023/72

Statement of evidence of Luke McSoriley

1 November 2023

1. My full name is Luke Gerard McSoriley. I hold the degree of Bachelor of Resource Studies, a Post-graduate Diploma in Resource Studies and a Master of Resource and Environmental Planning. I am a Full Member of the New Zealand Planning Institute.
2. I have twenty-one years' experience as a Resource Management Planner in a variety of roles. I currently work for WSP New Zealand Ltd from its Invercargill Office and have done so since March 2013.
3. I am familiar with the Code of Conduct for Expert Witnesses contained in Environment Court of New Zealand Practice Note 2023. I have read and agree to comply with that Code. My evidence is within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

4. In my evidence I discuss the resource consent application (the **application**), provide a description of the activity, discuss the status of the activity under the relevant district plan rules; discuss section 104 of the RMA, discuss the effects of the activity, discuss the relevant statutory considerations, submissions on the application and the Section 42A report.

Involvement in the Application

5. I drafted the resource consent application which was lodged with Invercargill City Council (**ICC**) on 30 June 2023. No Requests for Further Information were received from ICC.

Response to Section 42A Report

6. I have read the 42A report and disagree with the recommendation to refuse the application and the reasons for my opinion are outlined below.

Background

7. Section 2 of the resource consent application provided background on the applicant, the Bluff Oyster and Food Festival Charitable Trust (the **Trust**). It also provided background on the Bluff Oyster and Food Festival (the **Festival**). The Applicant's evidence has provided further background on both. I adopt those descriptions for the purposes of my evidence.

The Club Hotel

8. The Club Hotel is a Category II heritage building under Heritage New Zealand Pouhere Taonga's (**HNZPT**) list. The site is also recorded as a site of heritage value in Appendix II - Heritage Record, of the Invercargill City District Plan. The Club Hotel is formed of what was originally four separate buildings that were merged into one building that then operated for

many decades as a hotel. A description of the building is provided in Section 3.5 of the application, and I adopt that description for the purposes of my evidence.

Dangerous Building Notice

9. ICC has issued a Dangerous Building Notice relating to the Club Hotel a copy of which is included as Appendix 1 of my evidence. The Dangerous Building Notice is discussed further below.

The Activity

10. The application proposes demolition of the Club Hotel, earthworks (deposition of fill) and landscape enhancement.

Activity Status

11. The proposed demolition of the Club Hotel is a non-complying activity under Rule HH-R9 of the District Plan. I note here that the District Plan does not regulate the demolition of the building as a prohibited activity. As such the District Plan does anticipate that in some circumstances demolition of historic buildings may occur.
12. The recommending report raises a question on the need for resource consent for the activity under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS). A response to this is detailed below. I conclude that resource consent is not required for the activity under the NESCS.

National Environmental Standards for Contaminants in Soil 2011

13. The properties the application relates to are not registered on Southland Regional Council's the Selected Land Use Sites (**SLUS**) register. Southland Regional Council (**SRC**) confirmed in its submission that it does not hold a record of hazardous activity on the subject property. The submission states that if demolishing a building, the applicants must consider that lead-based paint and asbestos products may have been used in older buildings on the property and these can, in some cases, pose a risk of contamination. The submission then recommends that if demolition is approved an advice note is placed on the consent advising of the potential risks associated with asbestos products or lead-based paints and that, appropriate processes are followed.
14. The NESCS applies to a piece of land described by 1 of the following:

(a) an activity or industry described in the HAIL is being undertaken on it:

(b) an activity or industry described in the HAIL has been undertaken on it:

(c) it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.

15. The applicant is not aware of any use of lead paint in or on the building but has as noted in the Trust's evidence has advised that asbestos adhesive was used on flooring products in the building. The applicant arranged removal of that flooring and asbestos material by specialist asbestos contractors. As a result, this asbestos material is no longer present in the building. Removal of the asbestos simplifies the demolition process and reduces the costs associated with it particularly waste disposal costs.
16. The HAIL under E (1) includes buildings containing asbestos products known to be in a deteriorated condition. While the asbestos material has been removed and is not present (b) applies as an activity described in the HAIL has been undertaken on the piece of land. The NESCS regulates five activities where a proposal is on a site deemed a piece of land as in this case. These activities are removing / replacing a fuel storage system, sampling the soil, disturbing the soil, subdividing, and a change of use.
17. The application seeks resource consent under Rule SOIL-R7 for approximately 850m³ of earthworks on the site. This provides for the deposition of fill material on the area the Club Hotel currently occupies. This is required to enable formation of a level surface with the existing festival site. These earthworks involve deposition of fill material on the site rather than disturbance of soil (excavation of existing soils on the site). As such there is a difference between 'soil disturbance' under the NESCS and the 'earthworks' proposed that enable filling and levelling of the site. The area of the site on which the Club Hotel building sits will need to be filled to bring it to the level of the existing festival site. Soil disturbance will therefore be limited to any associated with demolition activity as the site is cleared. The applicant intends to leave foundations in situ once lowered to existing ground level. This limits the amount of soil disturbance needed.
18. Subclause 8 (3) of the NESCS permits a certain level of soil disturbance on a piece of land provided requirements listed in the Subclause are met. The volume of soil disturbance associated with demolition activity is estimated at less than 25m³. There is likely to be only very minor soil disturbance associated with machinery movement and use and as demolition occurs and materials are removed. Under Subclause 8 (3 (c) the volume of the disturbance of the soil of the piece of land must be no more than 25m³ per 500m². For the site this equates to approximately 250m³ and the level of soil disturbance required will be significantly less than

this. This aspect of the proposal is therefore a permitted activity and resource consent is not required under the NESCS.

19. The applicant is unable to confirm if lead-based paint is present in the building as it cannot be accessed under the Dangerous Building Notice. For the same reason the presence or absence of any other additional hazardous substances or materials in the building cannot be determined or confirmed. The Southland Regional Council submission recommended use of an advice note advising of the potential risks associated with asbestos products or lead-based paints in the building so that appropriate processes are followed. I support this approach. It is a matter that will invariably be managed by the demolition contractor.

Receiving Environment

20. The resource consent application and the 42A report both provide a detailed description of the receiving environment. I adopt those descriptions for the purposes of my evidence.

Matters Raised in Submissions

21. No submitters opposed the proposed demolition of the Club Hotel. Ms Ellis has provided a summary of the submissions in her recommending report, and I adopt that for the purposes of my evidence. My evidence responds to some of the matters raised in submissions. The applicant has been in discussions with key submitters regarding relief sought.
22. The applicant has agreed to amended resource consent conditions with both Waka Kotahi New Zealand Transport Agency (**Waka Kotahi**) and HNZPT. The applicant has promoted these conditions to ICC following discussion and agreement with both.
23. Southland Regional Council have clarified that they made a formal comment (a neutral submission) for the applicant and the consenting authority to consider during the decision-making process. They also confirmed that they do not wish to be heard.

The Permitted Baseline Section 104(2)

24. Under section 104(2) of the RMA, the Council may disregard an adverse effect of an activity on the environment if the district or regional plan or a national environmental standard permits an activity with that effect. There is no permitted baseline in terms of proposed demolition of the Club Hotel Building. The proposed expansion of the festival site into the area currently occupied by the Club Hotel and associated landscape treatment is consistent with the District Plan's definition of Communal Activity. Communal Activity is permitted on the site under the Business 2 Zone rules and forms part of the permitted baseline. I note that the zone

provisions contain no rules requiring commercial sites in the Business 2 Zone to be utilised a set number of days per year or to be made available for community uses. Communal Activity such as the Festival can be undertaken on the site once a year or 365 days a year.

Section 104 Matters

25. The matters that the Commissioner must have regard to include the actual or potential effects on the environment of allowing the activity, any relevant Plan or Proposed Plan provisions, and any other matter the Commissioner considers relevant. Section 104 is subservient to Part 2 of the Act.

Section 104D The Gateway Tests

26. The proposed demolition of the Club Hotel is a non-complying activity under Rule HH-R9 of the District Plan. When considering a non-complying activity, the Council may only, in accordance with section 104D, grant a resource consent for the activity if it is satisfied that the adverse effects of the activity are minor, or the application is for an activity that will not be contrary to the objectives and policies of the relevant plan or proposed plan. If the application passes one of either of the limbs of the “gateway” tests in section 104D, under section 104B the Council may grant or refuse consent and if it grants the application, may impose conditions under section 108 of the RMA. There is no primacy given to either of the two limbs, so if one limb can be passed then the 'test ' is passed.
27. My evidence concludes that when the objectives and policies are read and appraised as a whole the activity meets the second gateway test and is not contrary to the relevant objectives and policies of the SRPS and District Plan.
28. I note that Ms Ellis reaches the same conclusion in her recommending report (section 13 page 20):

“With respect to the second gateway test under section 104D(1)(b), I consider the application is inconsistent with but not contrary to the relevant policies and objectives of the Operative District Plan. As such I consider the second gateway can be met. Accordingly, as the application has passed one of the gateway tests in s104D, consent can be granted for this non-complying activity”.

29. I understand the phrase “not contrary” means that the proposal must not be opposed in nature or opposite to what the policies are intending to achieve. As one of the limbs of the ‘gateway test’ has been passed, then the application is eligible for approval under s104. The relevant plan provisions and my assessment of the activity against them are detailed below at

paragraphs 58 – 63. My analysis in these paragraphs addresses section 104 and 104D assessments.

30. I will now discuss the actual and potential environmental effects of the proposed activity before discussing the statutory considerations including the relevant plan as part of the assessment of the application under the broader section 104 assessment.

ENVIRONMENTAL EFFECTS

Actual or Potential Effects

Archaeological Effects

31. The applicant is in the process of seeking an Archaeological Authority from Heritage New Zealand Pouhere Taonga for demolition of the building. A condition of consent is promoted that requires this to be obtained prior to any demolition works commencing. This is of course also a requirement of the Heritage NZ legislation in any event. This process ensures that the proposed activity is not likely to give rise to any significant adverse effects on archaeology.

Historic Heritage Effects

32. The application states that adverse effects of the proposed demolition of the Club Hotel on historic heritage values will be more than minor. Given the proposed demolition this is an inescapable conclusion. Once the building is demolished the physical historic heritage values associated with it will be gone.
33. However, these adverse effects on historic heritage should not be viewed in isolation. A range of other environmental effects need to be considered and are relevant to this proposal. These effects are outlined and discussed below. All the actual and potential effects of the proposal need to be considered.

Health and Safety Effects

34. The application included a structural engineering report on the Club Hotel Building. The Structural Report concludes that Club Hotel building is an insanitary building that represents a risk to the public in a seismic or windstorm event. It identifies a significant health and safety risk to any persons in the building, notes that it contains large areas of black mould, has vegetation growing internally within it, and its sanitary fixtures are damaged with foul sewer piping open, which represents a health hazard.
35. The Structural Report notes that in a major natural hazard event parts of the structure are likely to fail and the front façade and other thinner brick masonry walls around the perimeter

could collapse. The roof of the building is also identified as being at risk of collapse from a significant windstorm event. The possibility of the parapet of the building toppling is also identified. The Structural Report recommends demolition as the most effective course of action to address these risks. The Report notes that level of degradation to the building makes remedial repairs and installation of effective bracing and support for the roof structure and masonry brick walls over the entire structure prohibitively expensive.

36. The Structural Report notes that the building has a very low rating - approximately 14% NBS (at best) but notes that it could be as low as 0% NBS. It further notes that neighbouring buildings at either end of the Club Hotel would likely be affected by any partial collapse. The managed demolition of the Club Hotel will avoid, and remedy risks associated with the dilapidated condition of the building on neighbouring buildings, and the general public within the vicinity of the building. Demolition of the Club Hotel building will address this existing adverse effect on the environment. The proposal will make the Festival site safe, will avoid risks to the public using the Gore Street State highway 1 including the footpath and will provide for people's health and safety.

37. The recommending report states:

"Safety from buildings/structures is governed by the Building Act as opposed to the RMA. While the public safety benefit is important, I consider the relevant positive effects to be those which are created by the proposed use of the site, being the use of the site for the festival, and the landscape enhancement proposed".

In my opinion health and safety risks associated with the Club Hotel are a key consideration under the RMA 1991. Relying on the findings of the Seismic Report, in terms of health and safety risk, the Club Hotel is having an adverse effect on the environment. The proposed demolition of the Club Hotel will avoid, and remedy health and safety risks associated with the dilapidated condition of the building.

38. The recommending report also states:

"The application outlines an assessment of alternatives, and concludes why demolition of the buildings is the only viable options compared with options to retain and restore the building or sell the site for someone else to do so. This assessment is accepted".

Relying on the findings of the Seismic Report, I am also of the opinion that the only option available is the demolition of the Club Hotel Building. If the application is refused the health and safety risks associated with the Club Hotel will not be avoided or mitigated and it will continue to pose an on-going risk.

Dangerous Building Notice

39. As noted above the Club Hotel is subject to a Dangerous Building Notice and no person can enter it. This reinforces that the only practical option is now demolition, whether pursuant to this consent, natural forces or emergency powers. It also influences the extent to which mitigation can be achieved via resource consent conditions for example in terms of recording and potential salvage of materials within the building.

Natural Hazard Risk

40. The conclusions of the Structural Report highlight the risk the building poses in the event of a seismic or windstorm event. The proposed demolition of the building will avoid the risks the Club Hotel structure poses from any significant seismic or windstorm events. Demolition of the building removes this natural hazard related risk and as such is considered a positive environmental effect and will enable the Trust and wider community to utilise the site again which also has social, cultural and economic benefits for Bluff and the wider area.

Visual Effects

41. For the subject site, the existing and reasonably foreseeable receiving environment comprises the existing Club Hotel Building and adjoining land and buildings currently used for commercial purposes. The amount of commercial activity present in the town centre of Bluff has reduced over time as the population of the town has declined. Wider social and economic changes have reduced demand for commercial services and properties in the port town, including the visitor accommodation and hospitality that the Club Hotel provided. The dilapidated state of the Club Hotel reflects these wider societal changes. The building has not functioned as a hotel for a long time. The commercial centre of Bluff is not as busy as it was when the town had a higher population, and the Club Hotel functioned as a key part of its commercial centre.
42. Submitters have noted the poor visual state of the Club Hotel Building. Ms Baxter in her urban design comments states that the loss of a building within a streetscape can be explained as a 'missing tooth in the smile'. She then notes that demolition of the building will result a smile with hardly any teeth left. I would suggest that the tooth is very decayed and diseased and can't be repaired or retained given its poor health. Unfortunately, the tooth needs to be removed. As outlined above it is accepted that there are no alternatives to demolition. Refusal of resource consent will not address the adverse visual effects the building is currently having. Demolition of the building given its current dilapidated state will result in a positive visual effect on the streetscape through the establishment of the landscaped frontage that people will actually be able to use and engage with.

43. I accept that there is an adverse effect on the streetscape from the loss of the building, although the extent of this effect is necessarily tempered by the poor visual state that the building is currently in as well as the continued presence of scaffolding and barricades which must be in place for public safety and prevent use of the footpath and parking adjacent the building. I do however note that there are no District Plan rules relating to streetscapes or requirements for new buildings or structures to be terraced or built to street boundaries under the Business 2 Zone rules. Buildings can be set back from street frontages under the District Plan. Property owners are also not required to have buildings present on commercial sites in the zone. The permitted baseline of the Plan does not require any future development on the site or on other sites within Bluff's Business 2 Zone to be constructed to the street boundary. It would appear that the District Plan provisions favour an approach of enabling commercial development of whatever nature over dictating the type and style of development in this area of Bluff to maintain existing streetscape values.

Public Access

44. As detailed in Appendix 2 of the application, the applicant proposes landscape enhancement to incorporate the cleared area where the Club Hotel building currently stands into the wider Festival site. This will allow for formation of an expanded and enhanced festival site and new site frontage to Gore Street / State highway 1. The landscape enhancement includes an area approximately 5m in depth that the public will be able to utilise, adjacent to the State highway footpath. The expanded festival site will be located to the south of this behind a new fence. The fence will demarcate the main festival site area from the landscape treatment area.
45. The landscape area has been designed to provide the Festival site street frontage post removal of the Club Hotel building. No replacement buildings are currently proposed where the Club Hotel stands. No new buildings are currently needed given the intention to incorporate the area into the Festival site. Removal of the building will enable creation of expanded north facing area on site and improved festival experience. The applicant has promoted the landscape treatment area to provide new frontage to the street. The applicant does not want to erect the proposed fence directly on the street boundary of the expanded site.
46. The recommending report suggests that an easement should be placed on the front part of the property to enable and secure ongoing public access to the landscape treatment area. The site is private property and I do not consider that an easement is necessary or justified. The landscape treatment area will present as an extension of the footpath adjoining State highway 1, containing seating areas, information panels and other elements which will encourage the public to use the area. The easement would therefore have no practical benefit but would create significant barrier to potential future redevelopment of the site. Given the

central location of the site and its presence on the street boundary of the property. Preserving the sites' ability to be developed in the future should be an important consideration. An easement in perpetuity is likely to 'blight' the site which would be an undesirable outcome, inconsistent with the objectives and policies of the Business Zone. Noting that building on the front boundary of the property is not a requirement under the District Plan.

Town Centre Effects

47. The District Plan's overview of the Business 2 Zone states that the zone provides for the business, commercial, cultural and social activities serving suburban communities and the town centre at Bluff. The key District Plan objective for the Zone (BUS2Z-O1) seeks maintenance and enhancement of suburban centres that provide for a range of retail, commercial, cultural, educational, and social activities serving Bluff Town Centre.
48. The Bluff Oyster and Food Festival is consistent with the District Plan definition of Communal Activity. Communal Activities are permitted in the Business 2 Zone. This application seeks demolition of the Club Hotel and expansion of the Bluff Oyster and Food Festival site. The proposal is consistent with the maintenance and enhancement of Bluff Town Centre and provision of a range of retail, commercial, cultural, and social activities in the Township.
49. The Section 42A report writer at page 18 states:

"I consider that active management and adaptive re-use are no longer viable options for the subject building and that demolition is therefore required. I also consider the dilapidated unused building does not positively contribute to the community or vibrancy of the business area".

50. I agree with this comment and would go further to say that the building is having an adverse effect given that the Bluff Oyster and Food Festival is unable to operate safely while it remains standing. The ability of the site to be fully utilised for a wide range of other activities is also limited. The proposed demolition of the Club Hotel and resulting provision of an expanded and enhanced Festival site will have positive effects on the town centre of Bluff. Longer term it may also enable the site to be further developed for activities that support the purpose of the Business 2 zone.

Cultural Effects

51. Te Ao Marama Inc (TAMI) have provided a submission in support of the demolition. The recommending report provides an opinion, that this is sufficient to confirm that there are not adverse cultural effects that need to be addressed. While I agree with this, I note that the applicant has agreed to a condition requested by HNZPT that would provide an opportunity

for further consultation with mana whenua regarding the proposed landscape treatment and historic interpretation information.

Earthworks

52. In terms of effects relating to earthworks I agree with the report writer in that earthworks can be managed in such a way that adverse effects can be avoided, remedied and mitigated. Resource consent conditions can be used to ensure that earthworks in this case filling are managed appropriately.

Positive Effects

53. Positive effects associated with the demolition of the Club Hotel have been outlined in the application. Several submitters have emphasised the positive effects in their submissions. The report writer considers these positive effects 'to be less than minor'. I disagree, in my opinion the positive effects of the proposal particularly in terms of enabling people's social and economic wellbeing and their health and safety are significant. In the absence of this consent the site will sit idle indefinitely until the building either collapses or the Council has to step in to address the Dangerous Building issues.

Summary of Effects

54. The recommending report provides the following conclusion on actual and potential effects on the environment:

“Overall, I consider the adverse heritage effects to be significant and that there is not a suitable mitigation, offsetting or compensated for the loss of heritage values. Based on the current proposal, I considered these effects to be unacceptable. All other effects are mitigated, and no more than minor”.

Aside from historic heritage effects I agree that all other effects will be no more than minor. I also consider there to be several positive effects associated with the proposal as outlined above. I agree that adverse effects on historic heritage values associated with the building will be significant. However, for the reasons set out in this evidence that when weighted against the reasons for the demolition and the positive effects arising from the landscape treatment area, removing an adverse effect on the health and safety of the public as well as enabling the continued operation of the Bluff Oyster and Food Festival and wider use of the site I do not agree with the recommending report that the application should be refused.

Mitigation

55. In terms of opportunities for further mitigation of adverse effects on heritage values, the recommending report states:

“An alternative landscape design response that has planting and shelter, suitably reflects the heritage values of the site, and current use of the site as the Bluff Oyster and Food Festival. That the design allow for access into to the site, provide for a better CEPTD response, and has a legal mechanism for the public access and use”.

Ms Back has discussed the Landscape Plan and design in her evidence. As identified and discussed above a legal mechanism for public access is not considered appropriate.

56. In terms of opportunities for further mitigation of adverse effects on heritage values, the recommending report also states:

“That the use of the wider response be increased, to provide more a community and business benefit then being limited to a one day a year event. Alternatives should be proposed by the application, but ideas include extra events through the year, use of the space for a local weekly market, availability of the site for retail stands and small business, or any other initiatives that will increase the use of the site, and the contribution of the site of the Bluff community”.

The applicant’s evidence notes that the site is already used for a wide range of community uses and has aspirations for expanded uses. The applicant currently makes the site available for community use and has every intention of continuing to do so. The uses referred to can all occur as permitted activities. What uses occur is driven by community aspirations and needs and related requests for use of the site. I do not think a condition compelling the Trust to hold markets or similar is likely to be helpful. They may or may not work, and would require engagement by 3rd parties likely making such a condition unlawful in any event.

57. In my opinion the suggested mitigation outlined in the recommending report is not likely to remedy or mitigate historic heritage effects further to any significant extent. The festival site already provides beneficial community use and as noted by the applicant there is plenty of scope to increased use of the site. I note that demolition of the Club Hotel building is a necessary precursor to enabling improvements to the festival site and allowing further community use. Increased community and business use will not be possible if the Club Hotel building is retained on a key part of the site in it dilapidated state.

STATUTORY CONSIDERATIONS

Regional Policy Statement 2017

58. The recommending report concludes that the proposal does not protect historic heritage from inappropriate use and development and the proposal does not meet Objective HH.1 or Policy HH.2 of the Southland Regional Policy Statement (**SRPS**) which are listed and discussed below.

***Objective HH.1** – Protection of historic heritage: Historic heritage values are identified and protected from inappropriate subdivision, use and development.*

59. In terms of Objective HH.1 the building is identified and protected via District Plan rules. I do not consider the proposed demolition of the Club Hotel and the subsequent loss of heritage values inappropriate development in the circumstances. It is generally accepted by all parties including NZHPT (and the section 42A author) that the building must be demolished. Retention of the building in its current state will not protect the building nor will it ultimately retain its heritage values. Relying on the findings of the Seismic Report and noting the implications of the Dangerous Building Notice it is a question of when the building is demolished rather than if it is demolished. Managed demolition would be a better outcome than a situation whereby the building collapses or partially collapses because of a seismic or storm event.

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

60. In terms of Policy HH.2 I do not consider the proposed demolition of the Club Hotel and the subsequent loss of heritage values to be inappropriate development in this circumstance. The policy identifies a case-by-case approach that allows factors such as financial cost and technical feasibility when making decisions relating to the protection of historic heritage. These factors apply in this instance, and I do not consider the proposal contrary to this policy or Objective HH.1. The seismic report is clear that it is not feasible to retain the structure.
61. No other SRPS provisions are listed or discussed in the recommending report. As identified in the application the District Plan is required to 'give effect to' the provisions of all higher planning instruments. The District Plan became operative in 2019. It is a relatively new planning instrument that has been prepared in accordance with the requirements of the Act.

As such it can be concluded that the District Plan gives effect to the Southland Regional Policy Statement 2017 and as such I have not listed or discussed any other SRPS objectives or policies.

Invercargill City District Plan 2019

62. As noted above the District Plan must give effect to the SRPS. The recommending report lists objectives and policies considered of relevance, provides discussion and concludes:

“Overall I consider the proposal to be inconsistent with, but not contrary to the objective and policies of the District Plan”.

Given the District Plan must give effect to the SRPS this conclusion indicates that the proposal is not contrary to either document. The resource consent application listed and discussed the relevant provisions of the District Plan and I adopt that analysis for the purposes of my evidence.

63. When the objectives and policies of the District Plan are read and appraised as a whole with appropriate emphasis placed upon directive policies the proposed activity is not contrary to the objectives and policies of it. The proposal is not opposite to what these provisions are intending to achieve. Of particular relevance is Objective BUS2Z-O1 which seeks maintenance and enhancement of Bluff town centre via provision for a range of retail, commercial, cultural, educational and social activities.

OTHER MATTERS

Precedent and Cumulative Effects

64. The recommending report provides an opinion that approval of the application may set a precedent for historic heritage buildings in the District, should safety be used as the sole rationale for demolition. As discussed in this evidence, avoiding adverse effects on the health and safety of the public is a key reason for the application. However, health and safety effects are not the only reason. As outlined in my evidence there are a range of environmental effects relevant to this proposal and drivers for demolition of the building. The commercial history of the building and changes to Bluff Township, the wider background, including establishment of the Festival on the site and its location in Bluff Town Centre are all unique factors that are unlikely to apply elsewhere. I note that there are no other buildings in Bluff listed as items of historic heritage in Bluff under the District Plan.
65. Any future proposals relating to items of historic heritage listed in the District Plan will need to be assessed on a case-by-case basis on the merits of each application. We cannot speculate

on what may or may not happen in the future. I note the applicant has not sought to reference previous resource consent decisions relating to historic heritage buildings and argue that these have set a precedent. In my opinion approval of the application is not likely to set a precedent.

66. The recommending report also notes that as the Club Hotel is the only heritage listed item in Bluff, cumulative heritage effects from the loss of this building will be significant. As there are no other buildings in Bluff identified as items of historic heritage in the District Plan there is not likely to be any cumulative effect associated with demolition of the building. In my opinion for the same reasons outlined above in relation to precedent effects, I do not think that the proposal is likely to have a cumulative effect in terms of the heritage across the wider district.

Non-Statutory Documents

67. The application references non statutory documents that the applicant considers relevant to the proposal including the Bluff Motupōhue 2020 Tourism Master Plan, Southland Murihiku Events Strategy 2020 – 2025 and Southland Murihiku Food Tourism Strategy 2021. I note the relevance of these documents in terms of the positive effects of the Festival on tourism in Bluff Township and the Southland Region.

PART 2 OF THE RMA

68. Part 2 of the RMA sets out the purpose and principles of the RMA. Section 5 sets out the purpose of the RMA, as ‘the sustainable management of natural and physical resources’. The definition of ‘environment’ under the RMA 1991 includes all natural and physical resources. The Club Hotel is an existing physical resource.
69. Sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while avoiding, remedying, or mitigating any adverse effects of activities on the environment. In my opinion the proposed demolition of the Club Hotel building is consistent with the sustainable management purpose of the Act. Demolition of the building will enable people to provide for their social and economic, well-being and for their health and safety whilst mitigating adverse effects on historic heritage as far as practicable in the circumstances.
70. Section 6 of the RMA lists the matters of national importance which are to be recognised and provided for and this includes the protection of historic heritage from inappropriate subdivision, use, and development (section 6 (f)). The proposed demolition of the Club Hotel will have significant adverse effects on historic heritage values. As outlined above I do not consider the

proposed demolition of the Club Hotel and the subsequent loss of heritage values inappropriate development in the circumstances. It is generally accepted by all parties including NZHPT that the building must be demolished. Retention of the building in its current state will not protect the building nor will it ultimately retain its heritage values. The proposal is not considered inappropriate in the circumstances.

71. In regard to Section 7 matters I consider 7(c) and (f) of relevance which require particular regard to the maintenance and enhancement of amenity values (7(c)) and maintenance and enhancement of the quality of the environment (7(f)). As discussed above the demolition of the building, landscape treatment and incorporation into the Festival site will have a positive effect on amenity values and the quality of the environment. I agree with Ms Ellis that there are no Section 8 matters considered of relevance to this proposal.

Conclusion

72. The proposed activity will have more than minor adverse effects on historic heritage values associated with the Club Hotel building.
73. Provided avoidance and mitigation measures are followed and conditions of resource consent met the adverse effects of the proposal will be no more than minor in relation to all other matters.
74. Demolition of the Club Hotel building will address an existing adverse effect on the environment. The proposal will make the Festival site safe, will avoid risks to the public using Gore Street State highway 1 and will provide for people's health and safety.
75. The proposed activity is not contrary to the relevant Objectives and Policies of the Invercargill City District Plan.
76. The proposal will have positive social and economic effects, notably those associated with the Bluff Oyster and Food Festival which will be able to reconvene on the site post demolition.



Luke McSoriley

1st November 2023

Appendix 1 - Dangerous Building Notice