

BEFORE THE TIMARU DISTRICT COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

An application for Resource Consent
by Bayhill Developments Limited

STATEMENT OF EVIDENCE OF JONATHAN CLEASE

Dated: 23 November 2016

GREENWOOD ROCHE
LAWYERS
CHRISTCHURCH
Solicitor: L J Semple
(lauren@greenwoodroche.com)

Applicant's Solicitor
Level 5
83 Victoria Street
P O Box 139
Christchurch
Phone: 03 353 0574

INTRODUCTION

- 1 My name is Jonathan Clease. I am employed by a planning and resource management consulting firm, Planz Consultants Limited, as a senior planner and urban designer. Planz Consultants provides specialist resource management planning services in New Zealand.
- 2 I hold the qualifications of a B.Sc. in Geography, a Master of Regional and Resource Planning, a Master of Urban Design, and am a full member of the New Zealand Planning Institute.
- 3 I have twenty years' experience working as a planner, with this work including policy development, providing s42A evidence on plan changes, the development of plan changes and the preparation of s32 assessments, and the preparation and processing of resource consent applications. I have worked in both the private and public sectors, in both the United Kingdom and New Zealand.
- 4 My specific experience relevant to this evidence includes providing planning and/or urban design evidence on large town centre commercial and public sector buildings resource consents, providing evidence and attending mediation on commercial and heritage District Plan provisions, and preparing a number of resource consent applications for the repair and reuse of heritage buildings. Recent heritage projects include the repair and reuse of the following Christchurch buildings:
 - (a) McDougall House, 24 McDougall Avenue for Nurse Maude Association;
 - (b) Acland House, 85 Papanui Road for Christchurch Girl's High School;
 - (c) Private dwelling - 5 Jacksons Road;
 - (d) Canterbury Provincial Chambers, Durham Street;
 - (e) Hagley Oval Umpire's Pavilion;
 - (f) Mona Vale Homestead and Gatehouse;
 - (g) Sign of the Takahe, Dyers Pass Road;

- (h) Pump House, Matai Street East; and
 - (i) Christchurch Town Hall, Kilmore Street.
- 5 I have also acted as a Commissioner in hearing and subsequently granting a series of resource consent applications for the repair and reuse of the Arts Centre on Worcester Boulevard.
- 6 In preparing this evidence I have read and had regard to the following:
- (a) The s42a report and associated appendices;
 - (b) The submissions received;
 - (c) The evidence prepared by other experts on behalf of the applicant;
 - (d) The relevant provisions of the Timaru District Plan (District Plan) and the Canterbury Regional Policy Statement (CRPS).
- 7 I have visited the site and the surrounding town centre area on a number of occasions, with the most recent visit being in September 2016.
- 8 I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I have complied with it in preparing this evidence and I agree to comply with it in presenting evidence at this hearing. The evidence that I give is within my area of expertise except where I state that my evidence is given in reliance on another person's evidence. I have considered all material facts that are known to me that might alter or detract from the opinions that I express in this evidence.

SCOPE OF EVIDENCE

- 9 My evidence covers the three broad areas summarised below:
- (a) Part A: Overview
 - (i) Introduction and description of the application
 - (ii) Existing situation and background

- (b) Part B - Analysis: the statutory framework under the Resource Management Act 1991 (the Act)
 - (i) Section 104(1)(a) any actual or potential effects
 - Heritage
 - New Replacement Buildings
 - (ii) Section 104(1)(b)(v) relevant provisions of a regional policy statement
 - (iii) Section 104(1)(b)(vi) relevant provisions of a plan or proposed plan
- (c) Part C: Part II RMA Consideration
 - (i) Section 6(f) Historic Heritage
 - (ii) Other Part II Issues
 - (iii) Section 5 Consideration

EXECUTIVE SUMMARY

- 10 It is undisputed that the Hydro Grand has heritage value, and that these values will be lost were the building to be removed. On the basis of the Engineering, Quantity Surveying, and Economic Feasibility evidence it is, however, accepted that repair and reoccupation is not financially plausible and that the extent of works to adapt the building would be highly intrusive and would result in the loss of much of the remaining heritage fabric. In such circumstances, replacement of a heritage building with a modern mixed use development is not considered to be an 'inappropriate' use of the heritage resource.
- 11 The design of the replacement buildings will create a positive urban design outcome for the town centre, especially relative to the current vacant and underutilised character of the site as it currently stands. The mixed use proposal provides residential, office, hotel and entertainment choices that are not currently available in Timaru and therefore provide an important addition to the attractiveness and vibrancy of the town centre.

- 12 The replacement buildings are largely compliant with the District Plan bulk and location standards. The additional height above 20m is due to the provision of an architecturally interesting roofline reflecting the visible nature of the site and that does not result in shading that is materially different from a permitted 20m building located adjacent to the boundary.
- 13 The transportation-related effects have been carefully considered and additional parking has been secured to address concerns raised by submitters.
- 14 Whilst any proposal to replace a heritage building will sit uncomfortably against policy direction for retention, such direction is not considered to be absolute. Instead a case-by-case assessment is required as to whether a proposal is inappropriate. Overall the proposal is considered to be consistent with the broad outcomes sought by the CRPS, the District Plan, and Part 2 of the Act.

PART A: OVERVIEW

- 15 The proposal is set out in detail in the application, and is also helpfully described in pages 3-4 of Mr Henderson's s42a report. In summary the proposal involves the removal of an existing heritage building, the 'Hydro Grand', and its replacement with three new buildings, connected at ground level and oriented around an open northeast-facing courtyard. The three buildings comprise an office building, a residential apartment building and a hotel, with the office and apartment building incorporating retail and hospitality activities at ground level. Three levels of carparking are incorporated into the hotel building, providing 90 spaces including three disabled parks and a loading bay.
- 16 Since the s42a report was prepared, the applicant has acquired an existing Council carpark located to the northwest of the site following disposal of the carpark by the Council as being surplus to requirements. This existing carpark is legally described as Lot 1 DP 302425 and is 1,129m² in area. The sale and purchase agreement is subject to an encumbrance to be placed on the title in favour of the Council that requires the site to continue to be used for carparking and prevents buildings or other development from occurring on the site.

- 17 The existing carpark was established via resource consent 4875 which was granted on 2nd April 2003. A copy of the resource consent decision and associated plans is appended to this evidence as **Attachment 1**. The consent provides for 33 carparks in the current, existing layout, along with landscaping. It is noted that whilst the consent includes an alternative layout that provides for up to 45 spaces, I understand from Mr Rossiter that the aisle width shown on the 45 space option is too narrow to enable functional use and therefore this alternative layout is not relied upon.
- 18 From a consenting perspective the proposal therefore comprises two separate but related matters. Firstly heritage issues associated with the removal of the existing Hydro Grand building and secondly the design quality, urban form, and transport and amenity-related effects of the replacement new buildings. Whilst the proposal has separate elements, the design is such that the proposed replacement buildings cannot be given effect to without the removal of the Hydro Grand building.

Site location and description

- 19 As set out in section 3.1 of Mr Henderson's report, the site is located on the corner of The Bay Hill and Sefton Street East (State Highway 78). It is comprised of five existing titles and has a total site area of 2,529m².
- 20 The Hydro Grand building is the primary built element on the site. This three storey building is located at the corner of The Bay Hill and SH78 and has a later single storey addition to the west that has previously been used as a bottle store. The Hydro Grand has not been occupied for some ten years. The history of the Hydro Grand is summarised in the evidence of Mr Salmond and the current building condition is set out in the engineering evidence of Mr Paterson.
- 21 The balance of the site is formed as an asphalt hardstand area that is used for carparking. There is no significant vegetation or other features on the site.
- 22 A detailed description of the surrounding area is set out in section 2.2 of the application, and a context analysis is incorporated into the

design statement that is attached as Appendix 2A to the application, with these matters also summarised in the evidence of Mr Burgess.

Regulatory Framework

- 23 The site has a Commercial 1A zoning, with this zoning also applying to the wider commercial town centre area of Timaru. The rules that the proposal breaches are set out in detail in the application, and are also described in Mr Henderson's report. For convenience a copy of the rule compliance table that was included in the application is appended to this evidence as **Attachment 2**.
- 24 I am in agreement with Mr Henderson as to the relevant rules against which consent is sought. The application as a whole is a fully discretionary activity, with no restriction on the matters that are able to be considered. It is noted that demolition of buildings in the Commercial 1A zone is a discretionary activity, whether or not the building is heritage listed, that is, the Plan does not differentiate at a regulatory level between the loss of heritage buildings and buildings more generally.
- 25 Whilst discretion is unlimited, it is considered that the key matters for assessment are as follows:
- (a) Consideration of the current building condition, the extent and intrusiveness of the strengthening and upgrade works required, the cost and financial viability of such works and the associated effects on heritage fabric and values of these works, and the effects on heritage values if the building is removed; and then
 - (b) The design quality of the replacement buildings, along with any associated effects associated with that design and use including:
 - (i) Urban form and shading resulting from the proposed height of the buildings;
 - (ii) Transport generation and access;
 - (iii) The adequacy of on-site car parking;

- (iv) Noise management associated with proposed food and beverage tenancies; and
- (v) Positive effects relating to town centre regeneration, the provision of new apartment, office, and hotel accommodation options; and the development of a new hospitality area and publicly accessible courtyard space at the top of the Caroline Bay Piazza.

26 It is noted that the Hydro Grand building was constructed post-1900 and as such demolition of the building itself is not subject to the need for an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014. The site on which the building is located has nonetheless been associated with pre-1900 human activity and therefore an Archaeological Authority will need to be obtained for earthworks and the removal of any below ground foundations.

PART B: THE STATUTORY FRAMEWORK

27 The test for considering an application for resource consent under s104, subject to Part 2, is set out in the following sections.

S104(1)(a) Any actual or potential effects on the environment of allowing the activity

Heritage

28 The Hydro Grand building is identified as a Category B heritage item in the Timaru District Plan and is also registered by Heritage New Zealand Pouhere Taonga as a Category II item (registration number 2052).

29 As set out in the evidence of Mr Salmond, the building has heritage value, with these values reinforced by the site's visually prominent location at the top of The Bay Hill. Whilst these values are undisputed, it is noted that the building is not of the highest categorisation under either the District Plan or HNZPT's registration system.

30 Section 6(f) of the Act requires decision makers to protect historic heritage from inappropriate subdivision, use, or development, subject to Part 2. The District Plan's objective not surprisingly seeks

to identify and protect items of heritage importance which contribute to the character of the District, with this objective to be implemented through a policy to protect those buildings in the District with 'higher' heritage values¹ and a second policy to ensure the careful assessment of the character of heritage buildings of 'lesser' significance². It is therefore acknowledged that the removal of the building is not something to be undertaken lightly, and that likewise its removal must inevitably result in a loss of heritage value, noting that the building in its current condition is arguably of lesser significance.

31 In considering whether the removal of the heritage item constitutes 'inappropriate use' the following approach has been undertaken in evidence:

- (a) The heritage value of the building is recognised and acknowledged through the District Plan and HNZPT listings, and confirmed in the evidence of Mr Salmond;
- (b) The project engineers undertook a condition assessment of the building for health and safety purposes and also assessed the building in terms of its structural integrity and percentage of New Building Standard (NBS) that it was achieving;
- (c) The project architects explored a number of reuse scenarios, with these options outlined in Appendix 2b of the application and summarised in Mr Burgess' and Mr Paterson's evidence;
- (d) The engineering works (structural, fire safety, and building services) necessary to implement the various options were then explored in Appendix 3a of the application and are summarised in the evidence of Mr Paterson;
- (e) These engineering reports also reference the building Health & Safety Report attached as Appendix 3b of the application;
- (f) The engineering works were then costed by a quantity surveying firm, with the cost estimates set out in Appendix 4 of the application and summarised in the evidence of Mr Davidson;

¹ Part B, Section 10, Policy 2

² Part B, Section 10, Policy 3

- (g) The cost estimates for the various repair and reuse options have then been the subject of a business case analysis set out in Appendix 5 of the application and summarised in the evidence of Mr Charity;
- (h) The availability of grants was explored to ascertain whether funding was available from third parties to bridge the financial gap, with a summary of these funds set out in **Attachment 3**³.
- (i) The findings of the above reports and evidence were then considered in light of the work carried out by Mr Salmond from a heritage perspective.

32 These matters are summarised in section 6.1 of the application. Section 6.1 concludes as follows:

Section 6 requires decision makers to protect historic heritage from "..... inappropriate subdivision, use and development", not development per se. The assessment then turns on what is 'inappropriate', with reference to the objectives and policies of the District Plan (discussed in more detail below), and the wider sustainable management outcomes sought in section 5 of the RMA.

It is acknowledged that demolition of heritage buildings should only be considered in circumstances where practical alternatives have been fully explored and retention is either not financially possible or where the works necessary to ensure retention are so intrusive as to significantly diminish heritage values. Buildings must be kept safe for the public and neighbouring landowners and put to economically viable uses for owners. An ongoing, financially plausible use is fundamental to ensuring the long-term protection and retention of heritage buildings, for the benefits this brings to

³ Unlike some of the larger urban territorial authorities, the Timaru District Council does not have any substantial heritage grant funding available. HNZPT likewise does not have any funding that the Hydro Grand would be eligible for as a Category 2 and non-earthquake damaged building. The Ministry for Culture and Heritage has recently established a new heritage fund as part of a package of Government responses to changes to the Building Act relating to earthquake-prone buildings. This fund has \$12m available nationally over four years, with over 1,500 buildings eligible. The funding criteria has yet to be established for this fund and applications are not therefore currently able to be made. Lottery funding is not available to private commercially owned buildings.

both the individual building owner and to the wider community. This is particularly the case with this proposal where the site is located at a critical fulcrum in Timaru's urban fabric at the head of the town's prime commercial main street and the town's key public open space. The building's poor condition, and its ongoing vacancy, currently results in a significant negative effect on Timaru by severing the activity linking the main retail street in Timaru with both the Caroline Bay Piazza and the emerging café and restaurant strip further north along The Bay Hill.

Removal of the existing building and its replacement with a modern, high quality building as part of a major mixed use development is considered to be appropriate for the following reasons:

- 1) The Hydro Grand building has heritage values, but these cannot be described as outstanding or nationally significant, as recognised by its Group B listing under the District Plan, and its Category II classification by the HNZPT respectively. The demolition of Category A buildings listed under the district scheme is a non-complying activity and subject to the test under section 104D of the Act; whereas the demolition of the Hydro Grand building is a discretionary activity, recognising that the test is one of balancing potentially competing values;*
- 2) The building has been substantially modified, such that its' original fabric is now largely limited to only the structural walls and floor plates. There are no heritage features that are considered to be worthy of salvage, however the applicant is happy to offer a condition that a photographic record of the building be undertaken prior to demolition occurring, with a copy of the record provided to both Council and HNZPT;*
- 3) The building has been unoccupied for over a decade, is in a dilapidated state, and poses risks to occupant health and safety, as well as passers-by in an earthquake*

event. The building's structural strength has been assessed as being some 10% NBS and therefore the building is categorised as being earthquake prone. As such it cannot be occupied without significant repair and strengthening works;

- 4) These works require the removal of all existing building services, all of which are no longer fit for purpose. The structural strengthening solution involves intrusive works to the building's fabric, which combined with the need to re-plan internal partitions to enable functional use, mean that the retained original fabric would be reduced to little more than the façade;*
- 5) The Heritage assessment confirms that "facadism" is not generally considered to be an acceptable heritage outcome;*
- 6) A comprehensive set of retention scenarios have been explored. The costs of retaining either just the façade, or the façade, floorplates, and roof form are commercially prohibitive under a range of possible uses that include hotel, apartments, or offices;*
- 7) There are no heritage grant funds available from either Timaru Council or Heritage New Zealand that are sufficient to enable a meaningful bridging of the significant financial gap;*
- 8) The District Plan provides for replacement buildings, provided the quality of such replacements is of a high standard⁴. The high degree of visual prominence associated with the site means that a new iconic building can also be built on the site. The design of the replacement building consciously references the form of the Hydro Grand and the proposal includes the reintroduction of a hotel onto the wider site so that the site's landmark and functional roles in a prominent location are able to be maintained.*

⁴ Policy 3.3.2.3

- 33 The loss of the building will indisputably result in the loss of the heritage values that are currently present despite its dilapidated state. Such loss is likely to have an at least minor effect, with that assessment underlying the applicant's request that the application be publicly notified under s95.
- 34 Submitters have raised concerns regarding the loss of a heritage building on a visually prominent site. The simple reality is that the building cannot be safely occupied or used. The works necessary to enable reoccupation are both so extensive as to significantly reduce heritage fabric and values, and so expensive as to not be financially plausible, that ongoing retention of the building serves little value or benefit to the community. The future environment scenario is not therefore a choice of demolition and replacement versus repair and reuse, but rather demolition and replacement versus ongoing vacancy and dilapidation.
- 35 Simply opposing demolition in the hope that another owner will at some point in the future be able to 'make the finances work' does not to my mind achieve the sustainable management purpose of the Act. Leaving a heritage building in its current vacant and dilapidated state with no prospect of repair and reoccupation is considered to be more of an 'inappropriate use' than removing the building and enabling its replacement with a new landmark building for Timaru.

Replacement Buildings

Urban design and form

- 36 The proposed replacement buildings trigger three non-compliances with the District Plan. These relate to a 'catch-all' urban design assessment of all new buildings, a height limit of 20m, and a requirement that all new buildings be constructed up to the road boundary. Given the intertwined nature of urban design matters, these three matters are assessed as a package.
- 37 Urban design matters are considered in section 6.2 of the application and are also addressed in the evidence of Mr Burgess. As noted by Mr Henderson, the proposal has also been assessed by an independent urban design panel that has provided design advice to Council and the applicant. Mr Burgess addresses in his evidence the

outstanding design matters highlighted by the Panel as warranting further consideration. I understand from Mr Burgess' evidence that some changes have been made to the design of the building in order to address the issues raised in the latest comments from the Panel.

- 38 Without wanting to repeat the assessment set out in section 6.2 of the application, there are several points that are worth re-emphasising.
- 39 The first is that the site currently displays very low levels of urban design quality or contribution towards the vitality of Timaru's commercial centre. Whilst the Hydro in its heyday would have made a positive contribution towards Timaru's streetscape, the vacant building and the asphalt parking area surrounding the building does little to support or complement the wider outcomes sought for the town centre in terms of a vibrant streetscape and a commercial heart and vitality.
- 40 In contrast to the existing site, the proposed development will contain a wide mix of activities, as are anticipated in a town centre commercial context. The diverse upper level activities are complemented by cafes, restaurants and retail activity at ground level, oriented around a publicly accessible courtyard that provides elevated views out across Caroline Bay. Car parking is intentionally located to the rear of the site and adjacent to the lower amenity Sefton Street, whilst the public face and main building entrances to the site reinforce the pedestrian-prioritised Caroline Bay Piazza.
- 41 The proposed development has been purposefully designed to present an attractive and activated street edge with the site oriented towards the pedestrian-focussed The Bay Hill and Caroline Bay Piazza. The design is heavily glazed at ground level facing towards The Bay Hill with ground floor tenancies opening out into a publicly accessible courtyard space.
- 42 The block that the site is located within is unique in Timaru from a planning perspective in that it has a height limit of 20m, as opposed to the 12m height limits that applies throughout the balance of the Commercial 1A Zone.

- 43 The District Plan outcomes therefore clearly anticipate tall, landmark buildings at the top of The Bay Hill that have a contrasting urban form to the balance of Timaru's commercial centre that is to be between two and four stories in height.
- 44 The proposed buildings are generally consistent with the height limit, with the exceedance generated by the desire for an architecturally attractive roofline in keeping with the site's visually prominent location. The extent of built form above the height limit is less than 1m for the hotel building, varies from 0.8m to a peak of 3.9m for the apartment building, and varies 20.76m to a corner peak of 24.65m for the office building. The exceedance is not therefore uniform but rather varies in a manner that corresponds with the wavy roofline of both the office and apartment buildings.
- 45 From a wider streetscape and urban form perspective, the exceedance in height is considered to be consistent with the outcomes anticipated by the District Plan for the part of the town centre at the top of The Bay Hill. The office building corner peak in particular has been designed in response to feedback from the Urban Design Panel regarding the importance of having a strong architectural feature on the corner. For pedestrians and passing motorists, the extra height generated by the wavy roofline is not considered to be readily perceptible when viewed from a street-level position adjacent to the site, and when viewed from further afield will be a positive feature compared with a more compliant flat roof form.
- 46 A series of shading diagrams has been developed as part of the s92 response following concerns raised by submitters. This modelling demonstrates that the proposal results in a negligible difference in shading compared with the permitted baseline⁵ of a compliant 20m high building constructed to the site boundary. In essence the shading effects of the increase in height are off-set by the apartment building being set in from the site boundary. The office building shading falls primarily on the road reserve and commercial office buildings where occupants are not generally sensitive to shading. Such a baseline scenario is not considered to be fanciful given the

⁵ It is noted that such buildings will be subject to the catch-all urban design rule and therefore are not strictly 'permitted'. The design rule and associated policies are however focussed primarily on the streetscape quality of the building rather than the amenity of neighbouring sites. The permitted baseline comparison is nonetheless considered to be valid in terms of testing effects associated with building bulk and location.

site's commercial zoning and the commonplace practice of commercial buildings being constructed to site edges in town centre contexts.

Transport

- 47 A number of submitters raise transport-related concerns, with these concerns being primarily focussed on the adequacy of on-site car parking. Following receipt of the submissions, the applicant has redesigned the basement parking area to include a further 27 on-site parking spaces. As noted above, the applicant has also recently acquired an existing nearby surface carpark. This new site provides 33 spaces, with the title to be encumbered to ensure that it continues to be used for carparking.
- 48 In response to parking concerns raised by submitters, the application now provides 123 spaces between the additional space in the basement and the new site. The proposed parking provision is therefore nearly double the 63 spaces shown in the original application.
- 49 The potential transport effects have been considered by two experienced transport engineering firms, namely Traffic Design Group for the applicant and Abley Transportation for the Council. Mr Rossiter in his evidence responds to matters raised in the Abley report.
- 50 Both transport firms are in agreement that the proposal will not result in any unacceptable effects on the safe and efficient functioning of adjacent intersections and the wider road network. The internal design of the on-site parking area is likewise considered to be acceptable on the basis that it is not available for the general public but instead, use is restricted to apartment and office occupants and hotel valet parking services. The applicant is willing to offer a condition to this effect, with suggested wording included in **Attachment 4**. A suggested condition is also offered to manage the hours within which service deliveries occur so as to avoid such manoeuvres occurring during peak periods.
- 51 The key point of contention with respect to transport matters is in regards to the adequacy of on-site parking and the degree to which

any overspill parking on the wider street network will have an unacceptable adverse effect.

- 52 Mr Rossiter's evidence has assessed both parking demand and the likely quantum of on-street parking that the proposal is likely to generate, noting the significant increase in parking that is now proposed relative to the proposal as it stood when it was assessed by Abley Transportation. He has concluded that from a transport perspective, the degree of on-street parking generated by the proposal is acceptable given the additional on-site parking now proposed and the certainty that occupancy can be maximised at the newly acquired parking site. From a planning perspective, it is noted that in town centre contexts it is extremely unusual for sites to be completely self-sufficient in terms of the provision of on-site carparking. Indeed the provision of parking on a site-by-site basis can result in significant adverse effects on urban design outcomes such as the adverse visual effects of having a continuous built frontage or large areas of surface carparking. In town centres, parking demand is instead generally accommodated through a combination of on-street spaces and public and commercial carparking buildings. This pattern of parking provision is reflected in Timaru where the majority of sites fronting onto Stafford Street do not provide private on-site parking that fully accommodates the demand generated by the site but instead rely in whole or in part on metered or leased parking in the wider area.
- 53 The proposed development provides sufficient on-site parking to accommodate a significant proportion of the demand generated by the proposal. At peak times there may be additional demand that is reliant on off-site spaces, especially demand that is generated by casual visitors to the proposed café and restaurant activities. Simply because such demand exists does not make it inherently adverse, rather it is consistent with how town centres typically function.

Noise management

- 54 Submitters have raised concerns regarding noise management from any future hospitality tenants. Hospitality tenants associated with hotels are invariably well-managed as the hotel management is acutely aware of the need to deliver a good quality experience for guests who will be sleeping on the property. There are likewise controls available to Council through the liquor licensing process, compliance monitoring and enforcement of the District Plan's noise rules noting the area's town centre commercial zoning, and a general obligation under s16 of the Act to adopt best practicable options to ensure that noise emissions do not exceed reasonable levels.
- 55 Mr Henderson has recommended that a noise management plan be prepared as a condition of consent. Given the mixed use nature of the proposal with hospitality spaces integral to the proposed hotel and apartment building, it is considered that the management of noise will be self-regulating by the building occupiers and commercial lease agreements and that as such a noise management plan is unnecessary as a condition of consent. Should future tenancies generate noise beyond the boundary of the site that exceeds District Plan limits then they will need to obtain a resource consent that addresses the specific nature of their business and that provides the appropriate process for identifying detailed mitigation measures if such are shown to be necessary.
- 56 If however the Commissioner is of the view that such a condition would assist in managing potential effects I have included such a condition in **Attachment 4** and understand the Applicant is happy to proffer this
- 57 It is noted that in addition to ongoing post-development noise issues, the owners of the Sea Breeze motels to the north of the site have raised concerns regarding construction-related effects. I agree that a construction management plan would be appropriate for a development of this scale and have included a condition of consent requiring that such a management plan be prepared prior to works commencing.

Positive effects

- 58 The consideration of positive effects is relevant under s104 and ultimately also forms part of the assessment of the proposal against Part 2 of the Act. The application identified the potential positive effects as follows:

The proposed activity replaces an existing vacant premises with a much more intensive site development which provides high quality offices, traveller's accommodation, residential accommodation, and dining facilities which will increase foot traffic in the area and reinforce the commercial viability of the Town Centre and the Centre's links with Caroline Bay and the restaurants to the north. The proposal will provide a collection of new landmark buildings of substantial presence, and re-establish and continue the traditional activities undertaken on part of the site in the heyday of the Hydro Grand Hotel.

Overall, the positive effects of the proposed development are summarised as follows:

- Provides high quality hotel accommodation in close proximity to the Town Centre and to maintain the site's historic association as Timaru's 'premier' hotel. Timaru does not currently contain a hotel of the size or standard of that proposed in a town centre location and as such the proposal fills an important space in Timaru's accommodation offering;*
- Provides residential apartment living options adjacent to the Town Centre that are not currently available in Timaru. Timaru does not currently have high quality apartments with elevated views. The proposed apartments provide a new and important housing choice to the Timaru community and enable people to live within an easy walk of the town centre;*
- Provides high quality office space of a grade that is not readily available in Timaru, reinforcing Stafford Street as the town's premier commercial area;*

- *Ties these three activities together through creation of a new publicly accessible space and café and dining precinct with views out over Caroline Bay. The space has the potential to become a landmark destination for both visitors and residents of Timaru;*
- *Provides for and encourages a connection between the Stafford Street retail area and both the restaurant strip further north on The Bay Hill and the Piazza and Caroline Bay. The proposal introduces a range of uses and activities, including hotel guests and apartment residents, to a location adjacent to the main retail street, which will support the vibrancy and commercial vitality of the town centre;*
- *Replaces a currently derelict, unsafe, and unoccupied building and an adjoining large vacant site with modern, well-designed facilities providing a significantly superior urban design outcome compared with the existing environment;*
- *Provides economic stimulus and employment to Timaru through both construction and developed phases.*

Section 104(1)(b)(v) relevant provisions of a regional policy statement

- 59 The proposal represents the accommodation of urban growth within an existing urban area in a consolidated manner. The site is not subject to any identified natural hazards and does not threaten the functioning of strategic infrastructure, noting that transport-related effects on SH78 can be appropriately managed. The proposal is therefore consistent with the urban growth outcomes sought in Chapter 5 of the CRPS with its strong emphasis on reinforcing the role and function of existing townships and directing growth to occur primarily within and adjacent to these existing centres.
- 60 The CRPS also contains direction regarding the management of the Region's heritage resources.

- 61 Objective 13.2.1 of the CRPS seeks the identification of significant historic heritage items, places and areas, and their particular values that contribute to Canterbury's distinctive character and sense of identity, and their protection from inappropriate subdivision, use and development. This objective is a direct reflection of section 6(f) of the Act. In undertaking this identification in a Timaru context, the Hydro Grand has not been identified as being in the most significant heritage group, and likewise the HNZPT registration has it as a Category 2 building in terms of its significance.
- 62 Objective 13.2.3 recognises the importance of enabling the repair, reconstruction, seismic strengthening, and ongoing conservation and maintenance of historic heritage and the economic costs associated with these matters.
- 63 The associated Policy 13.3.1 recognises and provides for the protection of those historic heritage items, places and areas of significant value to the Region from inappropriate subdivision, use and development.
- 64 Policy 13.3.4 seeks to recognise and provide for the social, economic and cultural well-being of people and communities by enabling appropriate repair, rebuilding, upgrading, seismic strengthening and adaptive re-use of historic buildings and their surrounds in a manner that is sensitive to their historic values. The explanation for this policy recognises that 'economics will often be a factor as to how quickly or easily re-use can be achieved, and will need to be considered on a case-by-case basis'. This policy therefore contemplates that rebuilding of heritage buildings may be necessary, and that adaptive re-use can be extremely challenging.
- 65 In summary, the CRPS recognises the need to identify significant heritage buildings and reflects the s6(f) direction to protect such heritage from inappropriate use. The Hydro Grand has been identified as having heritage values, however these are not of the highest significance in either the District Plan or NZHPT listings. The emphasis in the CRPS is on 'inappropriate' use, which in turn hinges on whether demolition is reasonable given site-specific circumstances. The policy approach in the CRPS recognises the economic challenges of retention and reuse, provides for rebuilding

(as opposed to reconstruction to the same design), and recognises the need to consider proposals on a case-by-case basis.

Section 104(1)(b)(vi) relevant provisions of a plan or proposed plan

- 66 Section 7 of the application sets out a detailed assessment of the relevant, and at times competing, objective and policy outcomes sought by the District Plan. Mr Henderson has likewise undertaken his own assessment in identifying the relevant provisions. We are in general agreement as to the identification of these provisions, with the key matters relating to heritage, commercial town centre and transport topics.
- 67 Overall, the District Plan's objectives and policies seek two, potentially competing, outcomes. The first is the identification and protection of historic heritage, subject to various criteria. The second outcome is the efficient use of land within the commercial town centre zone to reinforce the role and amenity of the town centre and to ensure that new buildings are well designed and make a positive contribution towards the vitality and attractiveness of the town centre.
- 68 The existing Hydro Grand therefore presents something of a conundrum, whereby in its current dilapidated and vacant state the current use of the site is contrary to the District Plan's objectives of a vibrant and attractive town centre. Conversely its protection is also sought, noting that policy 3 contemplates more of a case-by-case assessment for heritage buildings of lesser significance. Heritage policy 7 also contemplates a case-by-case approach that includes consideration of viable use and public health and safety, with this policy, in combination with the commercial policy 3.3.2.3, presenting a road map through these potentially competing policy goals. Both policies in the first instance rightly seek the protection of heritage buildings. Such protection is not however absolute, with redevelopment contemplated provided various criteria are assessed and the design of the replacement building is considered at the same time as demolition to ensure that the urban design quality of the town centre is maintained.

69 The applicant has invested considerable effort in exploring retention options and detailing both the existing condition of the building and potential repair and strengthening solutions. Unfortunately the evidence is that there is an unsurmountable financial gap. The applicant has then commissioned the design of an attractive new building complex that makes a significant positive contribution to the town centre and references the form, massing, activities and role of the Hydro through envisaging the site as Timaru's premier destination. Whilst the proposal is not therefore consistent with heritage policy 2 that simply seeks protection without qualification, it does align with the careful assessment required for heritage buildings of lesser significance under heritage policy 3 and the case-by-case approach required under heritage policy 7. Overall the proposal is considered to achieve the outcomes anticipated by the District Plan for Timaru's town centre through the replacement of a vacant and underutilised site with an attractive mixed use development that provides new residential, office, and hotel accommodation choices set around a public hospitality precinct.

Part 2 assessment

70 Decisions under s104 are subject to the overall purpose and principles of the Act as set out in Part 2. There are no s8 matters considered to be impacted by the proposal.

Section 7 'other matters'

71 Of relevance to this proposal, and in achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) The ethic of stewardship;
- (b) The efficient use and development of natural and physical resources;
- (c) The maintenance and enhancement of amenity values;
- (d) Maintenance and enhancement of the quality of the environment;

(e) Any finite characteristics of natural and physical resources.

- 72 With regard to Section 7(a), the ethic of stewardship, as exercised by the Council, extends to the identification of heritage items in the District Plan, and the encouragement of their retention. The District Plan itself does not however require protection in all instances, as evidenced by demolition of Group B items having a discretionary as opposed to non-complying or prohibited status.
- 73 In terms of a property owner, the principle of stewardship is not considered to impose an obligation to maintain a heritage item for community benefit in any or all circumstances. The applicant's evidence demonstrates that genuine efforts have been made to investigate whether the retention of the Hydro Grand as part of a wider development is financially viable. The building is presently not tenable and has not generated an income stream in some years.
- 74 Sections 7(b) and 7(g) matters are to a large extent intertwined as they relate to this proposal. Section 7(b) introduces the principle of efficient use. It is considered that this must involve aspects of economic enablement given the anticipated commercial environment provided by the Plan for the site. That is not to say that the heritage values to the community, as represented by the Hydro Grand, are not an efficient use of the site, but more that where these are degraded and the productive uses associated with these physical resources undermined, then the principle of Section 7(b) would be better met through redevelopment.
- 75 The extensive efforts made by the owners to find further adaptive reuse for the building have demonstrated that economic use of the building is not feasible. Retention is therefore likely to result in the continued degradation of an empty building, and the prevention of the comprehensive redevelopment of the wider site. If such a future is the inevitable outcome for the Hydro Grand, it is difficult to conclude that a drawn out decline is in anyway less offensive to Section 7(b) than its more imminent demolition. Section 7(b) in this instance is considered to be better achieved through the reuse of the site for the enablement of a commercial entity that has the potential to meet the social and economic needs of the community whilst

concurrently retaining the site's historical association and role as the location of Timaru's premier hotel.

- 76 In terms of Sections 7(c) and 7(f), the character of the immediate area will change markedly from its current appearance. As noted above, the site does not currently display high amenity values comprising as it does a vacant building and asphalt parking area. The replacement of the current derelict building and the redevelopment of the wider site for the provision of a high quality office, hotel and apartment complex is considered to enhance amenity values and the quality of the environment than continuation of the status quo.

Section 6 'Matters of National Importance'

- 77 Section 6 requires all persons exercising functions and powers under the Act, to recognise and provide for the following matters of national importance...

“(f) the protection of historic heritage from inappropriate subdivision, use, and development.”

- 78 Demolition is generally considered to be an 'inappropriate use' as it necessarily results in the loss of heritage values. The District Plan, in setting the framework for giving effect to Part 2, makes demolition a discretionary activity rather than a non-complying or prohibited activity. The activity status and the District Plan policy framework therefore contemplate an assessment of demolition on a case-by-case basis. So the question then becomes one of in which circumstances might demolition be contemplated. In my view demolition becomes appropriate when both the necessary strengthening works are so intrusive as to result in the loss of much of the remaining heritage fabric and associated heritage values, and secondly where the cost of those works is so high as to make them financially unfeasible to undertake. In essence the ongoing retention and reuse of the building then becomes implausible and as such the loss of the building is not inappropriate.
- 79 As set out in the above assessment of effects, the various expert evidence provided for the applicant has concluded that the strengthening works required are intrusive to the point that much of the existing heritage fabric would be lost, and that it is not financially

viable, by a wide margin, to retain the existing building. The ongoing retention of a vacant and deteriorating building prevents the comprehensive redevelopment of the wider site which would retain the site's historic association as the location of Timaru's premier hotel.

- 80 It is acknowledged that despite the engineering and financial viability evidence, whilst the building still stands there remains the chance of a future owner or community organisation with different profit drivers (or access to significant heritage grants) being able to undertake restoration in a context where the works making a significant financial loss is acceptable (and assuming the current owner is willing to sell). It can therefore be tempting to seek retention in the hope that a solution might be found at some point in the future. In essence the proposition then becomes one of the community accepting the short-term costs of ongoing vacancy and low amenity in return for the hope of long-term retention, and disregarding the effects on the owner of limiting development options.
- 81 The question which it is then appropriate to ask is how long is it reasonable for a property owner to endure those "short term costs" in the hope of a solution being found. To date the building has been vacant for thirteen years, and underutilised for another decade before that. In that time the building has had three sets of owners with none of them being able to make a retention option work financially despite exploring the option. As such it is considered that the short-term costs have already been borne by the community for a considerable period of time, that no solutions or philanthropic funding have been forthcoming for over a decade, and that the evidence is that such solutions are not particularly plausible in the future given the significant financial viability challenges that have been identified. As such the loss of the building, as a discretionary activity, is able to be contemplated under s6(f), and subject to the broad assessment required under s5.

Section 5 and overall conclusion

- 82 That the Hydro Grand contains heritage values and occupies a landmark site in Timaru is undisputed. Against these values is the

lack of any financially plausible reuse of the building, with the ongoing economic burden of retention needing to be met by the landowner alone. Retention also results in an economic opportunity cost through the inability to develop the site in the manner proposed and as anticipated by the zoning and associated height limits within the Plan.

- 83 If the continued retention of the Hydro Grand inevitably leads to its continued degradation as an empty building, it is considered that sustainable management (in the sense of providing for the cultural, social, and economic well-being of the community) would not be provided for. A drawn out deterioration of the building, when all other avenues for retention appear to be exhausted, would likewise result in a decline in the heritage and cultural associations currently held for the Hydro Grand. A judgment therefore has to be made as to whether the purpose of the Act would be better achieved by the retention of the Hydro Grand building in its current and deteriorating condition or its demolition and replacement with a comprehensive commercial development over the wider site.
- 84 For the reasons set out above, it is considered that in balancing the effects associated with demolition and the loss of heritage values, with those associated with full redevelopment of the site, that the purpose of the Act would be better served by the proposed comprehensive redevelopment. In the circumstances of this case, redeveloping the site is not considered to be "inappropriate" and would enhance the amenity values and the quality of the environment, as well as making a more efficient use of the land resource available on the development site as a whole. The proposed redevelopment will provide a range of activities which will make a significant contribution to the revitalisation of this part of the Town Centre. Consequently, whilst being a difficult conclusion to reach given the heritage values that are attached to the Hydro Grand, it is concluded that allowing demolition and thereby enabling the site to be redeveloped for commercial purposes better achieves the purpose of the Act than retaining the building.

Jonathan Clease

23 November 2016

Attachment 1 - Carpark Resource Consent

ORIGINAL

TIMARU DISTRICT COUNCIL

DECISION OF THE REGULATORY SERVICES MANAGER
ACTING UNDER DELEGATED AUTHORITY

APPLICATION FOR RESOURCE CONSENT NO 4875

COPY

Applicant:	Timaru District Council
Description of Activity:	Establish a Public Carpark
Street Address:	The Bay Hill
Legal Description of Site:	Sec 22 SO 20153, Lot 1 DP 302425
Zoning:	Transitional Timaru District Plan (Timaru City Section) - Residential C Proposed Timaru District Plan - Commercial 1 A
Status	Transitional Timaru District Plan (Timaru City Section) - Discretionary Activity Proposed Timaru District Plan - Discretionary Activity
RMA Criteria:	Sections 104, 105 and 108

Proposal

This proposal is to develop a vacant site in order to establish a fully sealed public car parking area in order to relieve the parking pressure in this area. Access to the site is over a right of way off The Bay Hill. The capacity of the area will be approximately 32 cars. A concept plan indicates isolated plots of landscaping with border plantings.

Status

The site is located within the Commercial 1A Zone under the provisions of the Proposed Timaru District Plan. Rule 3.5.1A.3.4 of the Proposed Timaru District Plan lists car parking providing access is not from Stafford Street as a Discretionary Activity. Car parking is also listed as a Discretionary Activity in the Transitional District plan. As the Proposed District Plan has reached an advanced stage and provisions relevant to this application are not subject to references, more weight should be given to the provisions of the Proposed District Plan than the provisions of the Transitional Timaru District Plan - (Timaru City Section).

Public Notification

The application for a Land Use Consent has been determined to be non-notified in accordance with Section 94 of the Resource Management Act 1991 (see separate decision in resource consent file 4875).

Policies and Objectives

The Commercial Zone within the Timaru Central Business District area is divided into three areas with the Commercial 1A Zone including those parts of the main retail area of the inner city with the highest heritage and townscape values which should be maintained to provide an attractive environment for comparison shopping. Primarily the

policies and objectives of this zone provide support for the zone statement encouraging continued development of the area for commercial purposes.

As this development is primarily to provide additional car parking facilities to service this Commercial 1A Zone it is considered that the policies and objectives of the plan are being complied with.

Environmental Effects

Access

Access to the car park will be over a right of way off The Bay Hill. Currently the driveway provides access to the garaging associated with the adjacent block of privately owned apartments. The added use will impact directly on the traffic flows along this access which potentially will adversely effect these residents effecting their existing unhindered use of the access.

Landscaping

Although the site plan indicates isolated landscaping plots no specific landscaping plans or planting schedules have been submitted for consideration. During discussions with the identified affected parties it was indicated informally that in order to preserve views to the northwest it was preferred that large deciduous trees were not planted. This request was not recorded on the affected person's approval forms but should be respected in the compilation of the planting schedule. As no landscaping plan has been submitted a condition requiring that this should be undertaken and submitted for approval by the Council's Parks Unit prior to construction commencing should be imposed.

Lighting

Performance Standard 3.5.1A.5.7 and 8 of the Proposed Timaru District Plan quantifies and limits the Obtrusive Light with particular reference to residential properties. This requires that exterior lighting be directed away from residentially zoned land and the carriageway of a public road. A condition requiring that the light spills comply with the limits in Performance Standards 3.5.1A.5.7 and 8 should be imposed.

Noise

As a direct consequence of this development additional traffic will create additional noise and as there is no indication that the car park will be closed at any stage use of the site may occur throughout the day.

Neighbours Approvals

As a consequence of the potential adverse effects several parties were identified as being potentially adversely effected. These parties were restricted to those in close proximity to the proposed car park and who may be adversely effected by the traffic noise, security lighting and landscaping. Consultation with these residents and where applicable the tenants has resulted in written approvals being received. Section 104(6) of the Resource Management Act 1991 advises that the consent authority shall not have regard to any actual or potential effect on that person if that person has agreed to the proposal which is the subject of the application; and the fact that any such effect on that

person may occur shall not be relevant grounds upon which the consent authority may refuse to grant its consent to the application.

During discussions between the neighbours and the Council as applicant several points were raised and although not in the form of objections, assurances were given that these points would be taken into consideration. The points raised were:

- 1 That any lighting in the car park be directed away from the residences (the motels and Caroline Courts).
- 2 That large or deciduous trees not be planted near the boundary with Caroline Courts.
- 3 That adequate rubbish bins be provided for public use.
- 4 That a minimum 1 metre width of landscaping be provided to prevent cars from hitting the boundary fences.
- 5 That "no parking" lines be painted on both sides of the access lane - up to the Caroline Courts garages.
- 6 That if possible effort be made to retain a healthy "spindleberry" tree in the middle of the land.
- 7 That a "Private Property - No Access / No Parking" sign be erected at the end of Council's legal access (ie just before reaching Caroline Courts Garages).
- 8 That a "Private Property" sign be placed by the gate from Caroline Courts leading on to Sefton Street.
- 9 That discussions be held with the Company Secretary for Caroline Courts Ltd, Mr C R Joyce, regarding replacement of the boundary fence and allowing them access from Council's land to replace their footpath.
- 10 That the triangle of land belonging to Caroline Courts Ltd at the western end of their garages be landscaped and planted to match the car park landscaping - subject to the Company's agreement.
- 11 That the narrowest part of the access lane by Panorama Motor Lodge be widened and a dished gutter without raised kerbing be provided in lieu of normal footpath. This solution was offered verbally to Panorama Motor Lodge's Mr O'Connell in response to his attached letter.

The inclusion of additional points raised as part but separate from the neighbours approval does raise the question as to whether the approvals as submitted do meet the criteria under Section 94(2)(b) of the Resource Management Act 1991 as it could be argued that rather than these being unencumbered they could well be considered to be conditional. In this instance the applicant has by subsequent letter dated 19 March 2003 indicated agreement with all of the points raised and accordingly it is the opinion of the writer that the neighbours approvals should be accepted .

It is noted that the apartments and the motels adjacent to the subject site are also located within the Commercial 1 A zone with each of those activities being listed as a Permitted Activity in this zone. Whilst the impact of the effects of the proposed activity

on the neighbouring sites are to be considered and must comply with the limitations under Section 94 of the Resource Management Act 1991 threshold for these effects can be adjusted in accordance with the Zones purpose and policies and objectives.

It is considered that any adverse effects extending beyond those sites identified as above will be less than that which could be referred to as minor.

With regard to original concerns expressed regarding the existing tree located in the centre of the the parking area Council's Park Liason Officer has visited the site and comments:

"I have this afternoon visited the proposed carpark site adjacent to SH1 on the Bypass and can confirm that the tree we discussed is in fact a Spindle Berry Euonymus europaeus. The tree itself is not a brilliant specimen being very old and showing some signs of decay and a little dieback in places. I would recommend the removal of the tree as part of the carpark development but more from the point of view that Spindle Berry is now recognised as an undesirable plant due to it's ability to seed freely and be carried by birds to new sites where it readily establishes. For this reason it is no longer sold by nurseries."

As a consequence of this advice it is proposed that the tree be removed and a mature specimen of an alternative tree be reinstated in a suitable position. This proposal has been accepted by the submitters.

Commercial Amenity

As above this zone is zoned Commercial 1A in the Proposed Timaru District Plan with a variety of commercial activities listed as permitted activities in this zone. With reference to the application the proposed activity will not include a building, which, depending on design could potentially adversely impact on the adjoining residential activities effecting present views and low density development. As a result this proposal while supporting and enhancing the commercial infrastructure of the existing commercial activities of the area will ensure that the existing views to the north and west of the dwellings and motels are protected. Provision of improved landscaping on the vacant and unkempt site will it is considered also enhance the visual qualities of the immediate area.

Part II of the Resource Management Act

This resource consent application is consistent with Part II of the Resource Management Act 1991 in that the proposed development and use of the site will maintain and contribute to the local commercial environment by providing an important support facility.

Decision

Acting under the delegated authority from Council, I have considered this application and have decided, pursuant to Section 104 and 105 of the Resource Management Act 1991, and Part D Rule 3.5.1A.3.4 of the Proposed Timaru District Plan that consent be granted to a Discretionary Activity subject to the following conditions:

- 1 That the establishment of the car park proceeds in accordance with the plans and supporting information as submitted numbered 4875 on Council records.

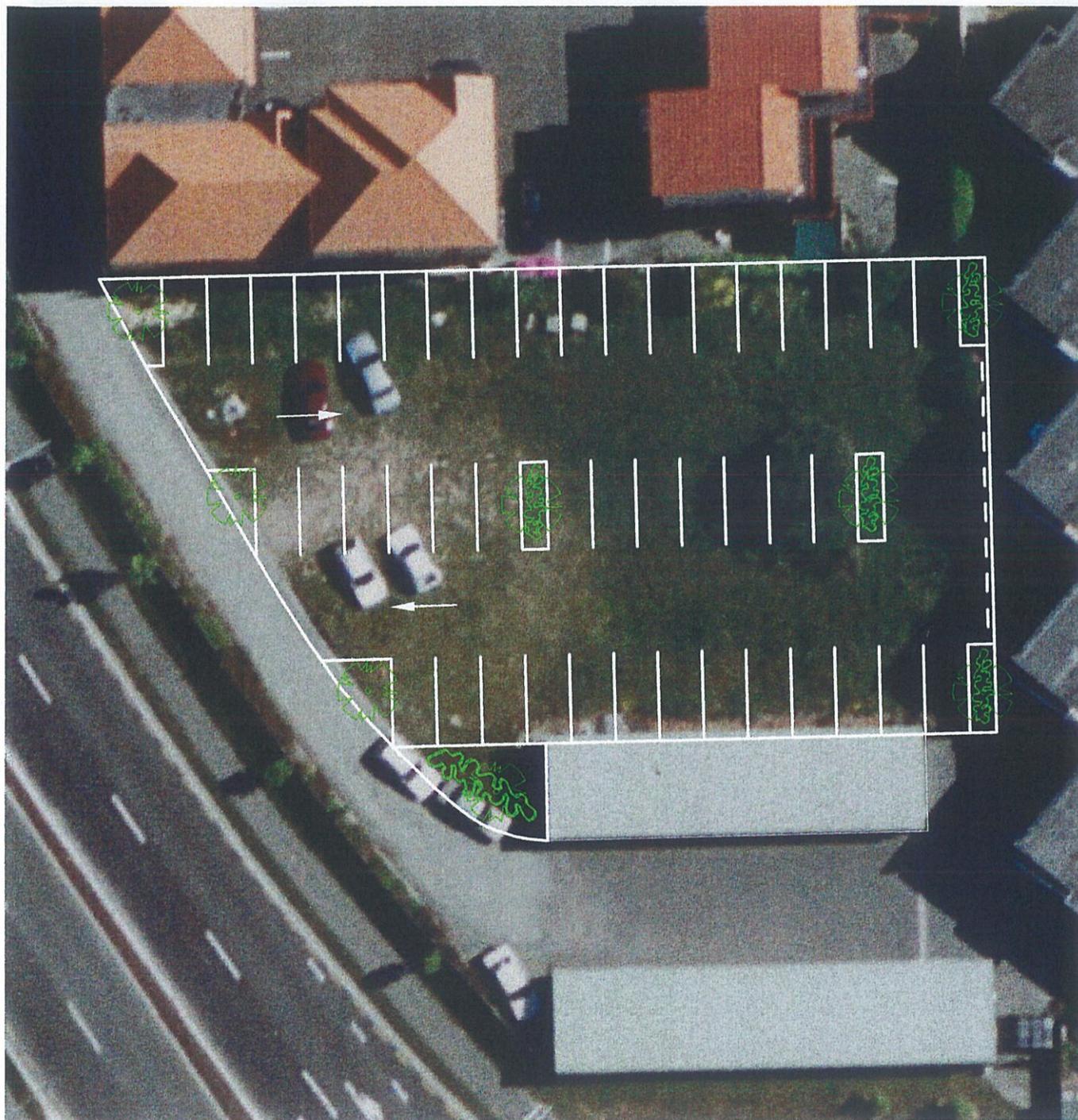
- 2 That prior to the construction of the car park commencing the applicant submit to the Council's Parks Unit for consideration a landscaping plan and planting schedule for the landscaping plots within the car park. This plan is to incorporate conditions 7, 9, 10,11,12 and 14 as below in the plan. Details of the irrigation system should be included. Each plot is to be protected by the installation of a barrier wall a minimum of 100mm in height and to have a minimum dimension of 1metre.
- 3 That the landscaping is to be fully planted prior to the use of the car park by the public.
- 4 That the whole of the carparking area and accessway is to be formed, sealed and drained with the parking spaces clearly marked.
- 5 That the light spill from the carpark lighting shall comply with Performance Standard 3.5.1A.5.8 of the Plan.
- 6 That any lighting in the car park be directed away from the residences (the motels and Caroline Courts).
- 7 That large or deciduous trees not be planted near the boundary with Caroline Courts.
- 8 That the carpark be maintained in a tidy condition and if required rubbish bins be provided for public use.
- 9 That a minimum 1 metre width of landscaping (paved area) be provided to prevent cars from hitting the boundary fences.
- 10 That "No Parking" lines be painted and maintained by the Timaru District Council on both sides of the Right of Way from the public road to the southern boundary of the carpark adjoining the Caroline Courts gates
- 11 That a Timaru District Council "Private Property" sign be erected at the gate from Caroline Courts leading to Sefton Street.
- 12 That a Timaru District Council "Private Property" sign be erected at the end of the Council's legal access (just before reaching Caroline Court garages).
- 13 That the triangle of land belonging to Caroline Courts Ltd at the western end of their garages be paved and a 1.2 metre high fence be erected along the common boundary of the triangle and the car park.
- 14 That the narrowest part of the access lane adjacent to Panorama Motor Lodge be widened by way of a dished gutter.



K.F. McKenzie
Commissioner

Date: 2nd April 2003

THE BAY HILL, TIMARU
PROPOSED OFF - STREET CARPARK
LAYOUT OPTION A



TOTAL 45 SPACES



Attachment 2 - District Plan Rule Compliance Table

The entire site is zoned Commercial 1A. The zone description states that the zone covers Timaru's main retail area, and seeks to retain the existing heritage and townscape values to provide an attractive pedestrian oriented environment for a wide range of activities including specialty shopping, commercial services, tourist and residential accommodation, and recreational and community facilities.

The Commercial 1A zone north of Sefton Street East allows new development to a height of 20 m, in contrast to the greater balance of the zone, where it is restricted to only 12 m. This is the only area in central Timaru where the District Plan permits buildings of this height, which clearly anticipates the 'top' of The Bay Hill being developed for large, landmark buildings.

Under Map 39, and the "Schedule of Heritage Buildings, structures and Sites", the existing Hydro Grand building is classified as a Category B building. There are four buildings in the Plan classified as Category A, and 31 buildings classified as Category B. The building also has a Category II classification from Heritage New Zealand Pouhere Taonga.

The proposal's compliance with the District Plan is set out in the table below:

Rule	Assessment	Activity status
Part D 3 Commercial zones		
1.A.1 Permitted activities 1.1 Shops 1.2 Offices 1.3 Household Units 1.4 Travellers' Accommodation	The proposal includes retail, office, hotel, and residential activities.	Permitted
1.A.2 Controlled activities 2.1 Restaurants and licensed premises	The proposal includes restaurant/bar tenancies.	Controlled
1.A.3 Discretionary activities 3.2 The demolition of any building visible from a street frontage.	The proposal is to demolish an existing building visible from a street frontage, and erect 3 new buildings along a street frontage.	Discretionary

<p>3.2 The erection of any new building along a street frontage.</p> <p>3.4 Car parking provided access is not from Stafford Street.</p> <p>3.5 Any activity listed as a permitted, controlled or discretionary activity which does not comply with the performance standards for this zone.</p>	<p>The proposal includes car parking where access is not from Stafford Street.</p> <p>The proposed building fails to comply with some of the performance standards for the zone</p>	
<p>1.A.5 Performance Standards</p>		
<p>5.1 street frontage – buildings shall not be set back from The Bay Hill</p>	<p>The Office and Apartment buildings are partially set back from The Bay Hill</p>	<p>Discretionary</p>
<p>5.2 Maximum building height: 20m</p>	<p>All three buildings exceed the 20m height limit as follows:</p> <ul style="list-style-type: none"> • Office building = 21.6m; • Apartment building = 23.9m; • Hotel building = 20.8m 	<p>Discretionary</p>
<p>5.7 Exterior light shall be directed away from residential zones and roads</p>	<p>The site does not adjoin any residential zoned land. A detailed exterior lighting plan has yet to be developed. The applicant would be happy to accept a condition that any such lighting is to be directed away from roads.</p>	<p>Permitted</p>
<p>5.10 Noise – Maximum noise levels shall be 55dBA during daytime and 45dBA at nighttime, measured at the nearest boundary with the Res2 zone</p>	<p>Noise from the site will comply with the permitted limits when measured at the boundary with the residential zone.</p>	<p>Permitted</p>

Part D 6.7.2 Rules for vehicle access and loading		
(1)(a) Parking space dimensions	The proposed aisle width does not meet the required dimensions.	Discretionary
(2) Parking and loading spaces shall be located on the same site as the activity it relates to, shall be available at all times, and shall have adequate useable access.	The parking is located on the same site but will not be available at all times for visitors.	Discretionary
6.7.3 Performance standards for all zones (13) Sites fronting National, regional or district arterial roads and a secondary road shall have vehicle access from the secondary road	The proposed development has access from the State Highway and also has frontage to a local road.	Discretionary
6.7.5 Discretionary activities (2) Restaurants and retail activities with vehicle access from a state highway are a discretionary activity.	The proposed development includes retail and restaurant activities and has vehicle access from a State Highway	Discretionary
Part D 6.8 Parking		
6.8.3 Parking requirement: Approximately 90 parking spaces are required on the site.	63 parking spaces are proposed	Discretionary
Part D 6.12 Heritage		
Rule 6.12.2.7 Category B Buildings - Discretionary activities 3) Demolition or removal of the buildings from current	The proposal is to demolish the existing Hydro Grand	Discretionary

sites.		
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Attachment 3. Heritage Grant Options

The applicant has explored a number of heritage grant funding options as follows:

Timaru District Council Heritage Protection Fund:

Unlike some of the larger urban territorial authorities, the Timaru District Council does not have any substantial heritage grants available for structural strengthening works, as set out in the Council's Long Term Plan 2015-2025. Grants from the Council's Heritage Protection Fund are generally capped at \$5,000 and have a primary focus on funding painting for streetscape amenity purposes. A link to the Council's heritage fund is:

https://www.timaru.govt.nz/_data/assets/pdf_file/0005/39641/595555-Guidelines-for-Distribution-of-Funding-from-the-Heritage-Protection-Budget.pdf

Heritage New Zealand Pouhere Taonga:

Financial assistance from Heritage New Zealand via the Government's 'National Heritage Preservation Incentive Fund' is limited to only those buildings of national significance that have a Category 1 listing. Annual funding is approximately \$500,000 in total. Given that the Hydro Grand is a Category 2 building this funding source is not available.

<http://www.heritage.org.nz/protecting-heritage/national-heritage-preservation-incentive-fund>

Ministry of Culture and Heritage:

The Ministry of Culture and Heritage have very recently established a Heritage Earthquake Upgrade Incentive Programme ('Heritage EQUIP') which provides national funding of \$12m over 4 years. This fund is available for seismic strengthening for Category 1 and 2 buildings located in high and medium areas of seismic risk. There are well over 1,000 such buildings, with the Hydro Grand being a Category 2 building in a medium risk zone. Whilst eligible, it is hard to see over a third of this national fund being made available to assist with retention of a single building. Of significance, this fund is not currently open for applications, with criteria still being developed.

<http://www.mch.govt.nz/heritageequip>

Canterbury Heritage Buildings Trust:

The Canterbury Earthquake Heritage Buildings fund is now administered by Heritage New Zealand Pouhere Taonga. The fund is only available for repairing earthquake-damaged heritage buildings. As the Hydro Grand is not earthquake damaged, it is not eligible for this fund.

<http://www.heritage.org.nz/protecting-heritage/funding-for-heritage-protection>

Lottery Grants:

The Lottery Environment and Heritage Fund does not fund commercially owned buildings, and therefore the Hydro Grand is not eligible.

<http://www.communitymatters.govt.nz/Funding-and-grants---Lottery-grants---Lottery-Environment-and-Heritage---What-Lottery-Environment-and-Heritage-does-not-fund>

Attachment 4. Offered conditions

1. The development shall proceed in accordance with the information and plans submitted with the application, including the further information submitted on 7 October 2016. The approved consent documentation has been entered into Council records as number 102.2016.141.1.
2. A photographic record of the building shall be undertaken prior to demolition works commencing and during key phases of demolition agreed with the Council's Planning Manager. This record shall be lodged with the Council and with Heritage New Zealand Pouhere Taonga for their records within six months of the completion of the work.
3. The on-site carpark shall only be used by occupants of the apartments, office tenants, or hotel guests and staff and shall not be open to the general public.
4. Service deliveries utilising the Stafford Street entrance shall not occur within the hours of 8:00am to 6:00pm, Monday to Friday.
5. In the event that an underground petroleum storage tank is encountered during site earthworks, the removal of that tank is to be supervised by a contaminated land specialist who will carry out an environmental assessment completed in accordance with the Ministry for the Environment *Guidelines for Assessing and Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand (Revised 2011)*.
6. Any soils remaining in the vicinity of the underground petroleum storage tank shall be suitable of the intended land use. Where such soil is contaminated such that it is not suitable, a Soil Disposal Plan shall be prepared and submitted to the Council's Planning Manager for approval at least 5 working days before the commencement of soil removal activities. The soil removal Plan shall provide details of the suitable disposal facilities for the contaminated soil and shall include an accidental discovery protocol, which is to be followed by the contractor if any unknown contaminant sources are identified during the works.
7. A noise management plan is to be prepared and implemented. The purpose of the plan is to demonstrate techniques as to how the noise standards in the District Plan are to be complied with in relation to any café, restaurant, or bar tenancies. The matters addressed in the noise management plan are to include but are not limited to:
 - i. Consideration of the need to limit the hours of occupancy of any outdoor dining areas;
 - ii. Consideration of the need to limit the use and hours of acoustic and amplified music;
 - iii. Consideration of the need to limit the hours of use and location of glass recycling bins and rubbish skips;

- iv. Establishing a noise complaints procedure including recording of these and the actions taken to address any complaints;
 - v. Specifying an ongoing monitoring programme to confirm compliance with the District Plan noise standards.
8. This noise management plan is to be submitted to and certified by the Council's Planning Manager as meeting the outcomes in Condition 7 prior to any café, restaurant, or bar tenancies being open to customers. The Noise Management Plan shall be reviewed and amended as required to achieve the outcomes of Condition 7, with any amended plan submitted to and certified by the Council's Planning Manager.
9. No later than four weeks prior to the commencement of demolition or construction activities authorised by this consent, the Consent Holder shall prepare and submit to the Timaru District Council's Planning Manager a Construction Management Plan. The purpose of the plan is to demonstrate mitigation on the amenity of neighbouring sites and the adjacent street during construction. This Plan shall include, but not be limited to, the following matters:
 - i. The best practicable measures that shall be adopted during construction to avoid, remedy, or mitigate construction effects on the adjoining properties;
 - ii. The contact details of the Lead Contractor and the procedure to be followed in recording and responding to any complaints received;
 - iii. The phases in which work will be undertaken for constructing the three buildings;
 - iv. The timing and duration for each phase, including the working hours within which works will be undertaken;
 - v. Construction noise limits and times when construction and demolition activities can take place and attenuation measures or specific activities and areas in order to comply with NZS6803:1999 Acoustics – Construction Noise;
 - vi. Details of vibration testing of equipment (if any) to confirm that the vibration standards set out in NZS2631:1985-89 Parts 1-3 or equivalent standard are not exceeded;
 - vii. Details of the dust suppression methods to be employed during earthworks to ensure that dust emissions beyond the site boundary are not offensive or objectionable;
 - viii. Details of how the site boundary will be screened and secured;
 - ix. Details of how construction traffic will be managed to maintain the safe and efficient functioning of the road network and the location by which the site will be accessed by construction vehicles.

10. The Consent Holder shall not commence demolition or construction of the buildings authorised by this consent until the Timaru District Council Planning Manager has certified in writing that he Construction Management Plan fulfils the requirements of Condition 9. The Construction Management Plan shall be reviewed and amended as required to achieve the outcomes of this consent, with any amended plan submitted to and certified by the Council's Planning Manager.