

IN THE MATTER OF the Resource Management Act 1991

AND a resource consent application made pursuant to the Act

TO Wellington City Council: SR 490717

BY IPG Corporation Limited

IN RELATION TO Land use consent to undertake partial demolition of, and additions to, a heritage listed building ("Adelaide Hotel 1899"); and to undertake earthworks and establish a new electronic sign on the southern boundary façade

SITE LOCATION 114 Adelaide Road, Mt Cook, Wellington

DECISION OF HEARING COMMISSIONERS

HEARING DATE 29 November 2021

COMMISSIONERS Alistair Aburn (Chair)
Helen Atkins
Ray O'Callaghan

DATE OF DECISION 16 February 2022

SUMMARY OF APPLICATION AND DECISION

- [1] The application subject to this decision report is one of two applications submitted to the Wellington City Council ("the Council") by IPG Corporation Limited ("the Applicant") relating to the site at 114 Adelaide Road, Mt Cook, Wellington.
- [2] The application is for the partial demolition of 114 Adelaide Road, Newton, Wellington (the "Building") and additions to the Building, undertake earthworks and establish a new electronic sign on the southern boundary façade.
- [3] In addition to being a heritage listed building, Adelaide Hotel 1899 (Symbol Ref 397, Planning Map 6) the Building is also subject to an Earthquake Prone Building Notice issued under s133AL of the Building Act 2004.

- [4] The Applicant seeks resource consent for the partial demolition of the Building and the construction of a new eight-level building behind the existing building parapet and built up to the rear of the site. The new building will retain the existing building façades on both street frontages, and is set back from the existing building parapet, extending closer to the street-edge at the south-east corner adjoining Adelaide Road.
- [5] Following a one-day hearing, and evaluation of the evidence by the Commissioners, the conclusion reached is that a compelling case has been made to justify partial demolition of the Building and the construction of a new eight-level building behind the existing parapet and associated works.
- [6] Consequently, the Commissioners acting under delegated authority from the Council, pursuant to s104, s104B and s104D of the Resource Management Act 1991, and under the provisions of the Wellington City District Plan, **GRANT** consent to the application.

INTRODUCTION

- [7] The application, subject to this Decision, is one of two applications submitted to the Wellington City Council (“the Council”) by the IPG Corporation Limited (“the Applicant”) relating to the site at 114 Adelaide Road, Mt Cook.
- [8] The application SR 490717, referred to as Application 2, was lodged with the Council in May 2021 and sought land use consent for the partial demolition of a listed heritage building (the Adelaide Hotel 1899) and for additions and alterations to a listed heritage building. Consent was also sought for site earthworks and for a new electronic sign. The application was publicly notified on 17 August 2021.
- [9] A separate and previous application SR 464277, referred to as Application 1, was lodged with the Council in May 2020 and sought land use consent to demolish a listed heritage building (the Adelaide Hotel 1899) and to create vacant land. That application was publicly notified on 23 October 2020.
- [10] A Hearing Panel consisting of commissioners Alistair Aburn, Helen Atkins and Ray O’Callaghan (“the Commissioners”) was appointed by the Council pursuant to s34A of the Resource Management Act 1991 (“the Act”) to consider both applications.
- [11] This report is the Commissioner’s Decision on Application 2 (SR 490717).
- [12] The Commissioners have issued a separate Decision on Application 1 (SR 464277).

TIME PERIOD FOR DECISION

- [13] At the closure of the hearing on 20 December 2021 we agreed that the normally accepted time period of 15 working days from the close of the hearing for the decision to be released would need to be extended given the complexity and importance of the issues before us, and the Christmas / New Year period. All parties were advised of this extension by a minute dated 21 December 2021.¹

¹ Minute 7.

[14] Accordingly, pursuant to sections 37 and 37A of the Act, we exercised our discretion to extend the time period for this decision from 15 working days from the close of the hearing (being 1 February 2022) to 25 working days (being 16 February 2022). In making this decision we have had regard to the interests of any persons who may be directly affected by the extension and the duty to avoid unreasonable delay in determining the application.

BACKGROUND

The Application

[15] The application is for the partial demolition of the Building with the construction of an eight-level building behind the façade of the Building and associated works.

The Site

[16] The site address is 114 Adelaide Road, Mt Cook, which is a corner site with frontage to Adelaide Road and Drummond Street - refer Figure 1.



Figure 1: 114 Adelaide Road

[17] Legally described as Lot 1-2 DP 21496, Record of Title WN919/71, the site comprises 455m². There are no interests on the title. The registered owner is Lakhi Maa Limited.

The Building

[18] The Building is a two-storey unreinforced masonry building formerly operating as a hotel known as the Tramway Hotel - refer Photo 1.



Photo 1: former Tramway Hotel, 114 Adelaide Road, Mt Cook

- [19] The Building is a listed heritage building under the Operative Wellington City District Plan - (Adelaide Hotel 1899, Symbol Ref 397, Planning Map 6). The Building is not registered by Heritage New Zealand Pouhere Taonga (“Heritage NZ”).
- [20] The Building has been vacant since circa 2008-2009, is subject to an Earthquake Prone Building Notice issued under s133AL of the Building Act 2004.² The Notice states that the owner:

... is required to carry out building work to ensure that the building is no longer earthquake-prone (seismic work).

NOTIFICATION AND SUBMISSIONS

- [21] The application was publicly notified on 17 August 2021.
- [22] A total of 18 submissions were received by the closing date for submissions. Of these submissions, 11 were opposed to the application, 7 were in support and 2 were either neutral or unstated.

PRINCIPAL ISSUES IN CONTENTION

- [23] In the Council’s s42A report it was noted that the following general themes/issues were raised in the submissions:
- (a) In support:
 - i. Increased housing supply
 - ii. Quality design
 - (b) In opposition:
 - i. Scale of earthworks

² The Notice was issued on 24 May 2019. It records that “Wellington City Council has previously issued a written notice under section 124(2)(c)(i) of the Building Act 2004”, which required the owner to complete the seismic work by 17 December 2013. The 2019 Notice records/confirms the 17 December 2013 date.

- ii. Height of building and associated effects including shading/loss of daylight
- iii. LED signage, and associated effects including impact on surrounding apartments and the associated light spill
- iv. Construction effects, including instability and damage to adjoining buildings, construction noise impacts, dust effects, and broader impact on adjoining residences
- v. Loss of views/green outlook
- vi. Impacts on heritage values of building
- vii. Proposal is 'Facadism', where only the façade is retained and the remaining heritage is lost
- viii. Wind Effects
- ix. Alternatives consideration
- x. Archaeology potential.

(c) Neutral:

- i. A hospitality venue in this location could be beneficial
- ii. Seeks protection of the underground utilities (gas mains) run by PowerCo.

THE HEARING

[24] The hearing was conducted on Monday 29 November 2021 commencing at 9.00am and concluded at 5.14pm.

[25] The Council's s42A Report prepared by Mr Peter Daly, Senior Resource Consents Planner, and the Applicant's and Submitter's pre-circulated evidence, were all taken as read at the commencement of the hearing, following which we heard from the:

- (a) Applicant;
- (b) Submitters; and
- (c) the Council officers

in that order.

[26] Although the on-line hearing concluded at 5.14pm, the hearing was not closed but adjourned to enable the Applicant and Council officers to meet to discuss potential amendments to the proposal before us.

[27] This was because, as we set out in a Minute,³ it became apparent to us during the hearing that Council witnesses had identified possible amendments to the proposal that might result in a level of support. Accordingly, towards the conclusion of the hearing we sought comment from both the Applicant and Council advisors on the possibility of an adjournment to enable them to

³ Minute 4 dated 30 November 2021.

meet and discuss the possibility of amendments, on the proviso that any amendments remained within scope.

- [28] The Applicant and Council advisors agreed to meet. Accordingly, in Minute 5 we requested that the Applicant and Council advisors meet, prepare and sign a Joint Statement confirming matters agreed and matters remaining in contention.
- [29] On Wednesday 8 December 2021 a Joint Statement was received by us and copied to the Submitters. Attached to the Joint Statement were amended plans. We discuss the conclusions recorded in the Joint Statement when evaluating our findings on the proposal's environmental effects. However, at this point we record that the Applicant, in its right-of-reply, by amending Condition 1 of the draft consent conditions,⁴ confirmed that the amended plans were to replace the plans submitted with the application.
- [30] We confirm that our evaluation and findings are based on the amended plans submitted with the Joint Statement, which we have attached (refer **Appendix 1**).

DISTRICT PLAN CONTEXT

- [31] The partial demolition of the Building, and the construction of a new eight-level building behind the existing building parapet and built up to the rear of the site is a non-complying activity that requires consent under the following District Plan rules:
- (a) Rule 7.3.5 - Activities in Centres Area - the proposed activity requires consent as a discretionary (restricted) activity as it does not comply with the following Centres activity standards:
 - i. 7.6.1.5 - parking, servicing and access standards
 - ii. 7.6.1.5.5 - height and area of the loading area (standard 7.6.1.5.5 height and area of loading area
 - iii. 7.6.1.5.8 and 7.6.1.5.10 - loading area will front onto a Primary frontage (Map 49B);
 - (b) Rule 7.3.6 - Buildings and Structures in Centres Area - the proposed building requires consent as a discretionary activity (restricted) in relation to design, external appearance and site access, pedestrian and vehicle access
 - (c) Rule 7.5 - Building Height - the proposed building requires consent as a non-complying activity as it does not comply with the following Centres building standard:
 - i. 7.6.2.1 - building height - the height limit for buildings in this area is 18m. The proposal is for a building with a maximum height of 25.9 metres

⁴ In the s42A Report at paragraph 197, the Reporting Officer stated that:

Overall, I consider that the application cannot be supported and recommend that resource consent be refused. However, I can table a set of recommended draft conditions, prior to the hearing, should this be of assistance to the Commissioners.

[our emphasis]

In Minute 3 issued on 15 November 2021 we requested that a set of recommended consent conditions be prepared and circulated to the Applicant and Submitters, adding that all parties would have the opportunity to address us on the recommended consent conditions at the hearing.

- (d) Rule 21A.2.1, the proposal is a discretionary (restricted) activity for the demolition of a listed heritage building; and
- (e) Rule 30.2.1, the proposed development requires consent as it exceeds the following permitted earthworks standards stipulated in Rule 30.1.1.1(b):
 - i. maximum extent of vertical cut, which exceeds 2.5m;
 - ii. maximum height of cut in relation distance from the boundary; and
 - iii. the total area of earthworks exceeding 250m².

THE SECTION 42A REPORT

[32] The s42A Report assessed the effects of the proposal under the following headings:

- (a) heritage;
- (b) urban design, including streetscape and character effects;
- (c) wind;
- (d) residential amenity and character;
- (e) transport; and
- (f) earthworks.

[33] Having assessed the effects and the District Plan objectives and policies, and having regard to the provisions of the National Policy Statement on Urban Development (2020) (“NPSUD”), the Regional Policy Statement for the Wellington Region (“WRPS”) and Part 2 of the Act, Mr Daly concluded that the proposal was unacceptable because the adverse effects would be more than minor and the proposal was contrary to the objectives and policies of the District Plan. The proposal would fail to pass through either of the s104D ‘gateway tests’ and consent should be refused accordingly.

SUMMARY OF EVIDENCE

[34] The following summary of submissions and evidence presented at the hearing, which is presented on a topic by topic or theme basis, is not intended to be a full coverage of all matters raised; but rather is intended to highlight the main points covered by the parties who attended the hearing.

[35] With regards to the s42A Report, the matters contained in the report are considered in our ‘evaluation and findings’ section below.

The Applicant

[36] The Applicant was represented at the hearing by the following witnesses:

- (a) Mr Dennis Parbhu - applicant and owner of 114 Adelaide Road
- (b) Mr Michael Horsley - urban valuer

- (c) Ms Chinara Sharshenova - architect
- (d) Mr Ignatius Black - structural engineer
- (e) Mr David Pearson - conservation architect
- (f) Mr Neil Jamieson - wind consultant
- (g) Mr Ian Leary - planner

[37] The principal points made by the Applicant's witnesses in relation to Application 2 are set out in the following section of this Decision.

[38] **Mr Dennis Parbhu:** Mr Parbhu is the managing director of IPG Corporation Limited, the Applicant, and the owner of the site through Lakhi Maa Limited. Mr Parbhu is experienced in commercial property development and construction. Mr Parbhu explained his background relationship with the area and his desire to create an apartment-type development that could assist with providing accommodation for people with family members in the nearby Wellington hospital. Mr Parbhu's company has assessed various development options that would retain the facades of the old building as much as is reasonably possible and with appropriate setbacks from the facades, whilst limiting the height of the new building to 8 storeys above road level. Mr Parbhu informed us that all options assessed failed to provide sufficient floor area and therefore value to meet the cost of construction. Mr Parbhu estimates a loss of more than \$1M from the chosen development option. He further stated that the actual loss would be greater as the \$1M figure did not include the value of the land, legal costs and Council fees and contributions. We noted the comment from Mr Horsley that apartment values have risen significantly in recent years. However, Mr Parbhu said that the increase in value is offset by substantial increases in construction costs and construction risks, which have also risen substantially in recent years.

[39] Mr Parbhu stated that vehicle access into the site, with some form of on-site car parking, was an absolute must for any form of hotel/apartment development to function successfully. This is particularly the case for a development that would service those persons who have family members in hospital.

[40] **Mr Michael Horsley:** Mr Horsley is an experienced registered urban valuer specialising in the Wellington commercial property market and is a Director of CVAS (WLG) Ltd (Colliers). Mr Horsley presented evidence that primarily related to Application 1 in that he gave a professional opinion on the likely value of the existing 2-storey building if it was strengthened and modernised to provide approximately 664m² of lettable floor area. During the hearing, in answer to questions, he stated that he had not carried out a valuation of the proposed new building development but, based on his experience, he thought a valuation of an apartment development on the site might be based on a value higher than \$9,000/m², but not a lot higher than that due to location and likely size.

[41] **Ms Chinara Sharshenova:** Ms Sharshenova is a senior architect with the IPG Construction Limited. Ms Sharshenova explained that she has only recently joined the company and that her evidence focuses on the design of the new building and the retention of the existing façade. She also considered the various alternatives that were looked at and commented on the issues raised in the s42A Report - particularly those of Ms Chessa Stevens. The primary point made by Ms Sharshenova was that the retention of the façade is conditional on obtaining sufficient gross

floor area (GFA) to make the project economically viable. The height of the structure in all the options presented and considered by Ms Sharshenova was driven by this matter. Ms Sharshenova concluded as follows:

The design of the building has been created in recognition of the heritage interests of the building. Required setbacks have not made it possible to comply with the current height restrictions and so in the interests of attempting to create a viable project extra height has been adopted.

Council officers have considered only the heritage and not the practicalities and realities of this project, which is making it economically viable and having a useable building going forward.

IPG have looked at numerous options and taken a lot of advice as to the appropriate building design.⁵

- [42] **Mr Ignatius Black:** Mr Black, a structural engineer, is a principal and Director of Silvester Clark. He confirmed that he was engaged by the Applicant to prepare a seismic capacity and strengthening review of the existing building. He confirmed his opinion that the building was earthquake prone and that a detailed seismic assessment would conclude that the building achieves less than 20% NBS due to the weight of the unreinforced masonry façade and the inadequate capacity of the timber-framed structure behind the façade that provides lateral load resistance. As an earthquake prone building Mr Black confirmed that the legal requirement was for the building to either be strengthened or demolished. Partial demolition of the building with the remaining parts appropriately integrated into a new structure on the site that eliminated the earthquake prone risk is also appropriate.
- [43] Mr Black stated that the structural solution to provide lateral support to the unreinforced masonry facades is influenced by the position of the new building structure relative to the facades. Structural loads transferred from the facades to the new building structure are to the distance squared. Therefore, as the setback from the façade to the new building structure increases, the loads increase significantly and hence the structural complexity and cost of the structural solution also increase significantly. Thus, the setback distance has structural and cost implications.
- [44] Mr Black stated the retention of the historic fabric at ground level and first floor level to a minimum depth of one room of the original building will be very challenging because first, much of the existing timber fabric would need to be replaced due to its poor condition and, second, the structural elements required to support the façade in the plane of the floors and the roof would clash with the existing fabric.
- [45] Mr Black confirmed that he was confident that a structural solution for the proposed new building, with appropriate support to the facades could be developed, but that task had not yet commenced.
- [46] **Mr David Pearson:** Mr Pearson is a registered architect and principal of DPA Architects. He specialises as a conservation architect with some 40 years' experience in the field. Mr Pearson referred to his Heritage Assessment and Impact Statement that was included in the application

⁵ Chinara Sharshenova, Statement of Evidence, paras [5.1] - [5.3]

documentation. Mr Pearson's evidence to us largely summarises the work he undertook for the application. In his description of the heritage values of the Building, Mr Pearson noted that the road frontages have the heritage features with the rear faces being extremely plain with no architectural merit. Mr Pearson also noted that the Building has been extensively altered since it was constructed in 1899. Of particular note is that the earthquakes in the Wairarapa in 1942 resulted in the ornate parapet that ran around the two street facades being removed and replaced with a low-level parapet and concrete bond beam. The roof form behind the parapet was also lowered. Mr Pearson also noted that the various uses over the years has led to virtually nothing remaining of the original interior finish and detailing. He references a 2016 report by conservation architect, Mr Ian Bowman.

- [47] In terms of the proposed building, Mr Pearson notes that the intention of the new building is for it to complement the facades of the old hotel without resorting to replication. In concluding his summary of his earlier work, Mr Pearson opines that:

... the impacts of the proposed development on heritage values of the former hotel ... would be no more than minor and would be mitigated, at least in part, by positive aspects of the proposal which included the retention of the facades.⁶

- [48] Another positive aspect noted by Mr Pearson was that having the building reused, essentially for its original hospitality purpose, will result in increased vibrancy and vitality in this area of Mt Cook in a way that has been lacking in recent times.
- [49] In terms of the height of the new structure Mr Pearson was of the opinion that, while the new building was taller than what the District Plan envisaged, the setting back of the structure from the historic facades and the simplified form of the addition will ensure that the original building is not dominated by the addition. In this regard Mr Pearson also noted the commercial viability aspect if only a single storey addition was permitted.
- [50] In responding to the s42A Report, Mr Pearson acknowledged that refinements to the design could be made to provide some relief to the facades by the addition of simplified mouldings. In this regard, Mr Pearson noted that the new building was deliberately simple so as not to compete with the heritage values of the facades.
- [51] With regards to the parapet (which was not proposed to be restored) Mr Pearson noted that the Applicant is prepared to consider doing this. He also noted that the setbacks are designed to be the depth of a single room and any change to these (i.e. increase) has implications for commercial viability.
- [52] Mr Pearson notes that the conditions proposed by the Council officers were acceptable to the Applicant.
- [53] In relation to Heritage NZ, Mr Pearson acknowledges the Guidance Sheets that are referred to and the ICOMOS Charter. He concludes that that matters raised by the submitter can be appropriately considered by the Applicant and conditioned as necessary.
- [54] In conclusion, Mr Pearson states:

⁶ Dave Pearson, Statement of Evidence, para [2-9]

8.9 ... the former Tramway Hotel is a rare example of an early Wellington hotel with the two street facades retaining a high degree of authenticity. Every effort should be made to preserve the parts of the building with the highest heritage values for the future.

8.10 There may be different ways of achieving that goal, however, whichever way is selected, it must be financially viable. Relying on the evidence of others, if what remains of the hotel is to be preserved for the future, the current proposal would appear to be a realistic way of ensuring that the essence of the building survives, while also ensuring a reasonably financially viable outcome which must [sic] the aim of every building owner.

8.11 If consent is refused, the future of the hotel will continue to remain uncertain.

[55] **Mr Neil Jamieson:** Mr Jamieson is a specialist in wind engineering and the Research Leader (Wind Engineering) at the WSP Research and Innovation Centre. He is experienced in preparing wind assessments of proposed developments. Mr Jamieson prepared a report dated November 2016 that assessed the effects of wind at street level created by a new 7-storey building on the site (21m high), assuming the building retained the existing facades, the floors above the 3rd floor had a setback from the boundaries of 2m or more and there was a 1.2m high parapet above the facades. The assessment did not include wind tunnel testing.

[56] Mr Jamieson carried out a further assessment of likely wind effects from a revised building design in March 2021. The revised design had an extra floor on the building, resulting in an overall height of just under 26m and the setbacks for Levels 2-7 had been better defined. Mr Jamieson concluded, in the absence of wind tunnel tests, that he anticipated the wind speeds in some localised areas could approach or slightly exceed the District Plan Safety Threshold of 20m/s at street level.

[57] Mr Jamieson estimated the wind in small, localised areas of Drummond Street adjacent to the new building, in northerly conditions, could be 2 - 3m/s higher than the existing situation. He also estimated wind speed increases on parts of Adelaide Road of 2 - 4m/s in southerly wind conditions.

[58] Mr Jamieson described wind speeds of 21 - 23m/s range to be high with ranges of 24 - 26m/s to be very high. He stated that there is no New Zealand or Australian standard for recommended design maximum wind speeds at street level and commented that the Wellington District Plan has a Safety Criteria threshold of 20m/s, whereas the Auckland Unitary Plan has a rule that the average annual maximum peak 3-second gust must not exceed 25m/s.

[59] Mr Jamieson confirmed that it is common practice to carry out wind tunnel tests for buildings above 12m and anticipated those tests being carried out during the detailed design of the building, when final building elements such as parapets, setbacks and other potential mitigation elements could be assessed. He considered that, from his wind assessments of the proposal, the expected final wind tunnel tests would confirm potential adverse effects of wind gusts on pedestrians and road users would be acceptable.

[60] **Mr Ian Leary:** Mr Leary is a Director of Spencer Holmes Ltd and has over 25 years' experience in land development, resource management planning and surveying. Mr Leary prepared the assessment of environmental effects (AEE) report submitted with the application.

- [61] With reference to the NPSUD (which is yet to be incorporated into the District Plan) Mr Leary notes that the partial demolition of the heritage building and construction of the new building would be entirely consistent with Objectives 1, 3 and Policy 3 of the NPSUD in that it creates development efficiency in the city while providing for the health and safety of the community. Mr Leary further notes that the retention of parts of the heritage building as proposed maintains a balance between retaining social and cultural wellbeing, with economic, health and safety matters. In addition, he states that it also provides a substantial increase in the business capacity of the city.
- [62] With reference to the WRPS, Mr Leary notes that in his opinion the new building and facade protection is consistent with that document in regard to the urban design principles, though the appropriate process, is to consider it under the District Plan.
- [63] Mr Leary goes on to consider the relevant provisions of the District Plan and concludes that the overall intent of the District Plan is to maintain and enhance the economic and visual vitality of the various Centres in the city. In his opinion, the proposal will achieve the overall objectives for all the reasons set out in his evidence.
- [64] In his assessment of the effects, Mr Leary refers to the evidence of others. He notes that the costs of the facade retention are significant and to be economically viable, the increase in floor area of the building is required. He notes that the strengthening achieved will exceed the minimum requirement (34% of NBS) and therefore preserve the facade from greater magnitude seismic events. He also notes that the Applicant is also proposing to do some reinstatement of heritage elements of the main facade.
- [65] In his opinion, while the higher building will have some minor adverse effects such as wind and shading effects, these are offset by the positive effects on historic heritage protection of the remaining elements of the Building. He also noted that the higher building has significant positive effects in terms of the vitality of the Adelaide Road area and the realisation of Council strategic urban design outcomes
- [66] Finally, Mr Leary notes, in terms of economic benefits, that the proposal will still result in a loss to the developer, but at a level that can be sustained. He notes that there will be benefits which accrue to the wider community through construction and hotel jobs. In addition, there are benefits to future visitors to Wellington with the accommodation provided in a good location for the city. It is Mr Leary's view that the overall positive effects of the proposal are significant.

Submitters

- [67] Submitters who appeared and presented or called evidence in support of their submissions were:
- (a) Felicity Wong and Ben Schrader for Historic Places Wellington Inc., - in opposition;
 - (b) Felicity Wong for Wellington's Character Charitable Trust - in opposition;
 - (c) Laura Kellaway for Heritage NZ - in opposition, but subject to change could support;
 - (d) Jonathan Marwick on his own behalf - in opposition;
 - (e) Rhona Carson for Newtown Residents' Association - in support.

[68] **Felicity Wong** presented for **Historic Places Wellington** (for which she is Chair) and **Wellington's Character** (for which she is a Trustee) in one presentation which she tabled and then spoke to. Ms Wong spoke to the Building's historic heritage values both in terms of its built form and its use. She went on to express the concerns of the organisations she represents that the Applicant does not intend to give effect to the consent. Rather, she opined, it is his intention to use any consent as leverage to achieve an even higher building behind the original facades.

[69] Ms Wong went on to assess the proposal against the relevant matters in the District Plan and concluded that:

Merely retaining the facade and demolishing the rest of the heritage building falls well short of avoiding the loss of historic fabric and the destruction of significant materials and craftsmanship.

[70] In essence, those organisations Ms Wong represents consider that the proposal is mere facadism which will do little to ensure the important heritage values of the Building are retained.

[71] Ms Wong was critical of the Applicant's position on financial viability stating that the Applicant has not considered all options available and there are numerous other options (that she refers to in summary) that could and should be considered.

[72] Ms Wong did not accept Mr Leary's position on the application of the NPSUD.

[73] In conclusion, Ms Wong stated that her organisations:

... support the evidence of Ms Stevens and of Heritage New Zealand that:

a. The building has high heritage significance.

b. The applicant's AEE identifies that the proposal will have permanent and irreversible heritage effects.

c. We do not believe all financially feasible options have been considered.

[74] Historic Places Wellington and Wellington's Character consider that the application should be declined.

[75] **Dr Schrader**, an urban historian and Vice Chair of **Historic Places Wellington** prepared and presented a short statement of evidence confirming that his organisation does not support the proposal on the basis that it is facadism and that this practice ought to be halted, with the Building being a 'good place to start'.

[76] **Ms Kellaway**, is a Conservation Architect at Heritage NZ. She had 30 years' experience working in the building, heritage consultancy and architecture industry before joining Heritage NZ. Ms Kellaway agrees with Ms Chessa Stevens that a Conservation Plan should have been prepared for the Building and submitted with the application. She further supports Ms Stevens conclusions that:

(a) the building has high heritage significance;

(b) The Applicant's AEE identifies that the proposal will have permanent and irreversible heritage effects; and

(c) there are concerns that not all reasonable options have been considered.

[77] It is Ms Kellaway's view that there is insufficient retention of the historic building with the new building only utilising the historic fabric of two facades. She states that the proposal is essentially a new building with an applied old façade on two sides. Ms Kellaway further supports Ms Stevens' recommendations that the balance of the set back of the new multi-storey building form could be improved to allow for a better understanding of the historic building in its streetscape and in views; and that the overall scale of the new building tower is not sympathetic to the historic building and is a dominant form and could be improved. She notes that the tower design does not meet the HNZ Guideline on Additions and Alterations. She concludes that a reduction in height would assist this aspect.

[78] **Ms Carson**, the President of the **Newtown Residents' Association**, noted that while the Association would prefer a combination of hotel facilities with permanent accommodation it did support this application. She noted that the approval is for the application in principle and not approval for the details of the design.

[79] **Mr Markwick** who lives in Hanson Street, Mt Cook, provided us with a presentation that supported his submission in opposition to the proposal on the basis that the design would lead to significant degradation of the streetscape and visual amenity for residents in the area. He noted that the walls would detract from the largely human scale "fine grained" streetscape of Drummond and Hanson Streets. He also provided visual evidence to support his position that the additional floors, especially in relation to the northern and eastern elevations, would be a negative contribution to the heritage qualities of the existing building and overall streetscape.

Principal Issues or Themes Covered in Submissions and Evidence

[80] Based on our review of the evidence and submissions, we have identified the following principal topics or themes, which in turn we address in our evaluation and findings section of this Decision:

- (a) effects on historic heritage;
- (b) urban design effects;
- (c) residential amenity effects;
- (d) wind effects;
- (e) transport effects;
- (f) earthworks effects;
- (g) construction effects; and
- (h) alternatives and costs.

STATUTORY CONTEXT

Relevant Planning Instruments

[81] The relevant planning instruments are:

- (a) Operative District Plan: Chapters 6 and 7 (Centres); Chapters 20 and 21 (Heritage) and Chapters 29 and 30 (Earthworks); and
- (b) Operative Wellington Regional Policy Statement.

Reasons for Resource Being Required

[82] The proposal, which involves the partial demolition of, and additions to, a listed heritage building; and the construction of a new building in a Centres Area, requires consent under the following District Plan rules:

- (a) Centres Rule 7.3.5: in relation to non-compliance with parking, servicing and access standards - a Discretionary Activity (Restricted);
- (b) Centres Rule 7.3.6: in relation to the construction of a new building in the Centres Area - a Discretionary Activity (Restricted);
- (c) Centres Rule 7.5: in relation to building height that exceeds the permitted activity height for buildings in the Mt Cook Town Centre (Area 2) - a Non-Complying Activity; and
- (d) Heritage Rule 21A.2.1: any modification to any listed heritage building or object which is not a Permitted Activity, or the demolition or relocation of any listed heritage building - a Discretionary Activity (Restricted).

[83] Consent is also required under Earthworks Rule 30.2.1 for earthworks that exceed the applicable earthworks standards - a Discretionary Activity (Restricted).

[84] Overall, on a 'bundled basis', consent is required for a Non-Complying Activity.

EVALUATION AND FINDINGS

[85] Drawing on the s42A Report and the submissions, it is readily apparent that the application to demolish the Building, but retain the Adelaide Road and Drummond Street facades, and build a new eight-level building behind the retained facades, is opposed by a number of parties, particularly in relation to effects on historic heritage values.

[86] Our responsibility, however, is to consider all points raised both those supporting the proposal (as detailed in the application and the Applicant's evidence) and those opposing the proposal (as detailed in the Council's evidence and in the submissions and the Submitters' evidence).

Joint Statement

[87] Our evaluation and findings are based on plans appended to the Joint Statement which incorporated a number of amendments to the plans submitted with the application.

[88] As recorded in the Joint Statement, although the amended plans drew a level of support from Sarah Duffell the Council's urban designer and Chessa Stevens the Council's heritage advisor, in that they accepted that the amended proposal was an improvement, Ms Stevens nevertheless opined that it would still have significant adverse effects on the heritage values of the Building.

[89] Upon receipt of the amended plans, both Heritage NZ and Historic Places Wellington confirmed their continuing opposition to the proposal.

[90] The Joint Statement includes the following statement:

... the Council planner retains their recommendation that the consent should be refused, However, if the Commissioners are of a view that consent should be granted, it is my recommendation that the updated iteration of plans are approved, and that amendments to the ground floor layout are required by consent conditions.⁷

[91] As noted in paragraph [80], we have adopted as a framework for our evaluation the following issues or themes:

- (a) effects on historic heritage;
- (b) urban design effects;
- (c) residential amenity effects
- (d) wind effects;
- (e) transport effects;
- (f) earthworks effects; and
- (g) construction effects.

[92] In addition, as it was an issue raised in a number of submissions, we also comment on what we see as inter-related matters of 'costs and alternatives', where we draw on the structural engineering evidence of Mr Black and the cost details provided by the Applicant.

Effects on Historic Heritage

[93] Given the Building's 'status' as a listed heritage building, effects on historic heritage have been 'front and centre' throughout the hearing and during our deliberations.

[94] Our approach to evaluating the proposal in relation to historic heritage effects has been guided to a significant extent by three key factors:

- (a) the heritage listing in the District Plan includes only the four exterior elevations and the roof. The interior, both generally and in relation to any specific items, is not covered by the listing; nor is the building registered by Heritage NZ as an historic place;

⁷ Joint Statement, 17 December 2021, para 3.3, page 3.

- (b) The Building is subject to an Earthquake Prone Building Notice under s133AL of the Building Act 2004, which requires that the Building is seismically upgraded so that it is no longer earthquake-prone. A 'do nothing option' is not an option; and
- (c) the preservation of heritage can be, and usually is, an expensive undertaking, as is confirmed by the uncontested cost information provided by the Applicant.

[95] We are very conscious that experienced heritage practitioners oppose the proposal, notably Ms Stevens, Ms Kellaway and Dr Schrader.

[96] However, and given the Earthquake Prone Building Notice requirement to seismically upgrade the Building so that it is no longer earthquake-prone, and given the separate decision we have made in relation to Application 1 to refuse consent to the demolition of the Building, we have concluded that the amended proposal does constitute an appropriate way forward in that it will provide for the preservation of what we find to be the most important heritage features of the Building, namely the Adelaide Road and Drummond Street facades.

[97] We are conscious that the opposing submitters will continue to claim that the retention of only the two street-facing facades represents 'facadism' and that is not an acceptable solution for the former Tramway Hotel; but rather that more of the Building should be retained and incorporated into the new building.

[98] However, given the particular circumstances applying in this case, we have concluded that the incorporation of the two-street facing facades is sufficiently appropriate and will provide for an acceptable outcome, given that it is the Adelaide Road and Drummond Street facades that have, and here we agree with Mr Pearson, the highest heritage values.

[99] We have carefully evaluated Mr Pearson's position. We note that he accepts the desirability of retaining heritage buildings in their entirety where possible, rather than just a few facades. However, in the case of the former Tramway Hotel, his position is well summarised in the following statement:

... every effort has been made to preserve the fabric of highest value, in particular, the two-street facing facades. The other facades were not intended to be anything other than purely utilitarian in design and in my opinion, have low heritage values. Similarly, the roof which was always only a corrugated steel lean-to which has previously been modified and the interior which has been modified almost beyond the point where the original layout can be discerned also to have low heritage values.⁸

[100] We also draw attention to Mr Pearson's statement:

The current proposal is essentially about giving what remains of the hotel the best chance of survival. The significant facades will be retained, strengthened and restored, missing elements such as a parapet will be reinstated and remedial work will be undertaken to the facades.⁹

[101] Reflecting on the competing nature of the heritage evidence we feel that there was a significant element of the 'purist' versus the 'pragmatist'.

⁸ David Pearson, Statement of Evidence, para 7.6, page 11.

⁹ David Pearson, Statement of Evidence, para 7.7, page 11.

[102] In our opinion, to decline consent on the basis of adverse heritage effects would put the Building's future in significant jeopardy.

[103] As is often the case when dealing with developments under the Act, a balance sometimes needs to be reached. It is not always possible to 'avoid' all or even the majority of adverse effects. However, the Act does enable developments to proceed where adverse effects have been appropriately and sufficiently 'mitigated', which in our opinion is the situation in this case.

[104] Financial viability is also an important part of the equation.

Finding

[105] Having regard to the evidence before us, we have concluded that the proposal which retains and incorporates the Adelaide Road and Drummond Street facades into a new building development at 114 Adelaide Road constitutes an acceptable outcome in relation to the historic heritage values of the former Tramway Hotel.

Urban Design Effects

[106] Under this heading we consider both:

- (a) the bulk and form of the new building, including its design and external appearance; and
- (b) townscape/streetscape and the 'character' of the area.

[107] Firstly, we note that the Joint Statement records that the Council's urban designer (Sarah Duffell) is "*cautiously supportive*" of the amended proposal, while identifying some aspects where further improvement could be achieved, as follows:

- (a) the exterior design of the new upper part of the proposal is considered to be a better response to the building at the base than the original proposal, however details are inconsistent between elevations and plans and this would ideally be subject to final approval if consent was granted;
- (b) the inclusion of the lightwell recess on the west elevation is supported in terms of improving internal amenity, however it does not fully address concerns about this being a blank wall on the boundary. A setback on this elevation above the parapet would still be the preferred urban design outcome, particularly given the orientation of this façade in respect of adjacent residential properties;
- (c) reinstatement of the original parapet is not proposed. This would be a preferred outcome particularly in terms of improving the visual weight of the original building;
- (d) on the ground floor, the layout is still dominated by vehicles, the design does not nominate a 'front door' at the street edge, and it is unclear whether disabled access can be provided; and
- (e) some improvement could be made to the internal layout of the upper floors without alteration to the exterior appearance of the building.

[108] In our opinion, the matters raised in (a) and (d) can be appropriately addressed through consent conditions.

[109] In relation to the lightwell on the western elevation we consider that this is a significant improvement. We accept that a setback across the full length of the elevation could very well have a detrimental effect on the project's viability, without any significant gain in relation to the presence of a 'blank wall on the boundary'. We do however consider that there is an opportunity to introduce some 'patterning' in the wall to give it some visual interest and relief.

[110] While the amended proposal does not provide for a full reconstruction of the parapet, the proposed 'reinstated' parapet at 1.2m is acceptable.

[111] We have noted the comment made on behalf of the Applicant in the right-of-reply that

2.21 The amended design has attempted to accommodate as many of the officer/advisor requirements as could be reasonably adopted.

2.22 It is also noted that the plans were prepared in a very short period of time. The floor layouts will be required to be refined over a longer period. These internal changes can be done without further consents as internal additions are permitted.¹⁰

[112] While we accept generally the comment about internal changes to the floor layouts, we make two observations:

- (a) if internal changes result in any consequent change to the external appearance of the building, then a further Council approval may be required if the result was a material change from the 'design and external appearance' of the building as illustrated on the amended plans; and
- (b) during any developed design process, clarity should be provided regarding the proposed 'street facing' front door and disabled access.

[113] As noted above, the Joint Statement recorded that the Council's urban designer was cautiously supportive of the amended proposal.

[114] In the Preliminary Urban Design Statement appended to the s42A Report it was noted that:

The amount of change proposed will not be incompatible with the context and does not present an unacceptable level of contrast, particularly in a Centres Area and in a part of the city where substantial change may be anticipated in the future.¹¹

The Joint Statement is 'silent' on the amended proposal and its relationship to its context and on that basis we conclude that the above quoted statement continues to reflect Ms Duffell's opinion, notwithstanding the changes incorporated into the amended plans in terms of the design and external appearance of the new building.

[115] For the record, we have no concerns about the installation of the electronic sign (digital billboard) on the southern elevation. We agree with Ms Duffell's comments that:

- (a) the scale relationship and placement are acceptable; and

¹⁰ Applicant's Right of reply, page 3.

¹¹ Urban Design Comments SR 490717, 29 October 2021, para 4.2.8, page 7.

- (b) the sign would not be out of character with the mixed-use area of larger scale development.¹²

[116] Mr Daly confirmed that the sign was acceptable from a traffic perspective, subject to certain conditions being met.¹³

Finding

[117] Having regard to the evidence, including the Joint Statement, we have concluded that the amended proposal is acceptable from an urban design perspective, subject to some additional design articulation of the west façade.

Residential Amenity Effects

[118] Mr Daly in the s42A Report provided his assessment of potential residential amenity effects commenting on shading, bulk and dominance, and privacy/overlooking effects on surrounding residential properties. His conclusion was that residential amenity effects would be no more than minor. We agree with Mr Daly. In coming to the same conclusion as Mr Daly, we have had regard to the following:

- (a) the site to the immediate west is also within the Centres Area;
- (b) the property to the immediate west (19 Drummond Street) is built to the boundary with 114 Adelaide Road. We note that there is no setback requirement for development in the Centres Area where a site adjoins other properties in the Centres Area; and
- (c) residential properties in the Centres Area are not 'protected' in relation to existing residential amenities in the same way that residential properties in Residential Areas are.

[119] The residential property immediately adjacent to the west (19 Drummond Street) is part of a residential complex known as the Drummond Complex.

[120] Two submissions specifically drew attention to residential amenity concerns:

- (a) Submission 18 by the Drummond Street Body Corporate; and
- (b) Submission 20 by Roger Markwick.

[121] The Drummond Street Body Corporate submission, on behalf of the Drummond Complex, raised specific concerns regarding 'shading and access to air and light' as captured in the following statement:¹⁴

The effects of shading and access to air and light are particularly important to the BC given the residential nature and the importance of light/air to the residential living environment at the Drummond Complex. There are 16 residential units within Blocks D and E at the eastern and south-eastern parts of the Drummond Complex that would be shaded 100% of the day by the

¹² Urban Design Comments 490717, 29 October 2021, paras 5.2 and 5.3, page 15.

¹³ Section 42A Report, para 141, page 24.

¹⁴ The submitter also raised concerns regarding earthworks, the proposed electronic sign (digital billboard) and construction activity.

proposed development. Blocks A, B and C (containing another 12 residential units) that would be shaded for part of the day, especially in winter when direct sunlight is required most.

[122] The Body Corporate did not attend the hearing and as a consequence we did not have an opportunity to hear further from the submitter or to discuss its concerns.

[123] In relation to shading, we have given careful consideration to the analysis provided by Mr Daly in the s42A Report¹⁵ and generally concur with his conclusions. Accordingly, we accept that there will be additional shading, indeed that is inevitable given the increase in building height compared to the existing building. However, we do not accept it will be as severe or significant as contended by the Body Corporate - namely that some parts of the complex will be shaded 100% of the day. We also agree with Mr Daly's statement that:

... the surrounding Centres Area does provide for relatively significant increases in building height, which is likely to cast greater shadow in the future. Whilst this does not make up part of the existing environment, I am of the view that it provides some context as to the type of shading effects that are somewhat expected by the District Plan in this area. Furthermore, the Centres Area does not intend to provide absolute protection to residential units within this zone.

[124] We acknowledge Mr Daly's comment recorded in the Joint Statement that he is unable to make a recommendation in relation to shading effects "*for the reasons outlined in my s42A Report*".

[125] As we have noted, Mr Daly in the s42A Report does conclude that residential amenity effects, will be no more than minor, notwithstanding that he recommended that the Applicant provide further information on this in their evidence.

[126] In response, Mr Leary commented as follows:

6.119 The building at 19 Drummond St is built very close to the boundary with 114 Adelaide Road. It covers virtually all of the site and is two stories high. The existing building will already shade part of that building. Some early morning additional shading will occur. But this is not inappropriate in the Centres context.

6.120 Similarly with the building further east, [sic]¹⁶ the existing buildings will shade these structures during the time when the shading from the proposed building would potentially affect these properties.

6.121 The effects of shading from the building on the amenity of these properties can be considered to be minor.¹⁷

[127] Roger Markwick lives at 4B/1 Hanson Street. He attended the hearing and spoke of his concern about the adverse effects of the proposal on the basis that the design would lead to significant degradation of the streetscape and visual amenity for residents in the area. In particular he was concerned at the 'featureless blank wall' nature of the west-facing elevation which would be visible from the residential properties further to the west.

¹⁵ Section 42A Report, paras 132 and 133, pages 22-23.

¹⁶ It is probable that Mr Leary meant to refer to the building further to the west.

¹⁷ Ian Leary, Statement of Evidence, page 44.

[128] The amended proposal incorporates a lightwell recess in the western elevation. However, in the Joint Statement it is recorded that:

... it does not fully address concerns of either urban design or submitters about this being a large, blank wall on the boundary.

[129] We agree that even with the incorporation of the lightwell recess the west elevation will still have a significant 'blank wall' appearance which will be visible from residential properties to the west. In our opinion this can be remedied to some extent by the introduction of some design articulation into the elevation thus adding to its visual interest. We stress that incorporating some design articulation in the form of expressed patterning or similar does not require a setback of the elevation from the boundary.

Finding

[130] Having considered all the evidence, and with regard to the Drummond Street Body Corporate and Roger Markwick submissions, we have concluded that residential amenity effects will be no more than minor, subject to the west elevation of the new building incorporating some three-dimensional architectural detailing which will reduce its 'blank wall appearance' and therefore mitigate adverse visual amenity effects for residents.

Wind Effects

[131] The District Plan has a wind safety threshold of 20m/s and an expectation that wind tunnel tests for buildings exceeding 12m height will be carried out to confirm the building design can meet this threshold. Wind tunnel tests have not yet been carried out for the proposed building. Mr Jamieson estimated the wind conditions from the proposed building might slightly exceed the 20m/s threshold in some wind conditions, but these might be mitigated with final building design and confirmation from wind tunnel tests.

[132] Council's wind advisor, Dr Donn, reviewed Mr Jamieson's assessments and concluded that the increased wind speeds at parts of Drummond Street and possibly a part of Adelaide Road could potentially be greater than that assessed by Mr Jamieson and the risk of the 20m/s threshold being exceeded by the proposed building was greater than that concluded by Mr Jamieson.

[133] We note that both experts confirmed that it was difficult to accurately estimate the increases without wind tunnel tests. We also note that there is no New Zealand standard for recommended maximum wind speeds and the Wellington safety threshold of 20m/s is exceeded by some other District Plans, such as Auckland, which has a maximum wind speed of 25m/s. We were told by Dr Donn that the effect from wind is a function of wind speed squared, hence there is about a 50% increase in effect between a 20m/s criterion and a 25m/s criterion. Dr Donn also advised that some wind tunnel tests had shown effects on women and children had been found at wind speeds as low as 15m/s.

[134] The assessments by both experts were for the building profile associated with the original application. That building profile had the south-eastern face of Levels 1 -7 of the building extending out to the Adelaide Road boundary and a solid flat wall along the full western side. The revised building design, developed during the hearing caucus phase in early December, refined the design to have a 1.3m setback of the upper floors above the existing building in the south-eastern corner and a 2.9m-3m void extending up the western side of the building, near

the middle of the wall, for Levels 1-7. The building is also proposed to include a 1.2m high parapet. A final wind assessment is expected to be influenced by these changes and both experts advised that changes such as increased setbacks, the introduction of breaks in wall faces and the presence of parapets would be expected to help reduce wind effects. However, we note Dr Donn's comment that a parapet of 1 - 1.5m height is unlikely to provide a notable improvement in wind control. In addition, whilst the use of a canopy on some parts of the building is not currently proposed, nor preferred due to heritage factors, final building design incorporating wind tunnel test information, might further identify a need to mitigate adverse effects from wind gusts. We consider that if wind tunnel tests confirm that canopies are required to manage public safety from excessive wind gusts, then appropriately designed canopies, involving input from a building designer with experience in heritage issues, would be acceptable.

Finding

- [135] We therefore conclude that potential adverse effects from wind gusts at street level are likely to be managed through final building design, to the extent that there would not be an unacceptable level of risk to public safety from wind gusts.

Transport Effects

- [136] The proposed new building includes a vehicle access off Adelaide Road into a customer/services loading/unloading area and with expected on-site car parking facility in basement parking, albeit smaller than desired by the Applicant but limited by space and cost efficiency.
- [137] Council's urban design advisor, Ms Duffell, considered the introduction of a vehicle access into the building was undesirable and potentially problematic (in the context of building heritage envelope). Ms Duffell considered greater reliance on public transport facilities, which might expand as part of the Let's Get Wellington Moving program, should be relied upon and on-site parking/vehicle access to the building be eliminated from the proposal.
- [138] Council's transport advisor, Mr Pungiah, concluded that the transport effects would be acceptable. This was primarily because vehicles leaving the site onto Adelaide Road would be driving forward and not backing out onto the road, and the requirement to have a judder bar 1.5m behind the footpath and a standard flashing sign with audible sound device operating when vehicles exited the site.
- [139] Mr Pungiah also considered there would not be a congestion problem on Adelaide Road due to the relative infrequent arrivals and departures from the building. He considered a future cycle lane on Adelaide Road will further restrict on-street parking.
- [140] Mr Parbhu told us that on-site vehicle access and on-site parking was essential for the effective operation of the hotel/apartments on the site and the proposal could not function without it. He therefore considered that all building options for the site would need to incorporate this element.
- [141] The Joint Statement records the Council's heritage advisor, Ms Stevens, considers that the ground floor vehicle access/parking has not been resolved to allow the footprint of the historic building to be retained and/or to ensure that there is adequate building behind the façade and retention of side elevations. The Joint Statement also records Ms Duffell's view that the layout of the interior ground floor is still dominated by vehicles. She also considered that there is still

uncertainty around the vehicle entrance in terms of excluding pedestrians or providing safe conditions at this point.

[142] We are not persuaded by the concerns expressed by Ms Stevens and Ms Duffell. We consider that whilst the intended outcome of the Let's Get Wellington Moving program is to achieve greater public transport use and less reliance on private cars, there is no certainty that this will be achieved in the short to medium term. We accept the position put forward by the Applicant that a vehicle access onto the site is necessary for the functionality of the new development on the site. We note that the proposed vehicle access is in a similar location to the existing vehicle entranceway and hence not in major conflict with heritage issues and Mr Pungiah has assessed the potential transport effects of the proposal to be acceptable.

Finding

[143] We therefore conclude that the proposed vehicle access, as indicated by the amended plans prepared during the December caucusing is acceptable, subject to the conditions attached to this Decision.

Earthworks Effects

[144] Redevelopment of the site to carry out the strengthening of parts of the existing building and the construction of the new proposed building will require earthworks to form the basement carpark, construct the necessary foundations and to shape the site to the required levels. The site may also require earthworks to mitigate liquefaction risks.

[145] Council's earthworks advisor, Mr Davies, has identified that the volume of earthworks expected to be required triggers the need for an Earthworks Management Plan and a Construction Traffic Management Plan. He concludes that the earthworks activity can be completed without an unacceptable level of adverse effects if they are carried out in accordance with the proposed conditions of consent. These conditions essentially require the input of professional geotechnical engineers and the adherence to an approved Earthworks Management Plan and Construction Management Plan.

[146] The Applicant has indicated acceptance of these proposed consent conditions.

Finding

[147] We accept the position put forward by Mr Davies and are satisfied that potential adverse effects relating to earthworks activities can be managed by appropriate consent conditions.

Construction Effects

[148] We accept that the redevelopment of sites will result in adverse construction-related effects, including construction noise and vibration, construction traffic effects, and, from time to time, a general impact on the amenities of adjacent and nearby properties. Hours of construction activity need to be managed. These were issues raised by the Drummond Street Body Corporate.

[149] Although such effects are temporary, it is important that measures are put in place through the preparation and implementation of comprehensive and robust construction-related management plans, such that the adverse effects are avoided, remedied or mitigated to the greatest extent practicable.

[150] To this end, as is the case where resource consent is granted for significant developments, construction-related consent conditions are 'part and parcel' of the consent. Accordingly, we have imposed consent conditions relating to the preparation and approval by Council of management plans covering: construction traffic; construction noise and vibration; and hours of construction, in addition to the management plans addressing the earthworks phase of the project.

[151] With the implementation of the management plans incorporated into conditions of consent we accept, that while noticeable, the effects associated with the redevelopment of the property will be acceptable.

Alternatives and Costs

[152] Project costs have been assessed by the Applicant and its advisors. The costing information has had an influence in the iterative assessment of building alternatives on the site, to the extent that the financial implications for this site are relevant to our considerations.

[153] The Applicant has assessed the expected financial outcome for various options. The site has some specific challenges such as: it is a relatively small site; the need and resulting cost to retain the facades; the desire to limit the height of the new building above the existing heritage elements of the existing building; and the desire to set the new building back from the facades of the existing building as much as possible. The small site means small resulting leasable area per floor. Retaining the facades has cost implications and these are increased as any setback is increased due to the structural implications. The desire to limit the height of the new building so that it does not 'overpower' the existing building limits leasable floor area and hence reduces the income side of the financial equation. Increased setbacks also reduce leasable floor area and complicate the structural solution for supporting the facades.

[154] These combined factors have resulted in the Applicant's assessment that a development generating an additional gross floor area of approximately 2,581m² was required to achieve a break-even financial result for the development. However, this additional floor area was recognised as requiring a building that was likely to have an undesirable height and/or insufficient setback from the existing outside faces of the existing building. The refinement of options was therefore focussed on minimising the extent of financial loss to a level that still enabled a satisfactory outcome for the owner derived from other personal and broader family objectives.

[155] We have considered the cost information presented by the Applicant and note that the assessment has taken a very "generous" approach in that the assessment has incorporated a zero value for the land, Council fees, Council contributions, legal fees and for developer's margin. Thus, the estimated loss is understated as any normal industry assessment would include these costs.

[156] Council did not present any evidence on costs or financial viability of the proposal and did not challenge the financial estimates prepared by the Applicant. Some Council experts and submitters made vague statements that the Applicant had not considered all options to sufficient detail, but those witnesses had no expertise in cost matters and did not present any evidence to substantiate statements made.

[157] The Applicant's proposal achieves an additional floor area of approximately 1,875m². Mr Parbhu estimates this proposal will result in a loss of in excess of \$1M, with a zero-land value input and assuming zero cost for Council fees, Council contributions and legal fees. Thus, we interpret the actual loss would be more than twice this sum.

[158] Council Heritage and Urban Design advisors have sought a greater setback on the new building elements and less height so that the heritage values of the existing building can be maximised. Mr Daly has assessed the various potential adverse effects and considers the application should be declined because, in his opinion, the adverse effects on heritage, and those associated with shading and wind, were not appropriately dealt with by the revised design.

[159] We were satisfied that the Applicant has genuinely accepted a degree of financial loss associated with the proposal and, notwithstanding this loss, has an intention of proceeding with the proposal if the required resource consents are granted. We accept that the Applicant has a "line in the sand" for the extent of that loss and, in this case, further building design changes resulting in a combination of greater setback, restricted height, further reduced leasable gross floor area "cross that line".

Finding

[160] We therefore conclude that financial aspects of the proposal have been a necessary input into the Applicant's assessment of options because of the degree of loss associated with all options. We are satisfied that the financial information presented by the Applicant is sufficiently robust to demonstrate the degree of loss and show that the proposed option is likely to result in a notable loss for the project. Thus, what is proposed can be considered "as good as it gets" as other future landowners, if the site were to be sold/disposed of in its current state, might not be willing to incur the projected loss and therefore pursue a much greater new building footprint/height than currently proposed.

DISTRICT PLAN OBJECTIVES AND POLICIES

[161] Under s104(1)(b)(vi) of the Act, when considering an application and any submissions received, regard must be had to the relevant provisions of 'a plan or proposed plan' in this case the operative Wellington City District Plan, including its objectives and policies.

[162] In the context of Application 2, three sections of the District Plan are relevant:

- (a) Chapters 6 and 7 relating to Centres;
- (b) Chapters 20 and 21 relating to Heritage; and
- (c) Chapters 29 and 30 relating to Earthworks.

[163] Under these three sections there are a total of 12 objectives and 85 policies as follows:

- (a) Chapter 6: 9 objectives (excluding subdivision) and 59 policies;
- (b) Chapter 20: 2 objectives and 14 policies; and
- (c) Chapter 29: 1 objective and 12 policies.

[164] Confronted with such a plethora of potentially relevant objectives and policies we have chosen to follow the ‘thematic approach’ endorsed by the Court of Appeal,¹⁸ while also identifying those specific objectives and policies which appear to us to be particularly relevant given the scope and nature of the proposed works.

[165] Following this approach, the principal themes we have identified are:

- Theme 1 - Heritage: discourage demolition, partial demolition of listed buildings, whilst acknowledging that demolition of some parts of buildings may be appropriate [Policy 20.2.1.2]
- Theme 2 - Heritage: promote conservation and sustainable use of heritage buildings [Policy 20.2.1.3]
- Theme 3 - Heritage: ensure modifications to main elevations are minimised [Policy 20.2.1.3]
- Theme 4 - Heritage: ensure that signs on heritage buildings do not adversely affect heritage values [Policy 20.2.1.9]
- Theme 5 - Centres: promote intensification of activities and buildings in and around Centres [Policy 6.2.1.4]
- Theme 6 - Centres: enable and facilitate a wide mix of activities with Centres [Policy 6.2.2.1]
- Theme 7 - Centres: maintain Centres’ character and amenity [Policy 6.2.2.1]
- Theme 8 - Centres: design guidance - acknowledge the form and scale of the surrounding environment [Policy 6.2.3.1]
- Theme 9 - Centres: streetscape - respect setting and context (of listed heritage items) and establish positive visual effects [Policy 6.2.3.1]
- Theme 10 - Centres: building height and bulk - minimise effect of new building works on the amenity values of adjoining properties [Policy 6.3.3.9]
- Theme 11 - Earthworks: minimise effects associated with site earthworks.

[166] We acknowledge that if other parties were to review the 12 objectives and 85 policies they may well identify other issues or themes that they consider to be relevant. While that may be so, having reviewed the evidence and the submissions, and therefore the issues raised, we consider that the above eleven themes provide an acceptable framework for assessing the consistency (or otherwise) of the proposal against the following District Plan stated “environmental results”:

- retention of listed items that maintain their heritage values;
- buildings that contribute positive urban design outcomes; and
- maintenance and enhancement of the quality of streetscapes.

[167] Referring to each of the identified themes we have concluded as follows

¹⁸ Court of Appeal, Auckland Regional Council v Living Earth Matters [2008] 14 ELRNZ 305, [2009] NZRMA 22.

- [168] Theme 1 Heritage: the proposal does result in the partial demolition of a listed heritage item, with the listed items being demolished being the south and west elevations and the roof. Importantly, the two street-facing facades are retained. We have accepted the Applicant's evidence that it is necessary to incorporate a new 8-level building behind the two retained facades to achieve an economic development. The demolition of the 'undistinguished' south and west facades and the roof is, in the circumstances, justified and therefore acceptable.
- [169] Theme 2 Heritage: we have accepted the Applicant's evidence that it is not economically feasible to conserve the existing building; but that the proposal which retains the two dominant street facing facades does achieve, in association with the new 8-level building incorporated behind the facades, a sustainable use of the site in a manner that acknowledges the historic heritage values attaching to the site.
- [170] Theme 3 Heritage: the main elevations are maintained and appropriately incorporated into a new development. Although submitters opined that the proposal constituted unacceptable 'facadism', having evaluated all the evidence and the competing views, we have concluded that the retention of the two street-facing facades in the manner proposed is acceptable; and is certainly acceptable if the alternative is the possible/probable full demolition of the Building in its entirety under the Earthquake Prone Building Notice, if a viable economic alternative is not available to the owner.
- [171] Theme 4 Heritage: the proposed electronic sign on the south elevation of the new building will not detract from the retained heritage values, which are limited, in our opinion, to the two street-facing facades.
- [172] Theme 5 Centres: a redevelopment of the site in the manner proposed is consistent with promoting intensification of activities.
- [173] Theme 6 Centres: establishing a 'new' hotel on the site is consistent with the historical use of the site and also consistent with enabling a mix of activities within the Mt Cook Centre.
- [174] Theme 7 Centres: incorporating the street-facing facades into the new development assists in maintaining the streetscape (character and amenity) of this part of the Mt Cook Centre.
- [175] Theme 8 Centres: the design of the proposed new building, in our opinion, is acceptable, particularly in terms of its relationship to the retained facades. We accept that there will very likely be some further design refinement during the developed design process and to that end are imposing a consent condition to 'guide' this further refinement.
- [176] Theme 9 Centres: the relationship between the retained facades which are, in our opinion, the site's principal heritage features, and the new building does achieve an appropriate outcome in terms of streetscape and visual amenities. Whilst some parties may opine that it represents unacceptable 'facadism', it is an outcome warranted in the circumstances particular to this proposal, including the 'costs vs economic viability scenarios' that have been demonstrated by the Applicant.
- [177] Theme 10 Centres: the bulk and form of the proposed new building is acceptable, notwithstanding the additional height above the current operative District Plan building height standards. For us, a consideration has been the level of development necessary to achieve a viable development. We have also had regard to the anticipated increased height likely to apply

to the site under the forthcoming Proposed District Plan, as foreshadowed by the Council's adoption of the Spatial Plan (refer further comment below under "Other Matters").

[178] Theme 11 Earthworks: with the imposition of the earthworks-related consent conditions, potential adverse effects associated with the necessary earthworks, which will not have any lasting visual amenity effects, will be appropriately avoided, remedied or mitigated.

[179] Given our conclusions in relation to the District Plan's objectives and policies, as summarised above, we find that there is an acceptable degree of consistency between the District Plan's anticipated environment results for both heritage buildings and new buildings in Centres, and the proposal. A key consideration for us is that the District Plan does provide for modification, including demolition, of listed heritage buildings under Rule 21A.2.1, and, we would add, in appropriate circumstances. We have concluded that the Applicant has reasonably established through evidence that the proposal is reasonable in the circumstances pertaining to both the Building and the site.

OTHER MATTERS

[180] Under s104(1)(c) of the Act we have a discretion to have regard to any "other matter" that we regard as relevant and reasonably necessary to determine the application. In our opinion there are three matters which warrant comment under s104(1)(c):

- (a) Earthquake Prone Building Notice / Building Act 2004;
- (b) National Policy Statement on Urban Development; and
- (c) Wellington City Spatial Plan.

Earthquake Prone Building Notice - Building Act 2004

[181] As noted above, the Building is subject to an Earthquake Prone Building Notice and is currently derelict. The Notice requires seismic work to be carried out by December 2013. We were told that there is High Court action on hold in relation to the Notice. As noted by Mr Daly in his s42A Report, the demolition of this building will remove an earthquake prone building alongside a busy road. This in turn removes the potential risk of physical human harm that could result during/after an earthquake, and the potential disruption to an important stretch of road serving the southern suburbs of Wellington, and Wellington hospital. This outcome would not result in any heritage values of the building being retained. In granting consent, we are mindful that without approval to proceed the Building is likely to either be demolished by neglect or be required to be demolished in the near future because of safety concerns and no proposal to undertake seismic strengthening work.

National Policy Statement - Urban Development (2020) / Wellington City Spatial Plan

[182] In his evidence Mr Leary assessed the proposal against the objectives and policies of the NPSUD and concluded that:

The partial demolition of the heritage building and construction of the new building would be entirely consistent with Objectives 1 and 3 and Policy 3 in that it creates development efficiency in the city while providing for the health and safety of the community.¹⁹

[183] We note that:

- Objective 1 relates to well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future;
- Objective 3 relates to district plans enabling more people to live in and more businesses and community services to be located in areas of an urban environment in or near a centre zone or other area with many employment opportunities and areas well served by existing or planned public transport; and
- Policy 3 enables, inter alia, in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys.

[184] We agree with Mr Leary that the proposal is consistent with the NPSUD.

[185] We note, as did Mr Leary, that Mr Daly referred not to the NPSUD (2020), but to the previous National Policy Statement on Urban Development Capacity (2016),²⁰ and although he concluded that the proposal was consistent with the NPS-UDC, as pointed out by Mr Leary, the NPS-UDC was replaced by the NPSUD.

[186] We adopt the conclusion reached by Mr Leary as recorded in paragraph [182] above.

Wellington City Spatial Plan

[187] Following consultation on a Draft Spatial Plan, in June 2021 the Council adopted its Spatial Plan which, as Mr Daly states:

... is a blueprint for the city that sets out a plan of action for where and how the city should grow and develop over the next thirty years providing key policy direction to influence the review of the District Plan.

[188] We accept that the Spatial Plan is a non-statutory document, but one to which we can have regard under s104(1)(c) of the Act. In this respect we note that in order to be consistent with the NPSUD the Council will be looking to achieve, through the District Plan review process,²¹ a significant increase in building height in the Mt Cook Centre. Mr Leary advised that the increase could be to 42.5m compared to the operative District Plan height of 18m.

[189] In reaching our decision on the appropriateness of the proposed 8-storey building (to a maximum height of 25.9m) we have acknowledged the strong likelihood of a future significant increase in height in the Mt Cook Centre, a height increase which would be aligned with Policy 3 of the NPSUD.

¹⁹ Ian Leary, Statement of Evidence, page 16.

²⁰ S42A Report, page 27.

²¹ The statutory Proposed District Plan is expected to be notified in mid-2022.

S104D RMA

[190] As a consequence of the height of the new building exceeding the discretionary height limit applicable to the site,²² consent is required under Centres Area Rule 7.5. As a non-complying activity s104D of the Act applies.

[191] Section 104D requires that the activity must pass one of the 'gateway' tests, namely that either the effects are not more than minor, or that the proposed activity is not contrary to the objectives and policies of, in this case, the operative Wellington City District Plan.

[192] Mr Daly (on behalf of the Council) was of the opinion that the adverse effects of the proposal would be more than minor and that it was also contrary to the objectives and policies of the District Plan. Therefore consent could not be granted to the proposal (as per the plans submitted with the application) :

*... due to the level of adverse effects it will create and its failure to meet important objectives and policies in relation to historic heritage*²³

[193] On the other hand, Mr Leary (on behalf of the Applicant) is of the opinion that:

... the proposal can be considered to be generally consistent on a practical and reasonable basis with the objectives of the District Plan;

and

*... on balance overall adverse effects of the proposal can be considered to be minor.*²⁴

[194] For the reasons summarised in our evaluation and findings section of this Decision, we have concluded that the proposal can pass the s104D gateway tests. While the basis for this conclusion derives particularly from our consideration of heritage effects, which we address below, we record that in our opinion any effects in relation to urban design, including streetscape and visual character effects, residential amenity effects, wind effects, and traffic effects will all be no more than minor, and therefore in relation to those matters we can assess the proposal under s104B of the Act.

[195] In relation to heritage effects we also find that effects will be no more than minor. In reaching this decision we have had particular regard to the fact that the District Plan's heritage listing applies only the building's external facades along with the roof, and that in reality it is only the Adelaide Road and Drummond Street facades that exhibit significant historic heritage values, in our opinion, and these are to be retained and incorporated into the proposal.

²² The site is within Mt Cook (Adelaide Road) Height Zone 2 where an 18m permitted activity height limit applies. Under Rule 7.3.7 the permitted activity height can be exceeded by 33% (up to 23.94m) as a discretionary activity (restricted). The proposed building at 25.9m exceeds the discretionary limit, thus requiring consent as a non-complying activity.

²³ Section 42A report, page 26. We note that Mr Daly's conclusion, as stated in the s42A report, referred to the application plans lodged with the application, which have now been replaced by the plans submitted with the Joint Statement. Mr Daly does not specifically refer to s104D in the Joint Statement. However, while acknowledging that there is general urban design support for the amended proposal, based on the advice of Ms Stevens, he continues to conclude that heritage effects will be significant and that therefore consent should be refused. Although not explicitly stated, we draw from Mr Daly's recorded comments that he would remain of the opinion, as stated in the s42A Report, that the proposal does not meet either of the s104D gateway tests.

²⁴ Ian Leary, Statement of Evidence, page 50.

[196] We accept that facadism may not be seen by heritage/conservation architects as representing a good heritage outcome, a view expressed by both Ms Kellaway on behalf of Heritage NZ and Dr Schrader on behalf of Historic Places Wellington.

[197] However, in a situation where the alternative might well be the complete demolition of a heritage building, and it is only the facades of a building that are subject to a heritage listing, then, in our opinion, a case can be made for the incorporation of existing building facades into a new development.

[198] That is the nature of the proposal before us. In our opinion the loss of the Adelaide Road and Drummond Street facades would constitute a significant loss of heritage values. However, their appropriate incorporation into a new development, as proposed, in our opinion results in effects being no more than minor.

[199] Given this conclusion, we consider that the proposal can pass the 104D(1)(a) gateway.

[200] We have also had regard to:

- (a) the position where it is the building height under the Centres Area rules that 'triggers' the non-complying activity status and that under the Heritage rules all activities involving heritage buildings require consent as a discretionary activity (restricted), even though on a 'bundled basis', we must assess the proposal as a non-complying activity; and
- (b) where the policy framework for assessing proposals involving heritage buildings does anticipate modification, including demolition, being appropriate, with key considerations including the extent to which the work:
 - detracts from the values for which the building or object was listed; and
 - retains the determinants of the style and character of the building, particularly the street elevation.

[201] Consequently, in our opinion the proposal is not contrary to the District Plan's heritage objectives and policies in the sense that is outside of, or 'repugnant' to, the outcomes potentially available under the objectives and policies applicable to heritage buildings. On this basis, we also consider that the proposal can pass the s104D(1)(b) gateway.

[202] Therefore, we are in agreement with Mr Leary's position over Mr Daly's position.

PART 2 RMA

[203] Given our findings in relation to 'environmental effects' and 'District Plan provisions', and in line with the recent guidance from the Court of Appeal, as recorded in *R J Davidson Family Trust v Marlborough District Council*,²⁵ we have not found it necessary to undertake a Part 2 assessment.

[204] Nevertheless, and given that a principal focus of much of the heritage evidence presented on behalf of the Council and submitters was that the proposal will result in significant adverse

²⁵ *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316.

effects due to the loss of historic heritage, we do acknowledge and draw attention to s6(f) of the Act under Matters of National Importance”:

- *s6(f) the protection of historic heritage from inappropriate subdivision, use and development* in exercising our decision under s104B of the Act.

[205] Based on our evaluation of the evidence, and for the reasons recorded in our ‘evaluation and findings’, we have concluded that the proposal, which incorporates the two principal facades of the Building into a new building development, in the circumstances of this particular proposal represented in the (amended) application drawings (**Appendix A**), constitutes an appropriate use and development of the property at 114 Adelaide Road.

CONSENT CONDITIONS

[206] Attached at **Appendix B** are consent conditions we consider appropriate and necessary to avoid, remedy and mitigate potential adverse effects associated with the proposal.

[207] The ‘genesis’ of the consent conditions was:

- (a) a set provided by Mr Daly on the basis that, if we concluded that consent should be granted, these were the consent conditions he recommended;
- (b) a set of amended consent conditions provided as an attachment to the Applicant’s right-of-reply, which Mr Leary advised were ‘updated’ to reflect the amended plans attached to the Joint Statement; and
- (c) some further amendments, including two additional conditions, that we have made.

[208] The two additional conditions (Condition 40 and 41) relate to:

- (a) a restriction on any demolition works involving any part of the listed heritage building “Adelaide Hotel 1899’ commencing prior to the granting of Building Consent under the Building Act 2004 for the proposed redevelopment; and
- (b) a three-year lapse period under s125 of the Act.

[209] Our reasons for these two consent conditions are:

- (a) to achieve an appropriate level of certainty that the redevelopment of 114 Adelaide Road will proceed and to avoid any premature demolition works; and
- (b) to acknowledge that a considerable time has passed since the issue of the Earthquake Prone Building Notice and that there is now cause for some urgency in attending to the removal of the public safety risk associated with the building.

DECISION

[210] Having regard to the evidence presented, and the relevant statutory criteria under s104, s104B and s104D of the Act and the provisions of the Wellington City District Plan, and for the reasons summarised below, as Commissioners acting under delegated authority from the Council, we **GRANT** resource consent to application SR 490717 by the IPG Corporation Limited for the partial

demolition of a listed heritage building (Adelaide Hotel 1899), to construct a new 8-level building, to undertake earthworks and install an electronic sign at 114 Adelaide Road, Mt Cook (being Lots 1-2 DP 21496, Record of Title WN919/71), subject to the conditions listed in **Appendix B**.

REASONS FOR DECISION

[211] Section 113(1)(a) of the Act requires that we state the reasons for our decision.

[212] As detailed above in our "Evaluation and Findings" the principal reasons for our decision to **GRANT** consent to Application 2 (SR 490717) are:

- (a) retention of the Adelaide Road and Drummond Street facades into the new development will enable the significant heritage values of the Building to be retained;
- (b) the height of the new building is appropriate and will not result in an unacceptable outcome in terms of the building bulk and form;
- (c) the external appearance of the new building, as reflected in the amended drawings, is appropriate;
- (d) effects on the amenities of adjoining properties, including the residential properties to the west, will be no more than minor;
- (e) having a building reused, essentially for its original hospitality purpose, will result in increased vibrancy and vitality in the area in a way that has been lacking in recent years; and
- (f) the proposal will eliminate an existing earthquake safety risk to the public.

CONCLUDING COMMENT

[213] As we record at the beginning of this Decision, we were appointed by Council to hear two separate resource consent applications relating to the property at 114 Adelaide Road, Mt Cook:

- (a) Application 1 for the demolition of the listed heritage building and the creation of vacant land; and
- (b) Application 2 for the partial demolition of a listed heritage building and the construction of a new building behind the existing building facades fronting Adelaide Road and Drummond Street.

[214] As recorded in our Decision on Application 1, we concluded that resource consent should not be granted for the demolition of the Building and the creation of vacant land, on the basis that demolition would result in a significant loss of historic heritage that could not be avoided, remedied or mitigated.

[215] Having made the decision to decline consent to the demolition of the Building, we turned our attention to what would be an acceptable outcome given the 'earthquake-prone building' status of the Building, and the requirement under the Building Act 2004 carry out building work to ensure that the Building is no longer earthquake-prone.

[216] The option represented in the amended proposal represents, in our opinion, an achievable and appropriate way forward to strengthen the Building and secure the retention of its important historic heritage values


[217] Facadism it may be. However, and while there could be further debate about some of the detail, including, for example, a greater setback of the new building to reflect a minimum one-room depth retention of the original building, given the economic challenges faced by the building owner, we consider that a compelling case has been made for the proposal as presented in the amended plans.



Alistair Aburn
Commissioner



Helen Atkins
Commissioner



Ray O'Callaghan
Commissioner

Dated: 16 February 2022

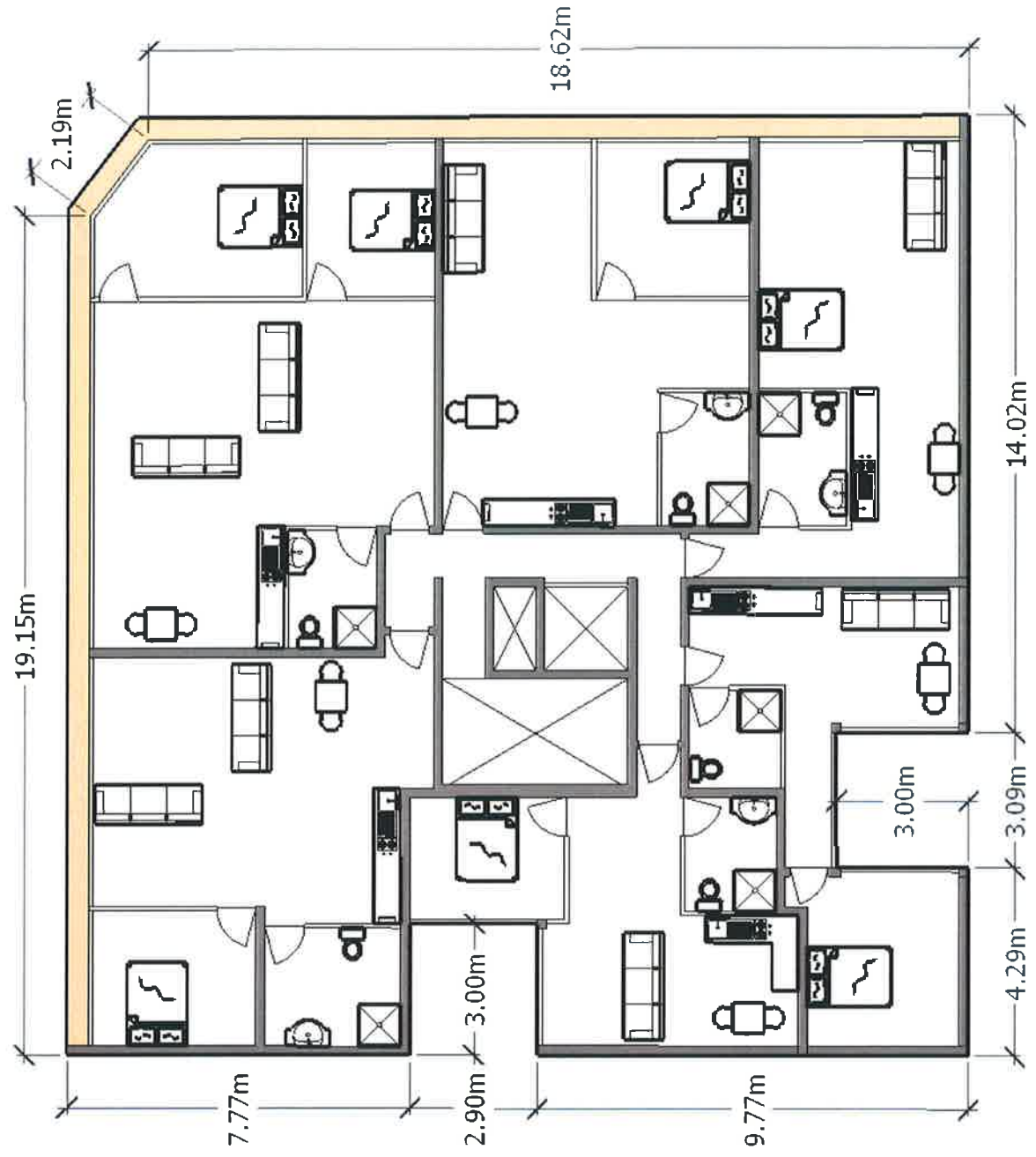
APPENDICES

- A. Approved Plans
- B. Conditions of Consent

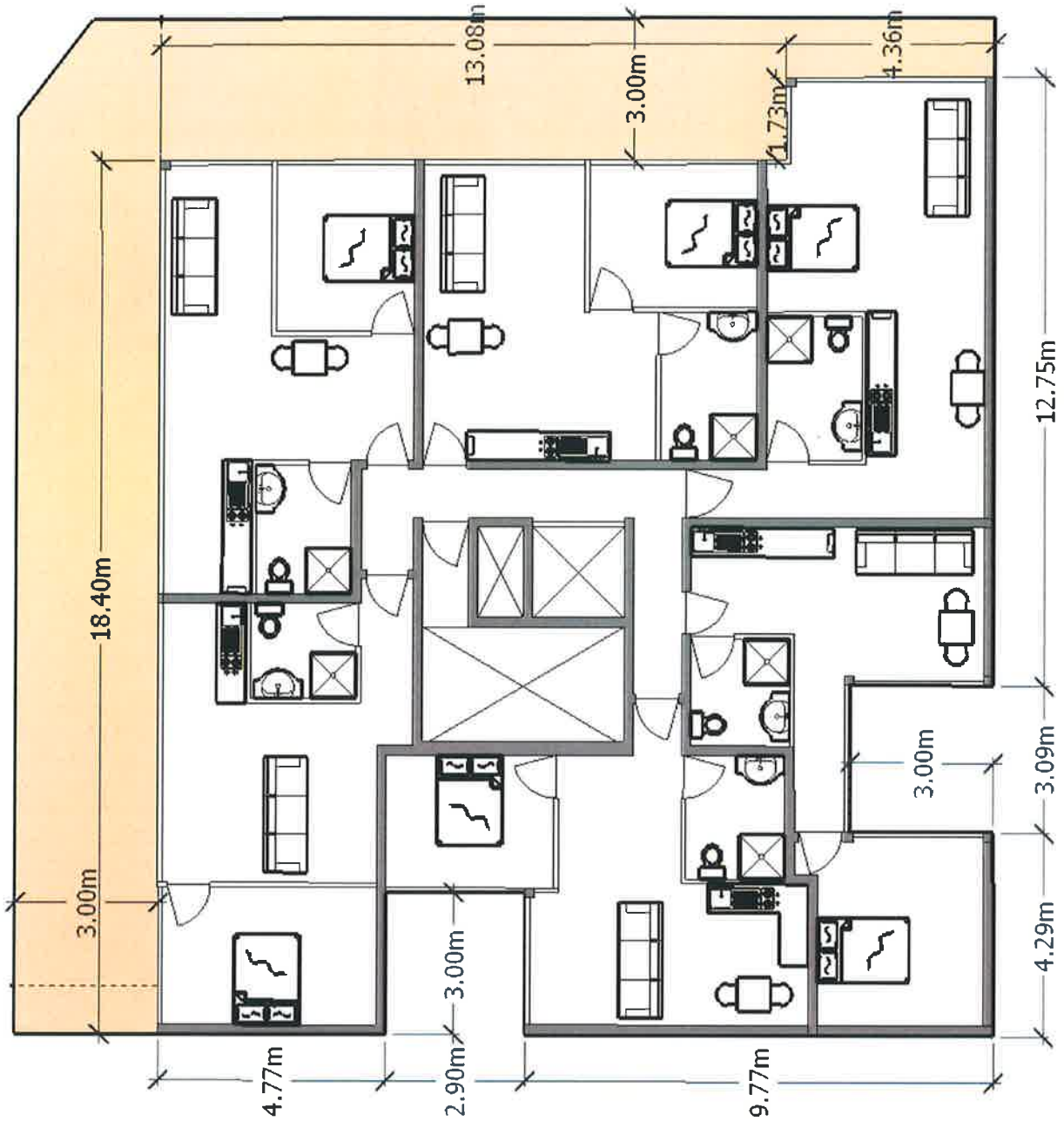
APPENDIX A

APPROVED PLANS (SR 490717)

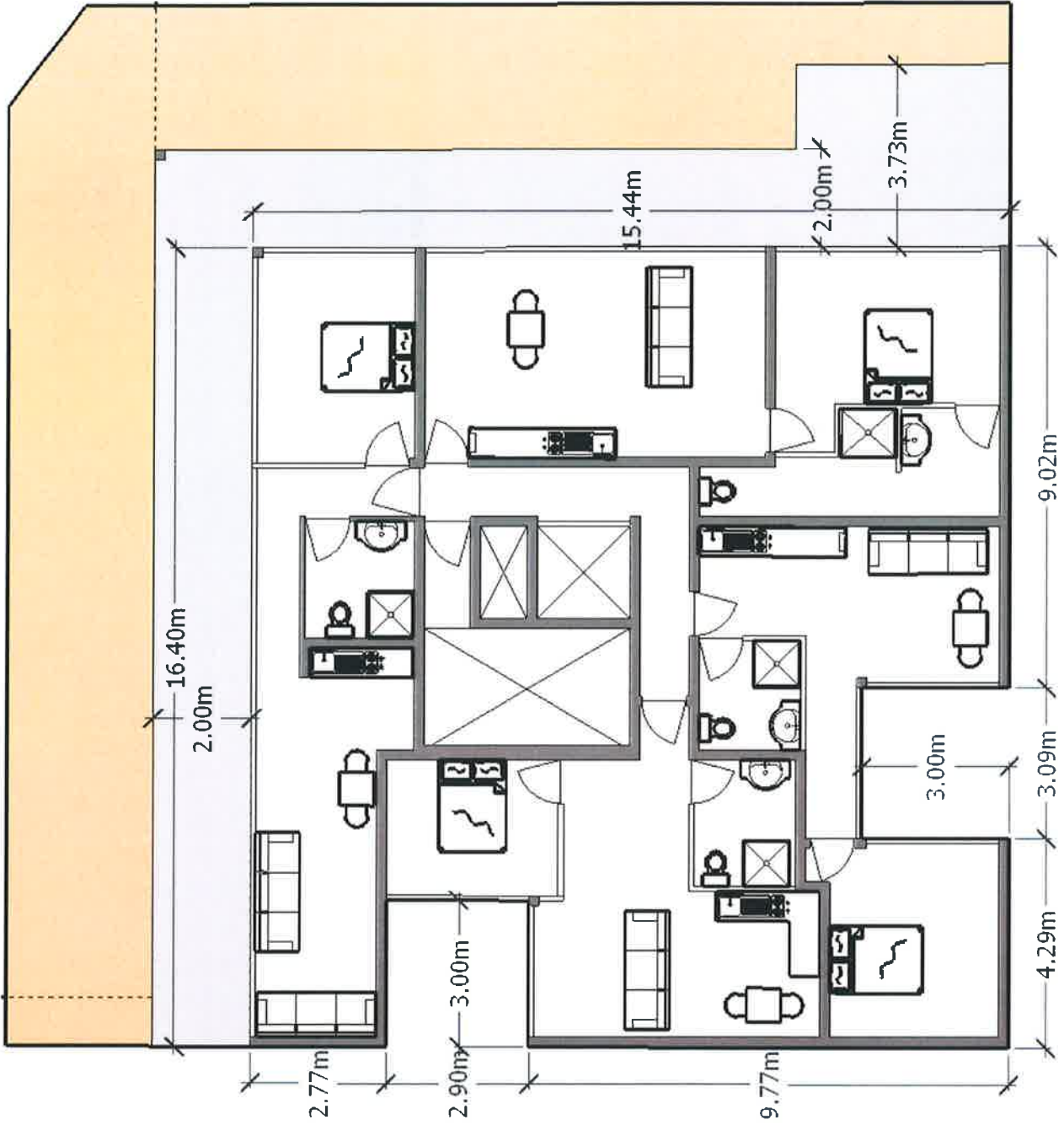
Level 1



Level 2 - 6



Level 7



APPENDIX B

CONSENT CONDITIONS (SR 490717)

CONSENT CONDITIONS (SR 490717)

General:

1. The proposal must be in accordance with the information provided with application Service Request No. 490717 and the following plans prepared by IPG Corporation Limited:

- A-100 Rev 1, Basement Level, 22 April 2021
- A-101 Rev 3, Ground Floor, December 2021
- A-106 Rev 3, North & East Elevations Tinted Glazing, December 2021
- A-107 Rev 3, South & West Elevations Concrete Pattern, December 2021
- Floor Plans Level 1, Levels 2-6, Level 7, undated
- A-200 Rev 3 - 3D Views 01, December 2021
- A-201 Rev 3 - 3D Views 02, December 2021
- A-202 Rev 3 - 3D Views 03, December 2021
- A-203 Rev 3 - 3D Views 04, December 2021

except as amended by the following conditions.

Heritage:

2. Prior to any works commencing on the site, the consent holder must submit a documentary record of the building to, and receive certification from, the Council's Compliance Monitoring Officer (CMO). The record will include (as a minimum):

- (a) the address or location of the place;
- (b) the name and contact details of who prepared the report;
- (c) a written description of the place including an independently researched historic narrative;
- (d) an assessment of heritage significance of the place and of the existing building fabric;
- (e) a written description of the reasons for undertaking the recording;
- (f) a description of the recording methodology;
- (g) measured floor plans, ceiling plans, roof plans, and external elevations of the building in its current form;
- (h) plans and sections (as necessary) to record the building structure and interaction of building elements and spaces;
- (i) a comprehensive written description of the structural elements;
- (j) a comprehensive written description of the exterior;
- (k) a comprehensive written description of each space within the building;
- (l) a comprehensive written description of the building's development over time;
- (m) comprehensive photography of the building before commencing work, and during the works as they are carried out, using a digital SLR with good lenses and a high megapixel count (10+ MP):
 - i. the camera should be set to record using a raw file format which should not be modified (though jpgs can be taken at the same time);
 - ii. all images should be labelled and referenced on a set of scale drawings accurately showing the location and direction of each shooting position;
 - iii. a contact sheet of images should be provided with the documentary record, and the raw files provided individually in digital format in conjunction with the record.

Notes:

- One copy of the completed photographic record will be placed on the property file and the second stored with the Council's Heritage Team.
 - The CMO will consult with the Council's Heritage Advisor (Heritage Advisor) in relation to the implementation of this condition.
3. Existing building materials are to be salvaged wherever possible so that they can be reused in the proposed redevelopment of the site. Prior to any alteration or demolition works commencing on the site, the consent holder must obtain an assessment of the significance and condition of all existing building fabric, and submit to the CMO, for certification, an inventory of materials to be salvaged from the building for recycling or reuse. The salvage of these materials must be signed off by the CMO with assistance from the Heritage Advisor who will need to be onsite to provide this assistance.
4. Prior to any works commencing on the site, the consent holder must submit a Heritage Management Plan for the works to, and receive certification for this plan from, the CMO. The plan will (as a minimum):
- (a) detail the methodology for construction;
 - (b) identify all historic building fabric that is to be retained;
 - (c) provide for 'tool box talks' and pre-construction meetings with contractors to familiarise them with the significant heritage features of the building and their statutory responsibilities and obligations in relation to the Resource Management Act and the Heritage New Zealand Pouhere Tāonga Act;
 - (d) provide a temporary protection plan that details how the existing fabric to be retained will be protected from damage that may potentially occur during construction, including provisions for vibration monitoring;
 - (e) establish protocols for monitoring physical changes to the building that may arise because of the works;
 - (f) set out protocols for recording and removing historic fabric;
 - (g) set out protocols for storing historic materials to be reused or disposed of, and identify an appropriate storage area;
 - (h) set out protocols for communication paths and responsibilities of the consent holder to ensure that adverse effects, including accidental damage, are appropriately avoided or mitigated, and any issues that arise onsite are immediately notified to the correct party.

Note:

The CMO will consult with the Heritage Advisor in relation to the implementation of this condition.

5. Prior to any alteration or demolition works commencing on the site, the consent holder must submit detailed drawings to a scale of 1:5, 1:10 and 1:20, along with descriptions to the CMO confirming:
- (a) the parapet reconstruction;
 - (b) replacement of the door with a window or new door(s) on the chamfered corner of the historic facade;
 - (c) any and all changes to the windows in the historic facades;
 - (d) methodology for conservation and repair of the historic facades, including all brickwork, plasterwork, window and door joinery;

- (e) the materials, placement of fenestration, and window treatment of the north and east facades of the tower;
- (f) the exterior treatment of the solid walls of the south facade of the tower.

The consent holder must receive approval for these detailed drawings from the CMO before any works on this re-construction commences.

Once approval for the detailed drawings has been provided the consent holder must then prepare and comply with a Conservation Management Plan for the ongoing maintenance of the north and east heritage facades of the building.

Note:

The CMO will consult with the Heritage Advisor in relation to the implementation of this condition.

- 6. At completion of the works, namely, reconstruction of the parapet, replacement of the door on the chamfered corner, and all changes to the windows in the heritage facades, must be signed off by the CMO, with assistance from the Heritage Advisor.

Townscape/Design:

- 7. Prior to the commencement of construction, the following final details must be provided to CMO for certification:

- a) Plans that demonstrate:

- i. That the design is refined to provide an exterior entrance to the hotel that celebrates the building's heritage and streetscape significance.
- ii. That the corner entrance to the building is removed and the original window is reinstated.
- iii. The setback of the new building from the heritage façade is implemented in the elevations and floor plans for the proposed new building addition and appropriately illustrated on the submitted plans.
- iv. That the ground floor design is able to provide compliant accessible entry.
- v. That the exterior façade of the new building (street-facing elevations) is refined to provide more three-dimensional relief on the façade by variation in depth of window placement, and interest in the finish of window reveals.
- vi. That the exterior façade of the west elevation is modified to provide more design articulation in the form of expressed patterning or similar.
- vii. That the north-east corner of the building responds to the angled corner of the original building below, on a reduced scale.

- b) That the consent holder supplies a full schedule of colours and materials for the exterior of the development, noting the following:

- i. The colour scheme for the original hotel part of the development must also be endorsed by the Heritage Advisor.
- ii. The colour scheme of the new part of the building should complement the chosen colours for the heritage building.
- iii. The palette of materials must not visually overwhelm the heritage building by being overly detailed or detract from it by being overly bland.

- iv. The south-facing wall should take into account the billboard placement and orientation, and should introduce an understanding of scale.

Notes:

- The CMO will consult with the Council's Urban Designer (Urban Designer) in relation to the implementation of this condition.
- In relation to Condition 7(iv) note that the Urban Designer's preference is that an exterior entry faces Drummond Street. If this is not proposed, the consent holder should demonstrate why this is not achievable

Transport:

8. Prior to the occupation of the building, the consent holder must ensure:

- A judder bar at 1.5 m back to the footpath and standard flashing sign with audible sound must be installed.
- The height clearance for vehicles entering the site and parking directional signs must be denoted in the building for customers' reference.

Construction Traffic Plan

9. The consent holder must submit a Construction Traffic Plan (CTP) to the CMO at least 10 working days before any works commence on the site. The CTP must be certified by the CMO in consultation with the Council's Traffic / Vehicle Access Team before any work begins.

10. The CTP must include methods to avoid, remedy or mitigate adverse construction traffic effects during the works. The CTP must include, but not be limited to, the following matters:

- Timing of specific work phases.
- Key activities and anticipated traffic levels for each work phase.
- Truck routes for the removal of earthworks materials.
- Expected frequency of vehicle movements specific to the construction phase, with details of the proposed hours and days of week. Vehicle movements into and out of the site should be restricted during peak traffic times (7-9am and 4-6pm weekdays).
- Locations of where construction-related vehicles will park, wait, turn and carry out loading and unloading of materials.
- Locations where construction materials would be stored.
- Arrangements for temporary traffic management, including pedestrians, car-parking and servicing.
- Temporary pedestrian safety measures, including directional signage where applicable.
- Details of how servicing and access to adjacent site activities will be provided for, specific to each development phase.
- Methods for the public to contact the site manager for complaints. There should be a 1 m² sign facing the public footpath at all points of entry to the site with the site manager's contact details.

Notes:

- The CTP does not constitute an approved Traffic Management Plan for any of the works. This approval must be gained separately. The Traffic Management Plan must reflect each different stage of the project including vehicle movements in and out of the site.

- A Corridor Access Request must be approved before construction activities within the road corridor commences. This is for mitigating public safety risks associated with the proposed earthworks and construction activities. The application needs to be made through <https://www.submitica.com/>.
- A Road Usage Licence is necessary if any temporary structures or sole use of space (scaffolding, hoarding, loading zones, tower crane positioning, gantry etc.) are needed on road reserve during any stage of the development and construction. Please note additional fees can occur and will apply when occupying legal road reserve for private use. A quote will be sent to you for acceptance if this applies.

Digital Billboard:

11. The digital billboard must be programmed to automatically go dark/black background in the event of a malfunction.
12. Images shall have a minimum dwell time of 8 seconds.
13. Images shall transition from one to the next via a 0.5 second dissolve.
14. The luminance of the digital units shall be controlled and automatically adjusted to ensure they do not exceed typical ambient light conditions and do not exceed 200cd/m² during night-time, 600cd/m² during dawn/dusk and 5000cd/m² during daytime. They should not result in the illuminance of a roadway in the Mt Cook Centre by over 20 lux.
15. Image content must be static and must not incorporate flashes, movement, scrolling, animation, full motion video, sequential advertising over multiple frames or successive billboards along a length of road, multiple advertisements in one frame and must not emit any sound.
16. The digital billboard must not imitate traffic signs or any traffic control device (either wholly or partially) or give instructions to motorists that conflict with any traffic sign or traffic control device.
17. As per the Traffic Control Device rules for signs the minimum letter height for a main message displayed on the sign 150mm, the property name is 100mm and the secondary message is 75mm.
Note: The minimum letter height only applies to standard text. Text within images is excluded from meeting this requirement.
18. Once operation of the digital billboard has commenced; the consent holder must provide the CMO with a Traffic Safety Reports at the following frequencies:
 - 12 months
 - 24 months

The reports must:

- Review operation of the billboards in relation to traffic safety.
- Include data on reported crashes and any other issues specifically identified as being related to the digital billboards.
- Be undertaken by an independent Traffic Engineer/CPEng that is experienced in preparation of traffic safety reports.
- The costs of the Traffic Safety Reports and implementation of any mitigation measures must be met by the consent holder.
- If the Traffic Safety Reports find that further mitigation measures are considered necessary, then these must be implemented to the satisfaction of the CMO.

Noise:

Noise emissions

19. The consent holder must ensure noise emission levels when measured at or within the boundary of any site zoned Centres, or at the outside wall of any building on any site zoned Centres, other than the site from which the noise is emitted shall not exceed the following noise limits:

- At all times: 60 dB L_{Aeq} (15 min)
- At all times: 85 dB L_{AFmax}

Where it is impractical to measure outside the building, measurements must be made inside (with windows closed). Where indoor measurements are made, then the noise limits stated above shall be reduced by 15 dB.

20. The consent holder must ensure noise emission levels when measured at or within the boundary of any site zoned Residential, or at the outside wall of any building on any site zoned Residential, shall not exceed the following noise limits:

- Monday to Sunday 7am to 10pm 50dB L_{Aeq} (15 min)
- Monday to Sunday 10pm to 7am 40dB L_{Aeq} (15 min)
- Monday to Sunday 10pm to 7am 70dB L_{AFmax}

21. The consent holder must ensure all fixed plant and equipment including heating, cooling and ventilation plant must be located, designed and operated so that noise emission levels from mechanical plant when measured at or within the land parcel, or the outside wall of any building on any other site in the Centres Area, does not exceed the following limits:

- At all times: 55 dB L_{Aeq} (15 min)
- Monday to Sunday 10.00pm to 7.00am: 80 dB L_{AFmax}

Sound Insulation

22. The consent holder must submit to the CMO for certification, plans and details that all habitable rooms have been designed and specified to achieve a minimum acoustic insulation performance standard of $DnT,w + Ctr > 30$ dB. Compliance with the acoustic performance standard shall be achieved by ensuring habitable rooms are designed and constructed in a manner that: (a) accords precisely with the schedule of typical building construction set out under Rule 7.6.2.9.1 Centres Zone; or (b) accords with an acoustic design certificate prepared by suitably qualified acoustic engineer suitable to Council.

Notes:

- If the consent holder achieves compliance by adopting the building schedule as a suitable solution the building schedule must be applied as drafted otherwise the consent holder obtains an acoustic design certificate prepared by a suitably qualified acoustic engineer.
- The CMO will consult with the Council's Acoustic Engineer (Acoustic Engineer) in relation to the implementation of this condition.

Acoustic Ventilation

23. The consent holder must submit to the CMO for certification, plans and details from a suitably qualified professional that illustrate that any new habitable room has been designed and specified to achieve the minimum ventilation performance standard of 7.5 litres per second per person. The ventilation certification must be prepared by a suitably qualified and experienced person acceptable to Council.

Notes:

- The CMO will consult with the Acoustic Engineer in relation to the implementation of this condition.
- The consent holder must provide supporting information as to how many persons have been assumed in each habitable room as the ventilation requirements are per second / per person.

Construction Noise

24. The consent holder must ensure that construction, earthworks, and any demolition activities operate between the hours of 7.30 am and 6.00 pm Monday to Saturday only.

25. The consent holder must ensure that construction, earthworks and any demolition activities are managed and controlled so that the noise received at any residential or commercial site does not exceed the limits set out in Table 2 and Table 3 of 'NZS6803:1999 Acoustics – Construction' Noise when measured and assessed in accordance with that Standard.

26. The Consent Holder must ensure that, not less than 15 working days prior to commencing any construction, activities authorised by this consent, the consent holder must submit to the CMO a draft Construction Noise and Vibration Management Plan (CNVMP) for approval. The draft CNVMP must be prepared by a suitably qualified and experienced acoustic expert acceptable to Council and include an assessment of construction and vibration levels. The assessment CNVMP shall be in line with s.16 Best Practical Option . The CNVMP must be amended, where directed by the CMO to address proven deficiencies in its operation.

Notes:

- The CMO will consult with the Acoustic Engineer in relation to the implementation of this condition.
 - The Best Practical Option is defined as the best method for preventing or minimising the adverse noise or vibration effects on the environment having regard to 1) the sensitivity of the receiving environment to adverse noise or vibration effects 2) the financial implications and 3) current state of technical knowledge and the likelihood that the option can be successfully applied. Refer to the Resource Management Act 1991 for the full definition of Best Practicable Option.
27. The consent holder must not undertake any activities authorised by this consent until the draft has been signed off by CMO as final and is denoted by Council as being 'approved for use' as the final CNVMP.

Earthworks

Chartered Professional Engineer

28.A suitably experienced and qualified Chartered Professional Engineer (CPEng) must be engaged by the consent holder for the monitoring earthworks, detailed design and construction phase of the project.

The CPEng must advise on:

- The methods to ensure stability of the site and surrounding land.
- The design and construction of any temporary support.
- The earthworks methodology to ensure consistency with the recommendations in the geotechnical assessment by Coffey Ltd (dated 21 July and 3 October 2011, Ref GENZWELL, 15193).

The consent holder must follow the advice of the CPEng in a timely manner. If necessary, the CMO may require information regarding the engineer's monitoring and/or specific assessments to address any potential or actual stability issues in relation to earthworks.

Note: The consent holder must provide the name and contact details of the CPEng to the CMO at the time the person is appointed.

Construction Management Plan

29.A Construction Management Plan (CMP) must be developed with the involvement of a CPEng and is to be submitted to the CMO for certification, at least 10 working days prior to any work commencing.

In certifying the CMO will consult with the Council's Earthworks Engineer. The CMO's certification must be received prior to any work commencing.

The CMP will include, but is not limited to, the following:

- Roles and responsibility of key site personnel.
- A contact (mobile) telephone number(s) for the on-site manager, where contact can be made 24 hours a day / 7 days a week.
- A communication and complaints procedure for adjoining property owners/occupiers, members of the public passing by and the like.
- Hours of work at the site.
- Measures to ensure excavation and retaining structures are constructed incrementally to maintain stability of all the slopes.
- The maximum height increment of excavation before the structural support to that excavation is put in place.
- Other measures to ensure excavations and retaining structures remain stable, including measures to limit the exposure of unrelated earthworks at any one time.
- Details of the staging of the work.

The CMP must be reviewed by the CPEng prior to being submitted to the Council, to ensure that the methodology is in accordance with the geotechnical assessment by Coffey Ltd (dated 21 July and 3 October 2011, ref GENZWELL 15193).

30. Work must not commence on the site until the CMP is certified by the CMO. The earthworks and retaining work must be carried out in accordance with the certified CMP.

31. The earthworks and retaining work (once works start) must be approved by the CPEng and certified by the CMO.

32. The earthworks and retaining work must be carried out in accordance with the CMP to the satisfaction of the CMO.

Earthworks Management Plan

33. At least 10 working days prior to any work commencing on site, an Earthworks Management Plan (EMP) developed by the consent holder must be submitted to the CMO for certification.

34. The EMP will include, but is not limited to the following:

Erosion and Sediment Controls

- An illustrated plan that records the key features of the EMP including the approved area of earthworks (including the certified earthworks plan).
- A description of the broad approaches to be used to prevent erosion and minimise problems with dust and water-borne sediment.
- Measures to limit the area of earthworks exposed to the weather at any one time (sources of dust and sediment).
- Stabilisation of the site entrance(s) to minimise the tracking of earth by vehicles onto the adjoining roads.
- The type and location of any silt fences to control water-borne sediment.
- Methods for protecting stormwater sumps from the infiltration of water-borne sediment.
- Covering of soil or other material that is stockpiled on the site or transported to, or from the site, to prevent dust nuisance or erosion by rain and stormwater (creating water-borne sediment).

Dust Controls

- Measures to ensure that the discharge of dust created by earthworks, construction and transport activities are suitably controlled to minimise dust hazard or nuisance.
- Ceasing all dust generating activities if site dust is observed blowing beyond the site boundary.

Management of Controls

- The methods for managing and monitoring the EMP controls.
- Nomination of a site person responsible for the implementation and administration of the EMP.

35. Work must not commence on site until the EMP is certified by the CMO. The earthworks and associated work must be carried in accordance with the certified EMP.

36. The erosion, dust and sediment control measures put in place must not be removed until the site is remediated to the satisfaction of the CMO. 'Remediated' means the ground surface of the areas of earthworks have been stabilised (no longer producing dust or water-borne sediment), and any problems with erosion, dust or sediment that occur during the work have been remedied.

Note: If necessary, the CMO may require changes to the implementation of the EMP to address any problem that occurs during the work or before the ground surface is stabilised.

Producer Statements

37. A copy of the producer statement 'PS4 - Construction Review' and its accompanying documents for structures/buildings, prepared for the associated building consent process, must be provided to the CMO within one month of the structures/buildings being completed.

General Earthworks Conditions

38. Run-off must be controlled to prevent muddy water flowing, or earth slipping, onto neighbouring properties or the legal road. Sediment, earth or debris must not fall or collect on land beyond the site or enter the Council's stormwater system. Any material that falls on land beyond the site during work or transport must be cleaned up immediately (with the landowner's permission on land that isn't public road). The material must not be swept or washed into street channels or stormwater inlets or dumped on the side of the road.

Note: As a minimum, 100mm clarity is required to allow water to be discharged offsite. If clarity is less than 100mm then the water is considered to be muddy and must be captured and treated on site.

39. Dust created by earthworks, transport and construction activities must be controlled to minimise nuisance and hazard. The controls must be implemented for the duration of the site works and continue until the site stops producing dust.

Commencement of Demolition Works

40. No demolition works involving any part of listed heritage building "Adelaide Hotel 1899" shall commence prior to the granting of building consent under the Building Act 2004 for the proposed redevelopment of 114 Adelaide Road in accordance with the plans listed in Condition 1.

Lapse Period

41. In accordance with s125(1) of the Act, resource consent SR 490717 is subject to a lapse period of three (3) years.

Monitoring and Review:

42. Prior to starting work the consent holder must advise of the date when work will begin. This advice must be provided at least 48 hours before work starts to the CMO either by telephone (801 4017), facsimile (801 3165) or email (rcmonitoring@wcc.govt.nz) and must include the address of the property and the Service Request Number.

43. The conditions of this resource consent must be met to the satisfaction of the CMO. The CMO will visit the site to monitor the conditions, with more than one site visit where necessary. The consent holder must pay to the Council the actual and reasonable costs associated with the monitoring of conditions (or review of consent conditions), or supervision of the resource consent as set in accordance with section 36 of the Act. These costs* may include site visits, correspondence and other activities, the actual costs of materials or services, including the costs of consultants or other reports or investigations which may have to be obtained.

*Please refer to the current schedule of Resource Management Fees for guidance on the current administration charge and hourly rate chargeable for Council officers.

Advice Notes

Heritage Advice Note:

Work affecting archaeological sites is subject to a consent process under the Heritage New Zealand Pouhere Tāonga Act 2014. An archaeological authority (consent) from HNZPT must be obtained for works to proceed if there is potential for an archaeological site to be modified or destroyed. It is illegal to modify or destroy an archaeological site without obtaining an archaeological authority. The consent holder is advised to contact HNZPT and/or commission an archaeological assessment prior to works commencing.