

**APPENDIX 2:
ADDITIONAL INFORMATION FROM THE
APPLICANT**

24 September 2020

Dunedin City Council
PO Box 5045
Dunedin 9054

For: Campbell Thompson

Contact Lauren Semple

Phone 03 353 0574

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Reference 2090987-2

Christchurch

Level 3, 1 Kettlewell Lane, The Crossing, 680-690

Colombo Street

PO Box 139, Christchurch 8140

Dear Campbell

LUC-2020-263 - RESPONSE TO REQUEST FOR FURTHER INFORMATION

We refer to your correspondence dated 10 September 2020 in which you requested further information addressing:

- (a) The extent to which the new Dunedin Hospital build (**NDH**) and the public benefit that emanates from that can be relied upon in assessing the demolition consent application; and
- (b) Our view on the perceived tension within and between the policies of the Dunedin City Second Generation District Plan (**2GP**) and the Partially Operative Otago Regional Policy Statement 2019 (**RPS**) regarding the demolition of heritage items.

The information set out below is provided in response to that request.

1 Certainty of the NDH and provision of public benefit

1.1 Table 1 in **Appendix A** sets out a chronology of decisions and/or actions taken by the Crown and key stakeholders in respect of the NDH. In addition, based on the latest NDH project programme, Table 2 in **Appendix A** sets out the key milestones from now through to completion of the project.

1.2 Alongside the chronologies, both tables describe the implications of those decisions and/or milestones in terms of illustrating the Crown's commitment to:

- (a) facilitating the delivery of the NDH on the central city site (including the Cadbury block); and
- (b) in turn, enabling the realisation of the significant public benefits that this project will generate for Dunedin and the wider southern region.

1.3 In summary, to date, the Crown has:

- (a) purchased (and now owns) nearly 43,500m² of land in the Cadbury block (including the former Cadbury car park in Bow Lane) and the Wilsons block for the purposes of constructing the NDH, at a total cost of approximately \$84m;
- (b) committed at least \$1.4b in budgetary funding to enable delivery of the NDH;

- (c) procured and is funding a team of consultants who are currently progressing the final stages of concept design for the NDH;
 - (d) procured and is funding a team of consultants who will provide the requisite technical input for the consenting of the NDH and who have just completed preliminary assessments for that purpose;
 - (e) applied for and been granted certificates of compliance to demolish the former Cadbury social club buildings as part of preparing the area for construction of the NDH;
 - (f) applied for and been granted resource consents:
 - (i) to remove the foundations and demolish the structures on the former Cadbury carpark site as part of preparing the area for construction of the NDH;
 - (ii) to demolish the buildings on the southern half of the Wilsons block and the Cadbury Warehouse building to enable construction of the NDH;
 - (iii) from the Otago Regional Council to undertake test piling on the Wilsons and Cadbury blocks to inform the design of the foundation solutions for the NDH;
 - (g) applied to the Dunedin City Council for resource consent to undertake test piling on the Wilsons and Cadbury blocks to inform the design of the foundation solutions for the NDH;
 - (h) procured a contractor for the demolition of the Wilsons car park and the Cadbury buildings;
 - (i) overseen the demolition of the Cadbury Warehouse buildings;
 - (j) approved, in principle, the Detailed Business Case for the NDH; and
 - (k) in doing so, approved the release of \$127m out of the budgeted figure to progress design, demolition, piling, project management and early contractor engagement.
- 1.4 Demolition of the Cadbury Factory buildings is the next phase of work required in order to enable delivery of the NDH. Subject to obtaining resource consent, demolition of the buildings is scheduled to commence in early 2021, which allows the project to remain on track in accordance with the project plan milestones set out in Table 2, Appendix A.
- 1.5 Resource consent applications to enable development of the new NDH buildings are scheduled to be lodged in the first half of next year. As previously set out, work to support those applications is already underway.
- 1.6 While it is acknowledged that it would be desirable for the new build resource consent applications to be available to the Council at the time of assessing the application to demolish the facades, the scale and complexity of the project and the compressed timeframes associated with it are such that this is not possible. We do however, consider that the information now provided to the Council regarding the Crown commitment to the development of a new hospital on the Cadbury Block can reasonably be relied upon in assessing the public benefit that would accrue as a result of demolition facilitating that development. In that regard, we also draw your attention to the additional planning

assessment attached as Appendix B which considers that public benefit with specific reference to the relevant policy framework.

- 1.7 We now turn to addressing the tension or otherwise between the 2GP and the RPS.

2 Heritage Policies

- 2.1 Before addressing the current application, we set out below the approach confirmed through recent case law to assessing resource consent applications against the provisions of plans and policy statements under the Resource Management Act 1991 (RMA).

Section 104 – Case Law

- 2.2 The current leading authority on the application of section 104 of the RMA (and in particular, its relationship with Part 2 of the Act) is the Court of Appeal's 2018 decision in *R J Davidson v Marlborough District Council*¹. The approach outlined by the Court of Appeal has been subsequently addressed and applied by the Environment Court, including in *Tauranga Environmental Protection Society Inc v Tauranga City Council*² and, perhaps most comprehensively, in *Bunnings Limited v Queenstown Lakes District Council*.³
- 2.3 In short, that case law confirms that, for a section 104(1)(b) assessment, the role of a consent authority is to decipher whether, on a fair appraisal of the provisions as a whole⁴, the relevant district or regional plan reveal a coherent set of objectives and policies designed to achieve clear environmental outcomes. If so, the consent authority is required to implement those objectives and policies in evaluating the consent application.⁵
- 2.4 In undertaking that exercise, weight is to be apportioned according to where and how the relevant RMA documents sit within the statutory hierarchy.⁶ Where, for example, a superior instrument is dated later than the relevant plan, more weight will be given to it to the extent that it may even override the plan. Conversely, where the superior instrument dates before the relevant plan, there is a presumption that that later plan particularises the provisions of the superior instruments, because it is lawfully required to do so.⁷ Greater weight will therefore be placed on the provisions of the district or regional plan which provide "*greater specificity* [to the provisions of the higher-order document]...*both as to substantive content and to locality*".⁸
- 2.5 The "appropriateness" of this presumption in the context of assessing consent applications has been recently addressed by the Environment Court in *Tauranga Environmental Protection Society Inc v Tauranga City Council*⁹, where counsel submitted that "*planning processes which are meant to particularise the application of national policy directions in a regional context could be rendered futile if every subsequent consent application required a reassessment of whether the Plan provisions appropriately give effect to the higher order directions*".

¹ *R J Davidson v Marlborough District Council* [2018] NZCA 316.

² *Tauranga Environmental Protection Society Inc v Tauranga City Council* [2020] NZEnvC [043].

³ *Bunnings Limited v Queenstown Lakes District Council* [2019] NZEnvC 59.

⁴ Refer *R J Davidson v Marlborough District Council* above n1 at [73].

⁵ Refer *R J Davidson v Marlborough District Council* above n1 at [74]; *Bunnings Limited v Queenstown Lakes District Council* above n3 at [18].

⁶ *Bunnings Limited v Queenstown Lakes District Council* above n3 at [191].

⁷ Refer Resource Management Act 1991, sections 66, 67(3), 74(2), and 75(3).

⁸ *Environmental Defence Society Inc v The New Zealand King Salmon Company Limited* [2014] NZSC 38 at [14].

⁹ *Tauranga Environmental Protection Society Inc v Tauranga City Council* [2020] NZEnvC [043].

- 2.6 In response, the Court acknowledged the basis for those submissions in the decisions of the judgments of the Supreme Court and the Court of Appeal in *King Salmon* and *Davidson*, and noted:

...unless there is clear issue such as invalidity, incompleteness or uncertainty in the context of a plan provision or a lack of clarity from the relevant policies as to whether consent should be granted or refused, one must apply the particular provisions of the plans without seeking to circumvent them by recourse to more general, higher level provisions of policy statements and the RMA.¹⁰

- 2.7 Similarly, in the *Bunnings* decision, the Court recorded discomfort at the implication that, in assessing a consent application, a consent authority should retrospectively “review” the process leading to the applicable provisions rather than attempt to apply the provisions themselves.¹¹ It went on to state its support for “*the “coherent set of policies designed to achieve clear environmental outcomes” test which can be applied by looking at (but not behind) and applying the relevant plan’s provisions*”.¹²
- 2.8 As such, it is only where the appropriate response to an application does not “*effectively present itself*” through the objectives and policies,¹³ and/or where there is some invalidity, incompleteness or uncertainty as to meaning within the plan, or where there is “*doubt as to whether the plan has been competently prepared*”¹⁴ that it will be appropriate for the consent authority to seek guidance from higher order documents and/or Part 2 of the Act.
- 2.9 With respect to questions of competent preparation, we do however note the reservations of the Environment Court in *Bunnings* regarding this “option”, and, in particular, the implication that it relates to the process of preparing the plan rather than the outcome.¹⁵ The Court’s reservations (outlined in para 2.7 above) suggest that this “option” should not be read as general invitation to consent authorities to “go behind” the provisions of the relevant plan.
- 2.10 We now turn to consider how this approach applies in the context of assessing the heritage demolition consent application against the relevant provisions of the 2GP and the RPS.

Cadbury Heritage Demolition: 2GP and the RPS

- 2.11 Both the 2GP and the RPS contain objectives and policies which are relevant to the assessment of whether resource consent should be granted to authorise the demolition of the Cadbury buildings including their heritage facades.¹⁶ These provisions are all beyond challenge, having been made operative following the resolution of appeals on both documents (discussed further below).
- 2.12 In accordance with the approach set out above, the role of the consent authority in assessing the application under section 104(1)(b) is to determine whether there is a coherent set of objectives and policies designed to achieve a clear environmental outcome(s), and if so, to apply them to the application. The first step in that exercise is to determine what weight should be apportioned to the relevant RMA documents.
- 2.13 In this instance, the consent authority is lawfully entitled to (and in our view, should) proceed on the basis that the provisions of the 2GP which apply to the demolition of

¹⁰ *Tauranga Environmental Protection Society Inc* above n8 at [64] – [68].

¹¹ *Bunnings Limited v Queenstown Lakes District Council* above n3 at [20].

¹² *Bunnings Limited v Queenstown Lakes District Council* above n3 at [21].

¹³ *R J Davidson v Marlborough District Council* above n1 at [74].

¹⁴ *R J Davidson v Marlborough District Council* above n1 at [75].

¹⁵ *Bunnings Limited v Queenstown Lakes District Council* above n3 at [20].

¹⁶ Resource Management Act 1991, section 104(1)(b).

heritage structures particularise the approach taken in the RPS, and are therefore to be afforded the most weight. We say that for the following reasons:

- (a) The relevant provisions in the RPS pre-date the 2GP. The RPS provisions were made operative by the Otago Regional Council in January 2019. While the decisions on the 2GP heritage provisions were released in November 2018, they were not made operative until March 2020 following the withdrawal of the Otago Regional Council appeal.¹⁷ During the period the 2GP appeals were being reviewed in 2019, the RPS was already operative. In considering a response to those appeals, the Dunedin City Council was therefore required to ensure that the 2GP gave effect to the RPS, and to take action (if necessary, in consultation with Otago Regional Council) to address any inconsistency where that was found.¹⁸ No such action was taken but rather (after extensive discussions between the parties) the Otago Regional Council's appeal was withdrawn.

In that context, and applying *Bunnings* and *Davidson*, there is therefore a lawful presumption that the heritage provisions of the 2GP, as the lower-order document, particularise the approach in the RPS.

- (b) There are no apparent issues as to invalidity, incompleteness or uncertainty of meaning within the plan, nor whether the plan has been competently prepared. At each reporting and decision-making stage in the development of the 2GP heritage provisions, the Dunedin City Council (represented by its reporting officers and the 2GP Panel) considered whether the provisions met the requirements of the RMA *vis-à-vis* the higher-order documents. At each stage, it determined that those requirements were met.¹⁹ As noted, Council again received the opportunity in 2019 to re-assess those provisions in light of the higher-order documents and Part 2 of the RMA following receipt of the Otago Regional Council appeal. As such, it is our view that decision makers can be satisfied that on more than one recent occasion opportunities to consider whether, and to ensure that, the 2GP gives effect to higher-order documents (including the relevant provisions of the RPS) have existed and been availed of.

In that context, it is both reasonable and consistent with the scheme of the RMA (and the way in which it has been interpreted by the Courts) to proceed on the basis that for the purposes of assessing consent applications which involve heritage values, the relevant provisions of the 2GP and the RPS, read as a whole, are congruent (rather than in tension) and capable of articulating a clear environmental outcome.

Additional Planning Analysis

- 2.14 As previously mentioned additional planning analysis from Boffa Miskell addressing the queries raised is attached as **Appendix B**.
- 2.15 That analysis acknowledges the importance of heritage afforded to both the Dunedin community and its urban identity through the 2GP and the RPS in both its objectives and policies and in the priority that it affords to protection of buildings and structures of heritage values. That protection is not, however, absolute. Through its objectives and policies, the 2GP acknowledges that demolition may be appropriate in limited

¹⁷ ENV-2018-CHC-290, 18 December 2018.

¹⁸ Resource Management Act 1991, sections 31 and 75(3).

¹⁹ Refer Proposed Second Generation Dunedin City District Plan, *Heritage Section 32 Report*, September 2015, at 5.1.3; Proposed Second Generation Dunedin City District Plan, *Heritage Section 42A Report*, September 2016, at 2.3; and Proposed Second Generation Dunedin City District Plan *Heritage – Decision of the Hearings Panel*, November 2018, at 1.3.

circumstances, including where it is required to allow significant public benefit. As set out above, the benefits of the NDH are significant, and are RMA considerations that are all in some way recognised and endorsed in the objectives and policies of the 2GP and in the RPS.

- 2.16 Building on the analysis contained within the application, the planning advice confirms that granting resource consent for the application achieves the clear environmental outcomes set out in the 2GP with respect to both heritage and the broader urban form and function of Dunedin city.

Conclusion

- 2.17 Based on the above analysis (which provides support to the analysis contained in the application) we consider it is lawfully open to the consent authority to grant resource consent under section 104 of the RMA for the demolition of the Cadbury buildings (including their heritage facades). In particular, we consider that it accords with the policy direction of the 2GP (which gives effect to the RPS and Part 2 of the RMA) which prioritises the protection of heritage values, but also recognises that demolition may be appropriate in circumstances where:

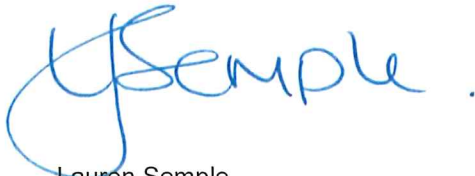
...the demolition is required to allow for a significant public benefit that could not otherwise be achieved and the public benefit outweighs the adverse effects of the loss of the building; and

... there is no reasonable alternative to demolition...

- 2.18 Read together, the analysis in the application (supported by the technical reports) and the further commentary in this response illustrate that demolition of these buildings to allow for the NDH is one of these very limited circumstances. The significant public benefits which will be afforded through delivery of the NDH are consistent with the broader environmental, social, and economic outcomes anticipated for Dunedin in the 2GP. Those benefits, which cannot otherwise be realised without demolition, will outweigh the adverse effects of the loss of the Cadbury buildings. Further, the adverse effects will, at least in part, be mitigated through initiatives (secured through the proposed conditions of consent), including the salvaging, safeguarding, and where possible, re-use of artefacts/features which reflect some of the history of this site.

2.19 We trust that this satisfactorily addresses the matters you have raised, but please contact me if I can be of further assistance.

Yours faithfully
Greenwood Roche

A handwritten signature in blue ink, appearing to read "L Semple", with a large, stylized initial "L" that loops around the first part of the name.

Lauren Semple
Partner

APPENDIX A - CHRONOLOGY

TABLE 1

Date	Decision-Maker	Decision/Action	Implications of Decision/Action
July 2017	National-led Cabinet Committee on State Sector Reform and Expenditure Control	The Cabinet Committee reviews and approves the Indicative Business Case (IBC) for the Dunedin Hospital Redevelopment. Specifically, in response to receipt of the IBC, the Cabinet Committee notes that the IBC recommends that the Detailed Business Case (DBC) be prepared that consider a greenfield development of the core Dunedin Hospital buildings on either a new site or at Wakari Hospital.	Recognition that the project scope is greater than replacement of a single building (the initial project scope was limited to replacement of the existing Clinical Services Building). Funding is authorised for supporting the preparation of a DBC for the NDH and the procurement for the next stage of work.
May 2018	Labour-led Coalition Cabinet Business Committee	On receipt of recommendations from the Minister of Health, the Cabinet Committee: - Agrees that the site of the NDH is to be the Cadbury/Wilson site, and that land required for the new Dunedin Hospital will be a government work under the Public Works Act 1981. - Authorises the Ministry of Health to commence the purchase process for the Cadbury/Wilsons parcels of land to enable the development of the NDH.	The Ministry of Health is authorised to commence acquisition of the two blocks to enable development of the NDH.
November 2018	Ministry of Health	The Ministry purchases the Cadbury Block from Mondelez.	The Ministry of Health becomes the owner of one of the two blocks identified for the NDH. The land is held for health purposes. It cannot be used for any other purpose without initiating a statutory process under the Public Works Act 1981.

TABLE 1

Date	Decision-Maker	Decision/Action	Implications of Decision/Action
		The Ministry purchases first property in the Wilsons block.	The Ministry of Health becomes the owner of the first property in the second of two blocks identified for the NDH. The land is held for health purposes. It cannot be used for any other purpose without first initiating a statutory process under the Public Works Act 1981.
January 2019	Ministry of Health, Southern District Health Board, and the Southern Partnership Group	A team of consultants commissioned by the Ministry of Health prepares and releases a Preliminary Site Masterplan report as an input into the NDH. That report is endorsed by the Ministry of Health, Southern District Health Board, and the Southern Partnership Group.	The preliminary site masterplan sought to establish a spatial plan for the development of the NDH, while retaining flexibility for future growth and change.
May 2019	Labour-led Coalition Cabinet	The 2019 Wellbeing Budget confirms the Coalition Government's commitment to building the new Dunedin Hospital, signalling that the purchasing of the central city site and the planning of the NDH is well underway. Budget 2019 sets aside funding for the NDH in a contingency in anticipation of a DBC being completed. The funding is allocated over the 10-year life of the project.	Funding for the NDH is tagged as part of a \$1.4B capital contingency.
	Ministry of Health	The Ministry purchases its second property in the Wilsons block.	The Ministry continues its purchase of the property

TABLE 1

Date	Decision-Maker	Decision/Action	Implications of Decision/Action
July 2019	Ministry of Health	The Ministry purchases its third property in the Wilsons block.	required for the NDH in the Wilsons block. As above, the land is held for health purposes. It cannot be used for any other purpose without first initiating a statutory process under the Public Works Act 1981.
November 2019	Dunedin City Council	Resource consent is granted for the demolition of the buildings on the southern half of the Wilsons block (360 and 398 Cumberland Street) and the Cadbury distribution warehouse.	Demolition of those buildings is authorised to proceed under the Resource Management Act 1991. Demolition is scheduled to commence in February 2020.
December 2019	Ministry of Health	Warren + Mahoney/HDR/McCoy Wixon appointed by the Ministry of Health as the architects for the project.	The Ministry procures and funds the design team to proceed with testing options of the layout of the NDH.
February 2020	Ministry of Health	The Ministry purchases the Wilsons parking site in the Wilsons block.	The Ministry continues its purchase of the property required for the NDH in the Wilsons block.
		Procurement of Ceres New Zealand to demolish the (non heritage) Cadbury Factory, Warehouse Stationery and Wilsons Parking Buildings. Ceres New Zealand commences demolition of the Cadbury distribution warehouse. Demolition was completed in May 2020.	The Ministry procures, funds and oversees the initial stages of site clearance to make way for the new Hospital.
May 2020	Labour-led Coalition Cabinet	The 2020 Wellbeing Budget allocated \$1.4b to the NDH. This represents the committed figure out of the contingency set aside in the 2019 Wellbeing Budget.	Planning and design of the NDH progresses on the basis that \$1.4b has been allocated to fund the development.

TABLE 1

Date	Decision-Maker	Decision/Action	Implications of Decision/Action
June/July 2020	Design team	Concept design progresses. The design team is well over halfway through the concept design phase.	In conjunction with other stakeholders, the Ministry oversees and funds the progression of concept design for the NDH.
30 June 2020	Southern Partnership Group	The DBC is finalised for submission to Cabinet for approval.	SPG as the group overseeing the development of the NDH has endorsed the DBC.
2 July 2020	Cabinet Government and Administration and Expenditure Review Committee	The Cabinet Committee: • agrees to appropriate further funds to facilitate the purchase of 141-155 Hanover Street and 414 Cumberland Street in the Wilsons block; and • notes that under the previous preliminary site masterplan that land is earmarked for the Inter-professional Learning Centre, but the confirmed purpose of the site will be identified in the DBC.	This decision authorises the purchase of this land in the Wilsons block by the Ministry of Health. This is the last part of the Wilsons block purchased for the NDH and has been identified in the DBC as a possible location for the Translational Research Centre and/or the Inter-professional Learning Centre. As above, the land is held for health purposes. It cannot be used for any other purpose without first initiating a statutory process under the Public Works Act 1981.
July/August 2020	Minister of Health Minister of Finance	The Ministers of Health and Finance sign the required Health Report which accompanies the DBC Cabinet paper.	The Ministers of Health and Finance (as the two Ministers primarily responsible for the oversight of this project) support the DBC, and request its approval by Cabinet.
24 August 2020	Cabinet	Cabinet approves the DBC in principle, which, among other matters: • updates stakeholders on the considerable progress made towards building the NDH; • describes the preferred site layout (with the Outpatients building located on the	The Government confirms its support for progression of the project on the preferred site layout (across the Cadbury and Wilsons blocks) and, in principle, for an increase in the capital envelope of \$1.4b. \$127m is released to support the continuation of design, project management and

TABLE 1

Date	Decision-Maker	Decision/Action	Implications of Decision/Action
		Wilsons block and the Inpatients building located on the Cadbury block) selected after a robust process of management, clinical and governance review; • seeks some additional funding to the capital envelope of \$1.4b to support the development in accordance with that layout; and • recommends that funds are provided for the continuation of design, project management and delivery of the early works packages for both the Inpatients and Outpatients buildings through to December 2021.	delivery of the early works packages for both the Inpatients and Outpatients buildings through to December 2021.

TABLE 2

Date	Decision-Maker	Anticipated Milestone	Implications of Milestone
October 2020	Ministry of Health	Commencement of Preliminary Design for both the Inpatients and Outpatients buildings following approval of 100% concept design by the Ministry of Health and key stakeholders (due early October 2020).	The design team progresses to the next phase of design of the NDH on the Cadbury and Wilsons blocks.
January 2021	Ministry of Health	Subject to obtaining resource consent, commencement of demolition of the Cadbury Factory buildings.	Demolition of the Cadbury Factory buildings will ensure sufficient lead-in time to accommodate the necessary investigative and preparatory works (including, as required, any contamination or archaeological requirements) ahead of construction of the NDH.
February 2021	Cabinet	Final approval of the outstanding matters in the DBC including the finalised costings.	The project will have an approved increase to the already approved budget of \$1.4b.
End of 2021	Cabinet	Consideration of the Implementation Business Cases for each building.	Central Government approval to the delivery of the two buildings as described in the Implementation Business Case. This will enable confirmation of the main contractors for each building.
January 2022	Ministry of Health	Oversee commencement of early ground works on the first stage of the NDH with a scheduled completion (or "go live") date of early 2025 for the Outpatients building and 2028 for the Inpatients building.	

APPENDIX B – ADDITIONAL PLANNING ANALYSIS

24 September 2020

Dunedin City Council
P O Box 5045
Dunedin 9054

Attention: Campbell Thompson



LUC-2020-263 – ADDITIONAL PLANNING ANALYSIS SUPPORTING RESPONSE TO REQUEST FOR FURTHER INFORMATION

The 2GP generally prioritises the protection of heritage values¹, and seeks to encourage repair, maintenance, ongoing use and adaptive re-use of buildings and structures with those values.² Demolition is therefore only contemplated in limited circumstances.³ Most relevantly for the application, those circumstances include where:

- (a) ...
 - (i) ...
 - (ii) *the demolition is required to allow for significant public benefit that could not otherwise be achieved, and the public benefit outweighs the adverse effects of loss of the building (emphasis added); and*
- (b) *there is no reasonable alternative to demolition, including repair, adaptive re-use, relocation or stabilising the building for future repair...*

Alongside this criteria, the 2GP specifically directs the consent authority to identify and consider if the activity in question does not detract from, or preferably contributes to, the strategic objectives in the 2GP including but not limited to objective 2.4.2.⁴

The matters underlined in the above paragraphs are key considerations for assessing the application to demolish the Cadbury buildings to enable construction of the NDH. Each has been addressed in the application, however you have raised further queries concerning how, in RMA terms, the public benefit generated by the NDH will outweigh or offset the adverse effects of the loss of the Cadbury buildings and their facades. We respond as follows.

¹ Refer Dunedin City Second Generation District Plan, objectives 2.4.2, 13.2.1, and 13.2.2; policy 2.4.2.1 and 13.2.1.7.

² Refer Dunedin City Second Generation District Plan, policy 13.2.1.1.

³ Refer Dunedin City Second Generation District Plan, objective 13.2.1 and policies 2.4.2.1 and 13.2.1.7.

⁴ Dunedin City Second Generation District Plan, rule 13.8.2.1. Objective 2.4.2 recognises the central place of Dunedin's heritage to its identity, and that heritage is to be protected and celebrated as a core value of the city through the heritage conservation and retention of important heritage items, and the maintenance and active use of built heritage. Implementing policy 2.4.2.1 is to identify buildings that have heritage values and use rules to, among other matters, "restrict demolition of these buildings except in limited circumstances".

As you have identified, the NDH will contribute a significant community benefit which, in our opinion, is a relevant consideration under Part 2 of the RMA (*"...enabling people and communities to provide for their social, economic and cultural well-being and for their health and safety"*) and in terms of the strategic objectives of the 2GP.⁵

In particular, the NDH:

- (a) will replace the existing hospital's clinical buildings which, following extensive investigations, were deemed uneconomic to renovate or refurbish and unsuitable to modern models of care. In particular, the Clinical Services Block (as the most critical clinical building on the Dunedin City campus) cannot be repaired and is at serious risk of failure. While the Ward Block is relatively solid and seismically safe, there are numerous issues with its performance and composition including asbestos, concrete spalling and general maintenance issues. Studies have confirmed that accommodating future health-care service demands within the existing facilities is both clinically and financially unsustainable. The need to replace these facilities is, in short, increasingly urgent.
- (b) is being designed and will be operated in a manner which will improve health outcomes for the wider community enhancing the future resilience of the health-care system through:
 - (i) creating responsive infrastructure and capability that supports disruptive health system change;
 - (ii) optimising use of total health system resources;
 - (iii) reducing non-value-added time by 80 per cent to create a seamless patient journey;
 - (iv) improving the patient and staff experience; and
 - (v) reducing the risk of harm;
- (c) will increase the capacity across most clinical services (including bed numbers and operating theatres) and will meet clinical demand through to 2043;
- (d) will facilitate the provision of tertiary and secondary services to support a wide-range of health needs for neonates, infants, children, adults and older persons. It is being designed to accommodate patients on a planned and unplanned basis requiring access to complex assessment, diagnostic and interventional technology. It will also be a digitally enabled facility, supporting new and emerging technologies that improve the patient and staff experience, and providing the flexibility to adapt to future models of care;
- (e) aims to be designed and operated to achieve a 5 Green Star design and as-built accreditation with the New Zealand Green Building Council. The NDH will also be benchmarked against other equivalent international sustainability rating tools to

⁵

For example, Dunedin City Second Generation District Plan, objectives 2.3.1 (which relates to land facilities that are important for productivity and social well-being, and 2.3.2 which establishes the CBD as the focus for economic and employment growth and public investment in infrastructure in the CBD).

ensure the most focussed sustainable outcome. The result will be an exemplar public health facility in New Zealand;

- (f) at total project cost of at least \$1.4b, is expected to generate wide ranging economic and employment benefits for the Dunedin community including direct stimulus from construction spend and related activity including spending by workers; and
- (g) given its central city location, is expected to catalyse a number of private and public-led projects, including an Inter-professional Learning Centre which will be delivered in conjunction with SDHB, Otago Polytechnic and the University of Otago.

In addition to the social and economic benefits associated with the NDH, as a critical part of its partnership with Aukaha (on behalf of Kāi Tahu), the NDH is being designed in a manner which will support and enhance the cultural wellbeing of, and health outcomes for, Māori.⁶ As a significant factor in the formation and progression of the design approach to the NDH, the design team has held regular engagements with mana whenua, led by Aukaha. Architecture, health, interiors and landscape design have, to date, all been informed by the core components of the co-design process, including the cultural narrative, mana whenua design values, cultural landscape and co-design creative strategies.

Further, the NDH is being designed in specific contemplation of the applicable outcomes sought in the 2GP for Dunedin's natural and physical environment. To assist in that, consultants from the NDH consenting team have been working alongside the architectural team providing feedback on the design and layout of the NDH as it has progressed. Those same consultants have also recently completed preliminary analysis of NDH (based on a nearly completed concept design) against the requirements of the 2GP. Among other comments, the consultants have identified that:

- (a) The overall form and design approach to the NDH is sound from an urban design perspective. Building massing is well handled, and while it will significantly change the existing aspect along the relevant streets, a number of design measures mean that the tall building forms do not dominate the street edge. Aerial and street level views of work in progress show how variations in materials, cladding systems and colour reinforce the building's formal composition and provide further visual interest. In combination, the intricate massing and varied elevations allow the hospital to read as a collection of buildings rather than a single massive structure.⁷
- (b) A combination of measures assist in achieving a comfortable and respectful scale relationship between the NDH and nearby heritage buildings and precincts, including the introduction of trees in the intervening spaces for a scale moderating effect and articulation in building form to achieve a breakdown and transition of scale.⁸
- (c) The design presents a positive frontage to Cumberland Street with a strong overturn to the intersection with St Andrews Street. The combination of eventful architecture, active edges and high quality public landscape presents Cumberland Street as a more pedestrian-oriented environment and creates a more satisfactory

⁶ Refer Dunedin City Second Generation District Plan, objective 2.5.1.

⁷ Correspondence from Graeme McIndoe from McIndoe Urban, September 2020.

⁸ Ibid.

eastern edge to the central city than what currently exists.⁹

- (d) Rebuilding the NDH in a central location enhances the vitality of the city centre and expands the range of activities within an established mixed-use environment. Based on its current design, the NDH creates more publicly accessible green open space in a utilitarian section of the city that has historically been under-supplied with parks and reserves.¹⁰
- (e) The current design of the NDH will result in applicable traffic effects that are minor or no more than minor.¹¹
- (f) Through minimum floor levels, the NDH will be designed to provide protection from flooding at the annual probability of exceeding a 1 in 500-year event. At this stage in design, the NDH will only have a minor effect on flood displacement in the area.¹²

These initial outcomes signalled in this preliminary analysis are consistent with, or support, the strategic objectives in the 2GP, including 2.2 (Dunedin is Environmentally Sustainable and Resilient), 2.3 (Dunedin is Economically and Socially Prosperous), 2.4 (Dunedin is a Memorable City with a Distinctive Built and Natural Character), 2.5 (Dunedin Protects Kai Tahu Values, Culture and Traditions and Enables Kāi Tahu to Express Kaitiakitaka).

They are also consistent with the more specific 2GP objectives and policies, including objective 18.2.1 (supporting well-structured and economically and socially successful mixed use environments), objective 18.2.3 (maintaining and enhancing the amenity of the streetscape) objective 6.2.3 (maintaining the safety and efficiency of the transport network), and objective 11.2.1 (ensuring the risk from natural hazards is no more than low).

Consistency with or support for RPS objectives and policies also achieved, including objective 1.1 (resources are used sustainably to promote economic, social and cultural wellbeing), objective 2.2 (Kāi Tahu values and interests are recognised and provided for), objective 4.1 (risks that natural hazard pose are minimised), objective 4.3 (infrastructure is managed and developed in a sustainable way), and objective 4.5 (urban development is well designed, and integrates effectively with adjoining urban environments). As set out in the application, these benefits are considered to outweigh the adverse effects generated by the loss of the Cadbury buildings and their heritage facades.

In its report accompanying the application, Underground Overground confirms that the loss of the buildings will have a major adverse effect on heritage values. However it also noted that the architectural merit of the facades contributes the least to their overall heritage value, with connection to historical functions, individuals and companies having higher significance. While the impacts of demolition on those values cannot be removed or completely remedied, the adverse effects can be reduced through mitigation strategies.

The measures proposed by Underground Overground in terms of retention of the Dairy Building; building and other archaeological recording; salvage and reuse of historic materials; preservation or retention of features, building samples and artefacts are all incorporated into the proposed conditions of consent. In addition, landscape architects engaged for the NDH are

⁹ Ibid.

¹⁰ Ibid.

¹¹ Correspondence from Nick Fuller, Novo Group, dated September 2020.

¹² Correspondence from Damian Debski, Jacobs, dated September 2020.

currently investigating options for the landscape design which would be informed by the history of the site (including Kāi Tahu's historical relationship with the site) and would incorporate historic materials and features that are discovered during demolition. While the loss of this built heritage is an adverse effect, it is making way for a proposal which will still acknowledge that heritage while also protecting and enhancing other elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city. These elements include the green spaces, important visual landscapes and retaining the compact and accessible form of Dunedin.¹³

¹³ Refer Dunedin City Second Generation District Plan, objective 2.5.1.