SECOND GENERATION DISTRICT PLAN

Commercial and Mixed-Use Zones Decision of Hearings Panel

Proposed Second Generation Dunedin City District Plan (2GP)

7 November 2018

User guide to the decision reports and the marked-up decisions version of the 2GP

The decisions of the 2GP Hearings Panel are presented in 29 decision reports (one report per hearing topic).

The reports include the Panel's decisions and reasons and incorporate the requirements under s32AA.

At the end of each report a table has been included summarising all the decisions on provisions (Plan text) in that decision report.

Marked-up version of the Notified 2GP (2015)

The decisions include a marked-up version of the notified 2GP, which shows the amendments made to the notified plan in ~~strike-through~~ and underline. Each amendment has a submission point reference(s) or a reference to 'cl.16' if the amendment has been made in accordance with Schedule 1, clause 16(2) of the Resource Management Act. Schedule 1, clause 16(2), allows minor and inconsequential amendments to be made to the Plan.

Amendments to the Schedules below are not marked up as in other sections of the plan as they are drawn from a different source. Any changes to Schedules are detailed in the decision report for the relevant section.

Some very minor clause 16 changes such as typographical errors or missing punctuation have not been marked up with underline or strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes, and in some cases are also discussed in the decision.

Hearing codes and submission point references

As part of the requirement of the DCC to summarise all original submissions, all submission points were given a submission point reference, these references started with 'OS'. Further submissions were also summarised and given a submission point that started with 'FS'.

The submission points are made up of two numbers the first is the submitter number, which is followed by a full stop, the second part is the submission point number for that submitter.

For example, OS360.01 is submitter 360 and their first submission point.

The 2GP Hearings Panel has used these same submission point references to show which submission points different amendments were attributed to. However, to enable these changes to be linked to different decision reports, the reference code was changed to start with a decision report code, e.g. Her 308.244.

A list of hearing codes can be found on the following page.

It should be noted that in some cases where several submitters sought a similar change, the submission point reference may not include all of these submission points but rather include only one or say, for instance, "PO 908.3 and others".

Master summary table of all decisions

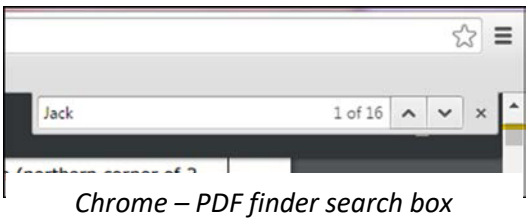
In addition to the summary table at the end of each decision report there is a master summary table that lists all decisions on provisions (Plan text), across all hearing topics, including details of the section(s) of the decision report in which that decision is discussed, and the relevant section(s) of the s42A reports. The s42A report sections will be helpful for appellants needing to identify which other parties have submitted on that provision, as notices of the appeal must be served on every person who made a submission on the provision or matter to which the appeal relates. The master summary table of decisions can be found on the decisions webpage of the 2GP website (2gp.dunedin.govt.nz).

List of hearing codes

Hearing topic	Code
Commercial Advertising (cross plan hearing topic)	CP
Commercial and Mixed Use Zones	CMU
Community Correction Facilities (cross plan hearing topic)	CP
Defence Facilities and Emergency Services (cross plan hearing topic)	CP
Designations	Des
Earthworks	EW
Heritage	Her
Industrial Zones	Ind
Major Facilities (without Port and Mercy Hospital)	MF
Manawhenua	MW
Mercy Hospital	Mer
Natural Environment	NatEnv
Natural Hazards	NatHaz
Natural Hazard Mitigation	HazMit
Network Utilities	NU
Plan Overview and Structure	PO
Port Zone	Port
Public Amenities	PA
Public Health and Safety (PHS)	PHS
Quarries and Mining Activities (cross plan hearing topic)	CP
Recreation Zone	Rec
Residential Zones	Res
Rural Zones	RU
Rural Residential Zones	RR
Scheduled Trees	ST
Service Stations (cross plan hearing topic)	CP
Temporary Activities	TA
Transportation	Trans
Urban Land Supply	ULS

How to search the document for a submitter number or name

1. If you want to search for particular submitter name, submission point or Plan provision in any of the reports (decision report, marked-up version of the Plan, or s42A report) the easiest way to do this is to use the 'Find' function.
2. When you have the document open, press the keys CTRL and F (Windows) or CMND and F (Mac) to bring up the 'PDF Finder'.



Chrome – PDF finder search box

Chrome – PDF finder search box

3. Once the PDF search box appears (in the top left or right corner of your browser) type in the submission number or submitter name and press enter on your keyboard.
4. The PDF finder will search for all instances of this term. Depending on the size of the document and your internet connection it may take a minute or so.
5. Press on the up or down arrows (Chrome) or 'next' (Internet Explorer) in the search box to view the different instances of the term until you find the one you are looking for.
6. An 'advanced search' function is available under the Edit tab in some PDF viewers, this allows you to search 'whole words' only to look for exact strings of letters or numbers

Contents

1.0 Introduction 5
1.1 Scope of Decision 5
1.1.1 Section 42A Report 5
1.1.2 Structure of Report 5
1.2 Section 32AA Evaluation 5
1.3 Statutory Considerations 6
2.0 Hearing appearances and evidence presented 8
3.0 Development capacity and the National Policy Statement on Urban Development Capacity 14
3.1 National Policy Statement on Urban Development Capacity 14
3.2 The 2GP's approach to the issue of development capacity for business land 17
3.2.1 Is there sufficient business land available for the short and medium terms? 17
3.3 Office and Retail 18
3.3.1 What will be the demand for office and retail land over the next 15 years? 19
3.3.2 How much land is available under the 2GP? How much of this can be feasibly developed? 19
3.3.3 Our conclusions on whether there is sufficient feasible retail and office land for the next 15 years 20
3.3.4 Demand for different office and retail types / locations 22
3.3.5 Increased demand for large format retail 22
3.3.6 Increased demand for trade related retail 23
3.4 Industrial 23
3.4.1 Mr Foy's evidence: continued demand for industrial land, close to the central city 24
3.4.2 Mr Colegrave's evidence: decreasing demand for industrial land based on employment data 25
3.4.3 Mr Thompson's evidence: decoupling of employment data from demand for industrial land 25
3.4.4 Mr Butcher's evidence: flexible market is best and should an actual shortage arise the Council can zone additional land 25
3.4.5 Our conclusions on whether there is sufficient feasible industrial land for the next 15 years 25
3.5 What are the economic benefits of a more permissive planning environment? 26
4.0 Decisions on submissions by topic 29
4.1 Activity status rules 29
4.1.1 Context - Centre Based Approach 29
4.1.2 Broad submissions 30
4.1.3 Request to focus activities in the CBD 32
4.1.4 Neighbourhood Centres 34
4.1.5 Warehouse Precinct Zone 34
4.1.6 Princes, Parry and Harrow Street Zone 34

4.1.7 Smith Street and York Place Zone 36
4.1.8 Trade Related Zone 37
4.1.9 CBD Edge Commercial Zone provisions 43
4.2 Harbourside provisions 56
4.2.1 Request to reinstate operative Plan Provisions 58
4.2.2 Rule 18.6.18 Standards Harbourside Edge 62
4.2.3 Request for minor amendment to Objective 18.2.1.g 67
4.2.4 Height limit 67
4.3 Management of food and beverage retail 69
4.3.1 Submissions overview 70
4.3.2 Request for a new supermarket definition 70
4.3.3 Out-of-centre development 72
4.3.4 Provision for supermarkets in the Industrial Zone 75
4.3.5 Activity status of food and beverage retail in CMU zones 76
4.3.6 Ancillary activities 76
4.4 Request for Campus to be treated as a Centre 77
4.4.1 Decisions and reasons 78
4.5 Submissions on objectives and policies wording 78
4.5.1 Policy 2.2.2.4.a - Location of commercial activities near travel options 78
4.5.2 Policy 2.2.4.2. - Encouraging housing in the central city and larger centres 79
4.5.3 Objective 2.4.3: Vibrant CBD and centres 80
4.5.4 Policy 2.4.3.4 81
4.5.5 Suggested new strategic direction - a strong, vibrant, compact and functional central city 81
4.5.6 Policy 18.2.1.1 82
4.5.7 Policy 18.2.1.15 - Service stations, drive-through restaurants and yard retail 82
4.5.8 Policy 18.2.2.4 – restaurants drive-through and service stations 84
4.5.9 Changes to wording of policies resulting from Plan Overview decision 85
4.6 Performance standards 85
4.6.1 Rule 18.5.4.1 Location of activities with pedestrian street frontages 85
4.6.2 Rule 18.5.5.3 Retail ancillary to industry 86
4.6.3 Residential amenity in the SSYP Zone: Policy 18.2.2.3 and associated performance standards 87
4.6.4 Rules 18.6.1 and 18.6.9: Boundary treatments and landscaping requirements 89
4.6.5 Rule 18.6.9 Location and screening of car parking 92
4.6.6 Rule 18.6.6.1: Height in relation to boundary 93
4.6.7 Performance Standard for Height in the CMU zones 95
4.6.8 Rule 18.6.13 Minimum Ground Floor to Ceiling Height and Rule 18.6.16 Pedestrian Entrances 101

4.6.9 Rule 18.6.14 Number, Location and Design of Ancillary Signs 101
4.6.10 Rule 18.6.17 Setbacks 106
4.6.11 Rule 18.6.12 Minimum Glazing and Building Modulation 108
4.6.12 St Clair Neighbourhood Destination Centre 110
4.6.13 Proposed new land-use performance standard – density restriction on View Street 113
4.7 Mapping changes: Zoning 114
4.7.1 Request to rezone Industrial land to Commercial and Mixed-Use Zones 114
4.7.2 Central Business District Zone 123
4.7.3 Principal Centre Zone 125
4.7.4 Suburban Centre Zone 127
4.7.5 Neighbourhood Centre Zone 129
4.7.6 Neighbourhood Convenience Centre Zone 134
4.7.7 Rural Centre Zone 135
4.7.8 Harbourside Edge Zone 135
4.7.9 Princes, Parry and Harrow Street Zone 138
4.7.10 Smith Street and York Place Zone 142
4.7.11 Wal's Plant and Fun Land 143
4.8 Pedestrian frontages 144
4.8.1 Objective 18.2.3 and associated policies (streetscape amenity) 144
4.8.2 Pedestrian Street Frontage mapped areas 146
4.9 Definitions 148
4.9.1 Retail activity 148
4.9.2 Bulky goods retail 149
4.9.3 Trade related retail 150
4.9.4 Restaurants 151
5.0 Minor and inconsequential changes 152
Appendix 1 – Eplan Amendments 153
Appendix 2 – Relevant provisions of the National Policy Statement on Urban Development Capacity 154
Appendix 3 - Summary of Decisions

1.0 Introduction

1. This document details the decisions of the Proposed Dunedin City District Plan Hearings Panel/Te Paepae Kaiwawao Motuhake O Te 2GP with regards to the submissions and evidence considered at the Commercial and Mixed-Use Zones hearing, held on 3 – 12 August and 30 November 2017 at the 2GP Hearings Centre.

1.1 Scope of Decision

2. This Decision Report addresses the original and further submission points addressed in the Commercial and Mixed-Use Zone s42A report. In addition, it addresses the following points:

    a. submission OS308.484) by the *University of Otago* and *Radio New Zealand* Limited (OS918.65) supporting Policy 2.2.2.4, which were included in the Urban Land Supply s42A Report; and

    b. submission OS930.11 by *Calder Stewart Ltd* to amend Rule 19.5.5 to exempt retail sales that are primarily designed to service trade related business activities from the 10% floor area limit, which was heard in the Industrial hearing.

1.1.1 Section 42A Report

3. The Commercial and Mixed Use (CMU) s42A Report deals primarily with plan provisions included in the CMU Zones section of the 2GP. The CMU Zone contains provisions which link to most other parts of the 2GP; of particular relevance are Transportation (Section 6), Public Health and Safety (Section 9) and Heritage (Section 13). The decisions on those topics should be read in conjunction with this decision.

1.1.2 Structure of Report

4. The decision report is structured by topic. The report does not necessarily discuss every individual submitter or submission point; instead it discusses the matters raised in submissions and records our decisions and reasons on the provisions relevant to each topic[1]. Appendix 3 at the end of the report summarises our decision on each provision where there was a request for an amendment. The table in Appendix 3 includes provisions changed as a consequence to other decisions.

5. Schedule 1 of the RMA outlines key aspects of the process that must be used to prepare and make decisions on a plan change (including the submission and hearing process).

6. Clause 16(2) of that schedule allows a local authority to make an amendment where the alteration "is of minor effect", and to correct any minor errors, without needing to go through the submission and hearing process.

7. This Decision includes some minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to "cl.16". These amendments are summarised in Section 5.

1.2 Section 32AA Evaluation

8. Section 32 of the Resource Management Act 1991 (RMA) establishes the framework for assessing proposed objectives, policies and rules. Section 32AA of the RMA requires a

[1] In accordance with Schedule 1, Section 10 of the RMA

further evaluation to be released with decisions, outlining the costs and benefits of any amendments made after the Proposed Plan was notified.

9. The evaluation must examine the extent to which each objective is the most appropriate way to achieve the purpose of the RMA and whether, having had regard to their efficiency and effectiveness, the policies and rules proposed are the most appropriate for achieving the objectives. The benefits and costs of the policies and rules, and the risk of acting or not acting must also be considered.

10. A section 32AA evaluation has been undertaken for all amendments to the notified Plan. The evaluation is incorporated within the decision reasons in section 4.0 of this decision.

1.3 Statutory Considerations

11. The matters that must be considered when deciding on submissions on a district plan review are set out in Part 2 (sections 5-8, purpose and principles) and sections 31, 32 and 72-75 of the RMA. District plans must achieve the purpose of the RMA and must assist the council to carry out its functions under the RMA.

12. The s42A Report provided a broad overview of the statutory considerations relevant to this topic. These include:

- Section 75(3) of the RMA, which requires us to ensure the 2GP gives effect to any National Policy Statement (NPS) or National Environmental Standard (NES) that affects a natural or physical resource that the Plan manages. The NPS on Urban Development Capacity (NPS-UDC) is directly relevant to this particular topic.
- Section 74(2)(a) of the RMA, which requires us to have regard to the proposed Otago Regional Policy Statement (pRPS) and section 75(3)(c) of the RMA, which requires us to ensure the 2GP gives effect to the operative Otago Regional Policy Statement (oRPS). We note that the proposed RPS was notified on 23 May 2015, and decisions released on 1 October 2016. At the time of making these decisions on the 2GP submissions some of the proposed RPS decisions are still subject to appeal, and therefore it is not operative.
- Section 74(2)(b)(i), which requires us to have specific regard to any other key strategies prepared under the Local Government Act. The s42A Report highlighted the Dunedin Spatial Plan 2012 as needing to be considered as this document sets the strategic directions for Dunedin's growth and development for the next 30 plus years.

13. These statutory requirements have provided the foundation for our consideration of submissions. We note:

- where submissions have been received seeking an amendment of a provision and that provision has not been amended, we accept the advice in the original s42A Report that the provision as notified complies with the relevant statutory considerations
- where a submitter has sought an amendment in order to better meet the statutory considerations, we have discussed and responded to these concerns in the decision reasons
- in some cases, while not specifically raised, we have made amendments to the Plan as the evidence indicated this would more appropriately achieve these statutory considerations, in these cases we have explained this in our decision reasons
- where we have amended the Plan in response to submissions and no parties have raised concerns about the provisions in terms of any statutory considerations, and we have not discussed statutory considerations in our

decision, this should be understood to mean that the amendment does not materially affect the Plan's achievement of these statutory considerations.

2.0 Hearing appearances and evidence presented

14. Submitters who appeared at the hearing, and the topics in this report under which their evidence is discussed, are shown below in Table 1. All evidence can be found on the 2GP Hearing Schedule webpage under the relevant Hearing Topic https://2gp.dunedin.govt.nz/2gp/hearings-schedule/index.html

Table 1: Submitters and relevant topics

Submitter (Submitter number)	Represented by/ experts called	Nature of evidence
AgResearch Ltd (FS2398)	Graeme Mathieson of Environmental Management Services (Planning Consultant)	Pre-circulated planning evidence.
Almatoka Ltd (OS980)	Sam Guest (Counsel)	Oral submissions made and tabled maps and designs.
Anthony Guy (OS173)	Anthony Guy	Oral evidence, tabled statement and presented video of Hanover St.
Bindon Holdings Ltd (OS916, FS2471)	Peter Jackson (Property Manager, Bindon Holdings Limited)	Oral evidence, pre-circulated statement.
Bowen Family Trust (OS1039, FS2246)	S M Chadwick (Counsel)	Tabled statement
BP Oil NZ Ltd (FS2488)	Georgina McPherson of Burton Planning Consultants Limited (Principal Planner)	Pre-circulated planning evidence.
BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd ("the Oil Companies") (OS634, FS2487)	Georgina McPherson of Burton Planning Consultants Limited (Principal Planner)	Pre-circulated planning evidence.
Bunnings Ltd (OS489)	Matt Norwell of Barker & Associates (Planning Consultant)	Pre-circulated planning evidence.

Submitter (Submitter number)	Represented by/ experts called	Nature of evidence
Cadbury Limited (OS1015, FS2451)	Nigel Bryce of Ryder Consulting Limited (Consultant Planner) Judith Mair (Site Manager and Cadbury Limited) S Chadwick of Webb Farry (Counsel)	Pre-circulated planning evidence and tabled statement by Nigel Bryce. Tabled legal submissions by S Chadwick. Pre-circulated statement by Judith Mair. Oral evidence given by all.
Calder Stewart Development Limited (OS930, FS2430)	Nigel Bryce of Ryder Consulting Limited (Consultant Planner) Mark Weaver (Senior Project Manager) Fraser Colegrave of Insight Economics Limited (Economics Consultant) Hugh Forsyth (Landscape Architect)	Pre-circulated planning evidence by Nigel Bryce and summarised at the hearing. Pre-circulated statement by Mark Weaver and summarised at the hearing. Pre-circulated economic evidence by Fraser Colegrave. Pre-circulated landscape evidence and photographs, maps and diagrams tabled by Hugh Forsyth. Oral evidence given by all.
Capri Enterprises Limited (OS899, FS2383)	Megan Justice of Mitchell Partnerships Limited (Environmental Planning Consultant)	Pre-circulated planning evidence and oral evidence by Megan Justice.
Cavendish Chambers Limited (FS86)	Michael Gerald Nidd (Director)	Tabled statement and gave oral evidence.
Chalmers Properties Limited (OS749, FS2321) Port Otago Limited (OS737)	Mary O'Callahan of GHD Ltd (Planning Consultant) Geoffrey Butcher of Butcher Partners Ltd (Economic Consultant) Len Andersen (Counsel) Geoffrey Plunket (CEO Port Otago) David Chafer (General Manager of Chalmers Properties Ltd)	Pre-circulated economic evidence by Geoffrey Butcher. Pre-circulated planning evidence with maps and comparisons by Mary O'Callahan. Statement and maps tabled by David Chafer. Legal submissions tabled by Len Anderson. Oral evidence given by all above, and Geoffrey Plunket.
Daisy Link Garden Centres Ltd (OS1047)	Phil Page of Gallaway Cook Allan (Counsel)	Legal submissions and maps tabled by Phil Page.

Submitter (Submitter number)	Represented by/ experts called	Nature of evidence
Disabled Persons Assembly Dunedin and Districts (OS265)	Chris Ford (Kaituitui – Community Networker)	Oral evidence given by Chris Ford.
Foodstuffs South Island Properties Limited (OS713)	Fraser Colegrave of Insight Economics Limited (Economics Consultant) Joseph Paul Durdin of Abley Transportation Consultants Limited (Engineer) Mark Allan of Aurecon (Planning Consultant) Chris Fowler of Adderley Head (Counsel)	Pre-circulated joint witness statement by Fraser Colegrave and Derek Foy. Pre-circulated economics evidence by Fraser Colegrave. Pre-circulated engineering evidence by Joseph Paul Durdin. Pre-circulated planning evidence by Mark Allan. Legal submissions tabled by Chris Fowler. Power point slides presented and tabled. Aerial/zoning maps tabled. Oral evidence given by all.
Harborough Properties Limited (HPL) (OS866)	Allan Cubitt (Planning Consultant, Cubitt Consulting Ltd)	Presented oral evidence.
Harvey Norman Properties (NZ) Ltd and Meadowflower Holdings Ltd (OS211 and OS202)	David R Haines, Director, Haines Planning Limited (Planning Consultant) Adam Jeffrey Thompson of Urban Economics Limited (Economic Consultant) Lauren Semple of Greenwood Roche (Counsel for *Harvey Norman*)	Pre-circulated economic evidence by David Haines. Pre-circulated economic evidence by Adam Jeffrey Thompson. Tabled legal submissions by Lauren Semple. Oral evidence given by all.
Heart of Dunedin Inc. (OS454)	Sam Guest (Counsel) Adam Binns of Adam Binns Commercial Limited (Surveyor and Valuer)	Tabled property evidence by Adam Binns. Data and aerial maps tabled. Oral evidence given by both Adam Binns and Sam Guest.
Kevin & Doreen Carter (OS257)	Kevin Carter Paul Carter	Oral evidence

Submitter (Submitter number)	Represented by/ experts called	Nature of evidence
Paul and Angela Carter (OS265)		
Lion – Beer, Spirits & Wine (NZ) Limited ("Lion") OS1024)	Allison Arthur-Young of Russell McVeagh (Counsel) Julia Pye (Operations Manager at Speight's)	Legal submissions tabled by Allison Arthur Young. Statement of evidence tabled by Julia Pye. Oral evidence given by both.
McKeown Group Limited (OS895)	Alan Cubitt (Planning Consultant, Cubitt Consulting Ltd)	Oral evidence
Michael Ovens (OS740, FS2198)		Tabled statement
Moi Bien Investments Ltd (OS826)	Allan Cubitt (personally submitting)	Oral evidence by Allan Cubitt.
Mount Ida Properties Limited (OS960)	Allan Cubitt (Planning Consultant, Cubitt Consulting Ltd)	Oral evidence by Allan Cubitt.
New Zealand Fire Service Commission (OS945)	Kerry Anderson and Emma Manohar of DLA Piper (Counsel)	Pre-circulated legal submissions by Kerry Anderson and Emma Manohar.
NZ Transport Agency ("NZTA") (OS881)	Andrew Henderson, Senior Associate – Planning, Beca Ltd (Planning Consultant)	Pre-circulated planning evidence.
Niblick Trust (OS929)	Allan Cubitt (Planning Consultant, Cubitt Consulting Ltd)	Oral evidence by Allan Cubitt.
Nichols Property Group Limited and London Realty Limited and Home Centre Properties Limited (OS271, FS2173)	Alison Devlin Alan Dippie	Tabled statement by Ms Devlin and oral evidence given by both.
Oamaru Properties (OS652)	Shelley Chadwick of Webb Farry (Counsel)	Tabled statement and oral evidence given.

Submitter (Submitter number)	Represented by/ experts called	Nature of evidence
One Zeal Ltd and Zeal Land Ltd (FS2269)	Lawrie Forbes (Director)	Tabled statement and oral evidence given.
Orari Street Property Investments Limited (OS1010, OS984)	Allan Cubitt (Planning Consultant, Cubitt Consulting Ltd)	Oral evidence given.
Otago Land Group Limited (OS551, FS2149)	Allison Devlin of Willowridge Developments Limited (Planning Consultant) Martin Dippie Richard Chambers of Jensen Chambers Young Ltd (Architectural Consultant) Fraser James Colegrave of Insight Economics (Economics Consultant)	Tabled statement and oral evidence by Allison Devlin. Pre-circulated economic evidence by Fraser James Colegrave. Pre-circulated and oral evidence given by Richard Chambers. Streetscapes designs tabled.
Otago Regional Council ("ORC") (OS908, FS2381)	Megan Justice of Mitchell Partnerships Limited (Environmental Consultant) AJ Logan (Counsel) Gerard Collins (ORC Manager of Corporate Services)	Pre-circulated planning evidence, tabled statement and oral evidence given by Megan Justice. Oral evidence given by all.
Progressive Enterprises Ltd (OS877, FS2051)	Amanda C Dewar and Joshua M Leckie, Solicitors, Lane Neave (legal counsel) Mark Tansley, Director, Marketplace New Zealand Limited (statistical and retailing consultant) Richard Knott, Director, Richard Knott Limited (urban design evidence) Michael Foster, Director, Zomac Planning Solutions Ltd (planning evidence)	Legal submissions by Ms Dewar and Mr Leckie. Pre-circulated evidence by Mark Tansley. Pre-circulated urban design evidence by Richard Knott. Pre-circulated planning evidence by Michael Foster. Oral evidence given by all.

Submitter (Submitter number)	Represented by/ experts called	Nature of evidence
Richard and Jan Muir (FS2193)	Richard Muir	Tabled maps and oral evidence given.
Robert Francis Wyber (OS394, FS2059)		Tabled statement and oral evidence given.
Robert Hugh Tongue (OS452)		Oral evidence.
Roslyn Gardens Limited (OS852)	Sam Guest (Counsel)	Oral evidence and designs and maps tabled.
Scenic Circle Hotels Limited (OS896)	Megan Justice (Consultant Planner)	Pre-circulated planning evidence by Megan Justice.
Sergio Salis and Christopher Robertson (OS270, FS2348)	Len Andersen (Counsel) Sergio Salis	Tabled statement by Sergio Salis. Legal submissions (tabled and oral) by Len Andersen.
Southern Heritage Trust & City Rise Up (OS293)	Meg Davidson	Statement and photos tabled by Meg Davidson and oral evidence given.
Tony MacColl (OS98, FS2189)	Tony MacColl	Pre-circulated statement by Tony MacColl.
University of Otago (OS308, FS2142)	Murray Brass (Planner)	Statement and maps tabled by Murray Brass and oral evidence given.
Wilhelmus Johannes Martin Rosloot (FS2341)		Oral evidence given.
Z Energy Ltd (OS313, FS2336)	Karen Blair of Burton Planning Consultants Ltd (Consultant Planner for *Z Energy Ltd*)	Pre-circulated planning evidence

3.0 Development capacity and the National Policy Statement on Urban Development Capacity

15. A critical issue for our decision on the 2GP, which was directly or indirectly the focus of many submissions, is whether or not the 2GP provides for a sufficient amount of land for commercial (specifically retail and office) and industrial development.

16. Before discussing our consideration of individual submissions, we first discuss the requirements of the National Policy Statement on Urban Development Capacity (NPS-UDC), the evidence we received in relation to demand and capacity of business land and the risks of under and oversupply. Our findings on these matters informed our consideration of submissions and we reference back to this discussion later in this decision, rather than repeat these conclusions with respect to each request.

3.1 National Policy Statement on Urban Development Capacity

17. The National Policy Statement on Urban Development Capacity (NPS-UDC) came into effect on 1 December 2016, part way through the hearing process.

18. The Reporting Officer discussed the NPS-UDC as part of her right of reply addressing economic evidence at the Hearing on 8 December 2016; and provided evidence on whether the 2GP (incorporating recommended amendments) would give effect to the NPS-UDC and any changes that may be necessary to give effect to it.

19. In addition to considering the view of the experts we also read and considered the NPS-UDC ourselves to ensure that our decisions would give effect to it. Below is a summary of what we consider to be some of the more important aspects of this document. Relevant components of the NPS are set out in Appendix 2 of this decision.

20. The purpose of the NPS-UDC is explained on page 4 of the preamble:

> "*This national policy statement requires councils to provide in their plans enough development capacity to ensure that demand can be met. This includes both the total aggregate demand for housing and business land, and also the demand for different types, sizes and locations. This development capacity must also be commercially feasible to develop, and plentiful enough to recognise that not all feasible development opportunities will be taken up. This will provide communities with more choice, at lower prices*."

21. Another key theme running through the national policy statement is for planning to occur with a better understanding of land and development markets, and in particular the impact that planning has on these. This national policy statement requires local authorities to prepare a housing and business development capacity assessment and to regularly monitor market indicators, including price signals, to ensure there is sufficient development capacity to meet demand. Local authorities must respond to this information. If it shows that more development capacity needs to be provided to meet demand, local authorities must then do so. Providing a greater number of opportunities for development that are commercially feasible will lead to more competition among developers and landowners to meet demand."

22. These requirements are outlined in the various objectives and policies. All objectives apply to all decision-makers when making planning decisions that affect the urban environment, and outline the high-level outcomes that the NPS policies aim to achieve.

23. The most relevant objectives to our decision are:

- "*OA1: Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.*
- *OA2: Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a*

range of dwelling types and locations, working environments and places to locate businesses.

- *OA3: Urban environments that, over time, develop and change in response to the changing needs of people and communities and future generations.*
- *OC1: Planning decisions, practices and methods that enable urban development which provides for the social, economic, cultural and environmental wellbeing of people and communities and future generations in the short, medium and long-term*."

24. Other objectives are concerned with the provision of an appropriate evidence base to inform decisions into the future (leading on to various data analysis requirements in the future), timely response to information, integration with infrastructure, and cross-boundary co-ordination. While infrastructure provision is clearly a critical issue, no evidence was received at the hearing that lack of infrastructure is an issue in the provision and development of business land, so we have not considered this further. Likewise, there were no cross-boundary issues raised.

25. On 1 June 2017 Dunedin was classified as a 'medium-growth urban area' by Statistics New Zealand, having a projected population growth rate of 6.7% between 2013 and 2023. This classification requires the DCC to collect and analyse data for the purposes of monitoring demand and capacity on a regular basis. While we acknowledge that this will occur, and in the future the analysis will be available to inform decision making, we must make our decisions with the information that we have available to us at the present time.

26. A number of the important concepts from the NPS-UDC are now also referred to in the RMA following amendments made following the enactment of the Resource Legislation Amendment Act 2017. While the transitional provisions set out in the RMA at Schedule 12, Part 2, Clause 13, require us to determine the 2GP process "as if the amendments made by the [Resource Legislation Amendment Act 2017] had not been enacted", we are nevertheless required to give effect to the NPS-UDC immediately, as far as the scope of submissions allow, as any changes required to give effect to the NPS are still subject to the requirements of Schedule 1.

27. The obligations of the DCC in relation to business land are set out in Policies PA1– PA4 and PC1 – PC2:

Policies PA1- PA4 - Outcomes for planning decisions

Policies PA1, PA3 to PA4 apply to any urban environment that is expected to experience growth.

PA1: Local authorities shall ensure that at any one time there is sufficient housing and business land development capacity according to the table below:

***Short term** [next 3 years]*	*Development capacity must be feasible, zoned and serviced with development infrastructure*
***Medium term** [3 – 10 years]*	*Development capacity must be feasible, zoned and either:* *• serviced with development infrastructure, or* *• the funding for the development infrastructure required to service that development capacity must be identified in a Long-Term Plan required under the Local Government Act 2002.*

Long-term *[10 – 30 years]*	*Development capacity must be feasible, identified in relevant plans and strategies, and the development infrastructure required to service it must be identified in the relevant Infrastructure Strategy required under the Local Government Act 2002.*

PA2: Local authorities shall satisfy themselves that other infrastructure required to support urban development are likely to be available.

PA3: When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:

a) Providing for choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses;

b) Promoting the efficient use of urban land and development infrastructure and other infrastructure; and

c) Limiting as much as possible adverse impacts on the competitive operation of land and development markets.

PA4: When considering the effects of urban development, decision-makers shall take into account:

a) The benefits that urban development will provide with respect to the ability for people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; and

b) The benefits and costs of urban development at a national, inter-regional, regional and district scale, as well as the local effects.

Responsive planning

Policies PC1 to PC4 apply to all local authorities that have part, or all, of either a medium-growth urban area or high-growth urban area within their district or region.

The application of these policies is not restricted to the boundaries of the urban area.

PC1: To factor in the proportion of feasible development capacity that may not be developed, in addition to the requirement to ensure sufficient, feasible development capacity as outlined in policy PA1, local authorities shall also provide an additional margin of feasible development capacity over and above projected demand of at least:

- *20% in the short and medium term, and*
- *15% in the long term.*

PC2: If evidence from the assessment under policy PB1, including information about the rate of take-up of development capacity, indicates a higher margin is more appropriate, this higher margin should be used."

28. Business land is defined as:

*"**Business land** means land that is zoned for business uses in urban environments, including but not limited to land in the following examples of zones:*

- *industrial*
- *commercial*
- *retail*
- *business and business parks*
- *centres (to the extent that this zone allows business uses)*
- *mixed use (to the extent that this zone allows business uses)."*

29. Demand, development capacity, sufficient and feasible are all defined in the NPS-UDC (see Appendix 2).

3.2 The 2GP's approach to the issue of development capacity for business land

3.2.1 Is there sufficient business land available for the short and medium terms?

30. We understand that the development of the different zones and suite of activities allowed in each was based on the land's current usage, with future demand being provided for by considering evidence of predicted demand for various types of business land (Zoning Special Report – Commercial and Mixed-Use Zones, Table 1).

31. Land requirements for office, retail and hospitality activities were assessed by M.E. Spatial in their report 'Retail and Office Demand – DCC Second Generation Plan Demand Assessment'[2] ('the M.E. 2015 report') (Section 42A Report, section 2.2, p. 7). M.E. Spatial then developed estimates of current retail and office activity, the likely growth in demand to 2031 and then compared this demand with the 2GP's proposed zoning to identify any under- or over-supplies.

32. The M.E. 2015 report indicated that there would be limited future demand for additional retail and office space, with some occupancy rates indicating an oversupply in some areas. The primary driver for additional demand would be population driven, with growth anticipated to be relatively slow (p. 45). The potential for internet sales to reduce demand for retail land was noted (Commercial and Mixed-Use Zones Section 32 Report, p. 4).

33. The Commercial and Mixed-Use Zones Section 32 Report concluded that the notified provisions ensure that there is an adequate supply of zoned land to cater for the full range of commercial uses into the foreseeable future, and provide for current and projected land use needs and trends (para 4.1.2 and 4.1.3).

34. In respect of industrial land, the DCC relied primarily on the 2009 Industrial Land Use study[3] and the 2011 Industrial Land Needs Study[4] (s42A Report, section 2.2, p. 7). The 2009 report was developed to provide the DCC's Industrial Land Working Group with baseline land use data, and a regular programme for monitoring industrial land use and industrial activities outside of industrial zones. The 2011 report built on this work, and focused on obtaining a finer grained picture of industrial and service activity in Dunedin, as well as identifying trends, likely development scenarios and the main drivers for

[2] M.E. Spatial 'Retail and Office Demand – DCC Second Generation Plan Demand Assessment. August 2015

[3] Industrial Land Use, Dunedin City Council, 2009.

[4] Industrial Land Needs Study, CPG, March 2011.

industrial activities' locating in Dunedin. The 2011 report then went on to assess the Dunedin areas locational attributes and the likely land needs and demand for future sectors and types of industrial activity.

35. The 2009 research indicated that development capacity for industrial land was limited, and there appeared to be pressure for further development capacity to be provided (s42A Report, section 2.2, p. 8). The 2011 research identified that demand was steady, and although there was sufficient industrial land overall, in the short to medium-term the majority of demand would be concentrated in the areas with the least amount of available land for development, being the city centre and harbour basin (CPG Report 2011, p. 65, 78).

36. The Industrial Zones Section 32 Report identified, that one of the major resource management issues for Dunedin was the encroachment of non-industrial (particularly retail and residential) activities into industrial areas, which affected the availability and affordability of industrial land (p. 2). The 2011 report surveyed businesses and a number of larger organisations in Dunedin, which revealed a preference for clustering industrial activity (p. 38) and a concern that planning controls were not protecting industrial activities from incompatible land uses locating close to industrial areas (p. 53). As a result, the Section 32 Report recommended that existing clusters of industrial activity should be protected from incompatible land use, particularly near the centre city, so that advantage could be taken of economies of scale and connectivity.

37. The NPS-UDC, in our view, affirms the need for planning approaches to accommodate unique local variations, meaning that the sufficiency of the 2GP's provision of development capacity needs to be considered in Dunedin's environmental context. In that respect, it is relevant to note that the main commercial centre of Dunedin is small and generally located on flat, inner city land, bounded to the east by the harbour, and to the west, south and north by hills. The primary road and rail corridors pass through the City on a North – South axis between the city centre and the harbour.

38. During the hearing we heard from a number of economic and planning experts on business land capacity issues in Dunedin and the 2GP's approach of providing for this, who's evidence we draw on in this discussion:

- Mr Derek Foy, who specialises in urban economics and has more than 16 years of consulting experience, was called by the *DCC*
- Mr Fraser Colegrave, an economics consultant with more than 20 years of experience, was called by *Otago Land Group*, *Foodstuffs* and *Calder Stewart*
- Mr Adam Thompson, a consultant with more than 15 years of experience in urban economics, was called by *Harvey Norman*
- Mr Geoffrey Butcher, an economist with more than 35 years of experience was called by *Chalmers Properties*
- Mr Mark Tansley, a statistical and retail consultant with more than 49 years of experience was called by *Progressive Enterprises*
- Ms Mary O'Callahan, a planner with over 20 years of experience was called by *Chalmers Properties* and *Port Otago.*

39. The Reporting Officer, whom we note has 20 years of planning experience, also gave planning evidence, as well as prepared a summary of other evidence for her revised recommendations (Economic evidence analysis), which we have also drawn on.

40. The experts' evidence on office, retail and industrial demand and development capacity was as follows.

3.3 Office and Retail

3.3.1 What will be the demand for office and retail land over the next 15 years?

41. Mr Foy's hearing evidence drew on the M.E. 2015 report. To confirm the conclusions drawn in that report were still valid, he reassessed population growth based on more recent projections derived from the 2016 Census data (Statement of Evidence, para 4.1 – 4.7). Population projections had decreased slightly since 2012, and consequently he considered the findings of the 2015 report to be conservative.

42. Demand estimates were based on Statistics NZ projections of households, population and employment, and the historic spending growth rate of around 0.9% p.a.. Demand for additional floorspace up to 2031 was estimated to be up to 51,000m^2 for retail and hospitality, and 16,700m^2 for office activity (Statement of Evidence, pp. 7-8).

43. Mr Colegrave considered Mr Foy to have underestimated demand. He did not estimate demand himself, but referred to a 2010 report by Adam Thompson, prepared for the DCC,[5] which estimated a greater demand for retail floorspace across the city by 2031. Mr Colegrave considered it more prudent to provide for a higher growth rate and risk over-supply rather than risk constraining development (Statement of Evidence for *Otago Land Group,* pp. 12-13).

44. Mr Adam Thompson based his demand estimates on the consented commercial floorspace over the past 10 years. Assuming the same population growth rate, he considered that demand in the future should be consistent. He estimated that an additional 360,000 m^2 floorspace (253,400 m^2 plus a site coverage allowance) would be required for all activities in the commercial zone over the next ten years (see Statement of Evidence, Table 4). Adding an allowance for a '5 – year rolling buffer' (this was not explained), the land demand over 10 years would be 542,000m^2. We calculate that this equates to approximately 813,000 m^2 over 15 years.

45. Mr Foy noted that the consented floorspace data used by Mr Thompson included items such as the Stadium (90,000 m^2, unlikely to be repeated) and education facilities (46,000m^2, likely to be located primarily in the Campus and Schools zones), and other non-commercial activities (second Supplementary Statement, para 3.7). He considered that if such an approach was taken to estimate demand, a more accurate estimate of consented commercial floorspace over the past 10 years would be 50,000 m^2 (taken from Statistics NZ 'commercial buildings' category). This would equate to demand for an additional 71,000 m^2 allowing for 70% site coverage, and 106,500 m^2 if adjusted to 15 years. This is 50% greater than Mr Foy's initial estimate of 67,700 m^2 for office, retail and hospitality together.

3.3.2 How much land is available under the 2GP? How much of this can be feasibly developed?

46. Mr Foy assessed the theoretical capacity for retail and office activity under the 2GP zoning (statement of evidence, para 3.8(b)). This assumed existing space is used more efficiently in future. Development of two storeys was assumed for all central city CMU zones, with the Trade Related Zone being one storey.

47. The Reporting Officer considered that this was not realistic for the CEC Zone and parts of the PPH Zone; however, this was balanced by taller development in parts of the CBD, and so is probably a reasonable estimate overall (p.5 – Economic evidence analysis).

48. Mr Foy made various assumptions about the proportion of development in different centres that would be occupied by office and retail, including 50% of ground floor space in the central city being retail, and 35% office (M.E. 2015 report, p.38). All the upper storeys were assumed to be used for office activity. A site coverage of 70% was assumed for the central city.

[5] Thompson, A., 2014. Spatial Strategy for Retailing in Dunedin. Background Research and Policy Evaluation. Report for Dunedin city Council.

49. Mr Foy's analysis indicated that there would be a theoretical extra supply of 380,000 m^2 floorspace for retail and 803,000 m^2 for office under the notified 2GP zoning, if all sites were developed to the potential assumed above (Statement of Evidence, p.9).

50. Taking account of existing vacant space, predicted future demand, and assuming that only 25% of this development occurs, Mr Foy predicted that there will still be an over-supply of 61,000 m^2 floorspace for retail and hospitality, and 195,000 m^2 for office (p. 10).

51. Mr Colegrave disagreed that sufficient sites could be feasibly developed to meet demand. He estimated that between 1.7 to 5.7% of sites are likely to be developed for retail (equivalent to 6,160 m^2 to 20,640 m2); however, he provided very little basis for these figures (Statement of Evidence for *Otago Land Group,* p.10). In response, Mr Foy highlighted evidence given by Mr Thompson that 34,160 m^2 of retail and office floorspace was constructed in the last 10 years in the central city (Thompson, para 2.13). This is equivalent to 11% of current retail and office floorspace, showing a development potential far exceeding Mr Colegrave's estimates (Economics analysis, p.5).

52. Mr Thompson questioned whether Mr Foy's development estimates were realistic (i.e. whether enough sites could be feasibly developed). He used the 'residual land value' (RLV) of each site in the central city to determine whether it was feasible to develop. This involves assuming a particular development may take place, and determining if the value of the site is sufficiently low to make the theoretical development feasible. Mr Thompson's assessment identified approximately 21.4 ha of land in the central city that could be commercially feasibly developed (p.11). He then considered whether there were practical development constraints on these sites (eg. heritage buildings, leasehold land) and concluded that there is 'significantly less' potential for redevelopment than indicated by the RLV analysis (p.15).

53. In response to Mr Thompson, Mr Foy cautioned against the use of RLVs, as the analysis depended on one particular assumed development (the type of development used is not stated in Mr Thompson's evidence). The feasibility of development on any site depends on the type of development proposed, so a poor choice of development for the particular site may make the analysis meaningless (Second supplementary, p.11). Some of the sites considered by Mr Thompson as not being feasible to develop could be developed given the right project (and in some cases have been).

3.3.3 Our conclusions on whether there is sufficient feasible retail and office land for the next 15 years

54. Mr Foy's calculations of how much additional theoretical floorspace the 2GP provides do not appear to be disputed. Neither does the amount of existing vacant space.

55. The main issues between the experts are:

- What is the future demand?
- How much of the theoretical 2GP-enabled additional floorspace could feasibly be developed to satisfy this demand?

56. To compare the different figures put forward by the experts, the Reporting Officer took the estimates of demand and calculated the percentage of additional 2GP enabled floorspace that would need to be developed to satisfy the estimated demand, as discussed earlier (Economic evidence analysis, Table 1). We have summarised the findings as shown in Table 2.

Table 2: Summary of demand and capacity findings by different experts

Estimate of demand over 15 years	**% of the theoretical extra supply from 2GP zoning required to provide for estimated demand** (theoretical extra supply = 380,000 m^2 retail 803,000m^2 office 1,183,000 m^2 total)
Foy (using projections of demand based on household, population and employment growth[6]): 51,000 m^2 retail and hospitality 16,700 m^2 office	9% retail 0% office (no additional development required) 2.8% total
Thompson (based on consented commercial floorspace in last 10 years, pro-rated to 15 years[7]): 813,000 m^2	68% total
Foy (based on consented floorspace from Statistics NZ 'commercial buildings' category in last 10 years, pro-rated to 15 years[8]): 106,500m^2	5.6% total

57. Mr Colegrave did not estimate demand, but did estimate that between 1.7% and 5.7% of theoretical floorspace capacity could feasibly be developed for retail.

58. On this matter we find Mr Foy's evidence the most convincing. He took a wider perspective and was less focussed on particular properties. We accept that, for various practical reasons, some of the zoned land is unlikely to be redeveloped in the next 15 years or so. However, only a small proportion of the theoretically available land needs to be developed to meet the projected demands for both retail and hospitality, and office. Like Mr Foy, we have difficulty accepting Mr Thompson's residual land value approach because of the assumptions involved and because in practice sites that have been considered "uneconomic" to develop are developed when there is demand.

59. We note that it is not necessary in any case to choose any particular scenario of feasible supply and likely demand. Redevelopment will continue incrementally, and there would be plenty of warning of any pending shortage of development capacity and time to initiate a rezoning process. Under the National Policy Statement for Urban Land Supply the Council will be monitoring the take up of commercially zoned land.

60. As discussed throughout this decision, the supply of land for the various types of commercial activities is interrelated. For example, if the range of activities permitted in the edge commercial zones is increased, the range of sites available for the activities permitted in those zones would be reduced, increasing pressure for those activities to locate in the central industrial zones. The evidence was that there is considerable uncertainty about the future of retailing, with internet shopping and other innovations.

[6] Mr Foy's primary brief of evidence, para 3.5

[7] Mr Thompson's evidence, Table 3. The Reporting Officer used the figure for 10 years. To be consistent, we have pro-rated this to 15 years, as discussed on p5 of the Economic Evidence Analysis.

[8] Mr Foy's second supplementary evidence, para 3.7, adjusted for site coverage and pro-rated to 15 years in the Reporting Officer's Economic evidence analysis, p. 5)

Similarly, there may be less need for traditional offices in the future, with more flexible working arrangements and the reduction of routine administrative activities. In our assessment, these uncertainties suggest caution in rezoning ahead of proven need in order to ensure there is always a dense and vibrant CBD.

61. The 2GP provides for some residential activity in the CMU zones. The capacity has not been measured but has been referred to in our Urban Land Supply topic decision. Any space within CMU zones that is used for residential activity obviously cannot be used for commercial activity. We do not believe this potential for residential use of space within CMU zones significantly reduces the capacity of the CMU zones to accommodate commercial growth however. Residential development is likely to be on upper floors so does not compete with commercial activities that require ground floor spaces (particularly retail). The ability to include apartments at upper levels could encourage commercial development in some areas. Given the substantial land zoned for commercial activities we are comfortable that there is ample capacity in the short to medium term.

3.3.4 Demand for different office and retail types / locations

62. The NPS-UDC also requires that we consider demand for different types of business activities in different locations. We received submissions seeking to expand the provision for office and various types of retail in various zones, although evidence of actual demand for specific types and locations was limited.

3.3.5 Increased demand for large format retail

63. Various submitters sought to provide for large scale retail (also referred to as 'large format retail') in the Trade Related Zone. *Calder Stewart's* original submission (OS930) identified that some existing Large Format Retail (LFR) brands within Dunedin wish to relocate to larger premises, and land within the Trade Related Zone was identified as highly attractive due to agglomeration benefits with existing large format retail within the area (para 2.1.8). A similar point was made by Mr Mark Tansley, on behalf of *Progressive*; that demand was being driven by established brands looking to increase their 'collective footprint', rather than new brands looking to enter the market (Statement of Evidence, para 26).

64. We note that the need for additional LRF space was not advanced in evidence, except through Mr Colegrave's more general conclusions that the amount of developable retail capacity in Dunedin had been over-estimated.

65. Mr Foy's evidence was that as large format retail is particularly land extensive, future provision for LFR is an important consideration when determining whether there is sufficient capacity (Statement of Evidence, para 3.14). The M.E. 2015 report found that most of the key national LFR stores already have a presence in Dunedin, with most stores located in either the central city (50% of Dunedin's LFR floorspace, mostly in the CBD and CEC zones) or the Trade Related Zone (26% of LFR space) (p.45).

66. In Mr Foy's view, this representation of national chain LFR stores indicated limited need for significant additional floorspace to provide for new brands entering the market. Further, growth in demand for additional LFR floorspace (6,900-17,600m^2 to 2031) is projected to be slow (M.E. 2015 report p.45).

67. Mr Foy concluded that there was sufficient retail land zoned in each part of Dunedin to cater for expected growth for the next 20 years (Statement of Evidence, para 3.16).

68. Our conclusion on this is that there is sufficient land zoned for large scale retail activities, bearing in mind the ability of this form of retail to compete successfully with the other less intensive activities permitted and existing in these areas.

69. We note that large scale retail can locate in other zones, including the CEC Zone. The vacancy rate in the CEC - South Zone is at 7.4% (see below, and Economic evidence analysis, p12)

3.3.6 Increased demand for trade related retail

70. *Chalmers Properties* (OS749) noted that it had observed demand for mixed use commercial / industrial land (Submission, p. 5). *Chalmers'* planning expert Ms O'Callahan concluded from her survey of land usage in the Andersons Bay industrial area that "50% of the area is used for mixed use or non-industrial activities" (Statement of Evidence, para 15). *Chalmers* submitted that business needs had changed from heavy to light industry, trade supplies and technology-based industry. Design-build developments are more common, and these need a flexible and permissive planning framework. It considered that this issue could be resolved by allowing trade related retail activities in the Andersons Bay industrial zone (Ms O'Callahan's Statement of Evidence, para 10).

71. Mr Colegrave, in his evidence for *Foodstuffs*, noted that Foodstuffs "perceive a likely shortage of Trade Related Zone land over the life of the 2GP" (Statement of Evidence p. 14). As discussed earlier, Mr Colegrave assessed that only a small proportion of the plan enabled land is likely to be developed. For the Trade Related Zone, his assessment was that the likely future supply for retail land would be between 260 and 880 ha of land. However, we are unaware of any evidence of what Trade Related Retail demand will be specifically, and so cannot conclude whether this would outstrip supply.

72. We note the Reporting Officer's comment that vacancy in the Trade Related Zone is 1.7% by area (Economic evidence analysis, p. 12). She noted that while this may indicate a possible shortage of land, trade related retail may locate in almost all commercial zones, and is particularly widespread in the part of the CEC Zone centred on Crawford Street (CEC - South) (45% of the land area is trade related retail and bulky goods retail, a sub-activity of trade related retail). The vacancy in the CEC-South was assessed by the Reporting Officer at 7.4%. She considered that these vacancy figures give an indication of the popularity of these areas, but does not necessarily indicate there is a shortage of sites in which trade related retail can locate.

73. The s32 Report explained that the Trade Related Zone was a new zone, and incorporated a large area of previously Industrial land near Andersons Bay Road (zoning special Report – Commercial and Mixed-Use zones, pp. 2-3). Because this zoning is new we note that some lesser value activities that are permitted in the Industrial Zone (such as car yards) may be displaced by higher value trade related or food retail activities once the zoning becomes operative, and shift to other industrial zoned areas. So, in essence while the land is not vacant it may be under-utilised in terms of activities which will become permitted.

74. The Reporting Officer also noted that if additional Trade Related Zone land is required, alternative sites should be considered, for example industrial land in other locations, including Mosgiel. This would most appropriately be undertaken through a future plan change which can assess the appropriateness of different areas for rezoning.

75. We are satisfied that the additional zoned capacity for Trade Related businesses created by the 2GP (mostly from land formerly zoned Industrial), is sufficient for the life of the Plan. These activities can also establish or expand in the CEC zones, and yard-based retail can establish in Industrial zones. Within these zones there are many businesses that could relocate to Industrial zones if competition from Trade Related businesses increased land and rental values.

3.4 Industrial

76. We note that the 2GP reduced industrial land by 90ha from the operative District Plan, generally in areas that were no longer industrial in nature. We received a number of submissions seeking the retention of industrial land, as well as a number of submissions seeking to expand industrial zoning. These were heard in the Industrial Hearing. In respect of submissions seeking to retain industrial land, we generally agreed with the submitters' requests so as to permit the continued industrial use of the land in question (see Industrial Decision).

77. However, we also received a number of submissions seeking to in effect reduce the area of industrial land, by rezoning the land as commercial or permitting a greater range of land use activities (generally retail development).

78. We did not receive any submissions opposing, or seeking amendments to, Policy 2.3.1.4 (to identify and protect strategically important industrial land from incompatible or competing land uses), and therefore this policy assumes some importance in our decision making. We note that the submissions received in respect of the higher order Objective 2.3.1 have not sought a significant reordering of the objective of protecting Dunedin's important economic assets.

79. Evidence on the capacity and demand for industrial land was as follows.

3.4.1 Mr Foy's evidence: continued demand for industrial land, close to the central city

80. Mr Foy noted that the 2GP emphasises the importance of strategically located industrial land to Dunedin's economic prosperity and growth, and makes provision for approximately 625ha of industrial zoned land (Statement of Evidence, para 5.10). The largest concentrations of industrial land are located in the south west (Burnside and Green Island, 167ha), Mosgiel (137ha), south (Andersons Bay Road/Hillside Road, 136ha), central/central east (Dunedin Port area, 82ha) with smaller areas distributed elsewhere in the urban areas and more peripheral locations (e.g. Port Chalmers, Waikouaiti, Sawyers Bay, Middlemarch).

81. A vacancy survey of industrial land was undertaken in June 2016, and the results summarised in Appendix 4 of the s42A Report. This showed that there was approximately 89 ha vacant land, of which approximately 39ha is within urban Dunedin (including Green Island/Burnside, Fairfield and Kaikorai Valley) and 42ha in Mosgiel/Taieri. There is approximately 10.5ha within the central city and harbour basin.

82. Mr Foy assessed industrial land demand based on employment projections from the ME 2015 report, which show growth of 9.8% to 2031 in sectors that would seek to locate in industrial areas (Statement of Evidence, para 5.13). He prepared a number of scenarios to estimate the additional land required to accommodate that level of employment growth, and estimated that activities in Dunedin would be expected to occupy between 10 and 30ha of industrial zoned land more in 2031 than they do in 2016. This assessment included an allowance for technology changes that means that while employment in some industries may be decreasing, land requirements are not necessarily decreasing at the same rate (Second Supplementary Statement of Evidence, para 2.40).

83. He noted that not all vacant industrial land would be suitable for development for all the types of industrial activities that might require land in the future, due to area, slope, proximity to infrastructure, or other factors.

84. The Industrial Land Needs Study 2011 concluded that in the short to medium-term the majority of the future demand would be concentrated around the central city and the harbour basin (near the central city and Port Chalmers). These are the areas with the least amount of developable industrial land available. It noted that more developable land is available in the industrial areas around Kaikorai Valley Road, the commuter suburbs along SH1 and Mosgiel/North Taieri (p.4). However, the survey results suggest that, in general, industrial land in these areas is currently less preferred to industrial land around the central city and the harbour basin.

85. Mr Foy reached a similar conclusion in his statement of evidence, having undertaken a multi-criteria analysis of the key characteristics of each industrial area in the city, including size, proximity to road and rail networks, ports and airports, topography and development potential (amount of vacant land) (para 5.24). Based on this analysis, he determined that the most strategically important areas were the industrial areas around the harbour and in South Dunedin north-west of Hillside Road.

3.4.2 Mr Colegrave's evidence: decreasing demand for industrial land based on employment data

86. Mr Colegrave also estimated demand for industrial land based on employment data, adding a land buffer of between 50 and 100% to ensure sufficient supply. He concluded that future industrial land requirements would be from 4ha (low), 20ha (medium), to 80ha (high). He also referenced a 2015 research report by Bayleys which stated that "*market feedback suggests there is an adequate supply of industrial property in Dunedin*" (Bayleys Research, Marketbeat, Winter 2015, p.4).

87. Mr Colegrave was critical of the Industrial s32 Report's conclusion that identified loss of industrial land as a key resource management issue, and the Industrial Land Needs study, on which the conclusions were based, that recommended that industrial uses be protected from encroachment, particularly around the city's Harbourside (p.29).

88. Mr Colegrave was of the view that the city's industrial sector is flagging, due to a shrinking in the city's manufacturing base, uncertainties associated with development on leasehold land, and the high cost of renovating and strengthening heritage buildings. He concluded that there is no need to protect industrial land uses (p.31).

89. In response Mr Foy noted that Mr Colegrave's assessment did not take into account changes in technology that mean that while employment in some industries may be decreasing, land requirements are not necessarily decreasing at the same rate, and may in fact be increasing (second supplementary evidence, para 2.40).

3.4.3 Mr Thompson's evidence: decoupling of employment data from demand for industrial land

90. Mr Thompson's evidence was that approximately 50% of the business floorspace consented over the 2006 – 2015 period for Dunedin (22.6ha) was for the industrial sector, which Mr Thompson noted was contrary to the decline in industrial employment over a similar period (p.5). Based on consented floorspace data, Mr Thompson assessed that there would be a demand of 68ha of industrial land over the next decade. We calculate that this equates to 102ha over 15 years, which significantly exceeds the estimates made by both Mr Foy and Mr Colegrave, and the amount of vacant industrial land.

3.4.4 Mr Butcher's evidence: flexible market is best and should an actual shortage arise the Council can zone additional land

91. Mr Butcher's evidence on the possibility of a lack of supply of industrial land was that although there was a theoretical possibility of this negatively impacting upon Dunedin, this was not significant because there is presently a reasonable supply of vacant industrial land in Dunedin, and as manufacturing activity declines there will be less demand for industrial land. In any event, Mr Butcher opined that should industrial activity be unable to afford land costs then this indicated that the alternative commercial use was economically more beneficial to Dunedin. Ultimately in such situations the DCC could zone more land for industrial use.

92. Mr Foy noted that adopting Mr Butcher's reasoning would mean that some types of activities would not be able to establish in certain areas, as they would not be able to afford the same occupancy costs as other activities. Rather than simply zoning more land as suggested, Mr Foy responded that this was why land was zoned in the first instance, to manage the distribution of activities. This enabled broader public goals to be addressed, which markets were simply unable to manage (Supplementary Statement, p 6).

3.4.5 Our conclusions on whether there is sufficient feasible industrial land for the next 15 years

93. We are satisfied from Mr Foy's analysis that there is sufficient land zoned for industry for at least the short term. As with commercial activities, there is uncertainty created by the waxing and waning of the various types of industrial activities in Dunedin, but there is no evidence of decline in the space occupied by the broad group of activities defined as Industrial. The category includes much more than traditional manufacturing.

94. The evidence was that industrial activities favour sites close to the CBD, the railway, and the State Highway. There are limited areas with this advantage, so if they are given over to other activities they cannot be replaced. We noted that the supply of land for industry will be monitored in future as part of the Council's obligations under the new National Policy Statement for Urban Development Capacity, so any trends will be identified, and rezoning can be initiated: new areas to cater for increased demand, or (less likely) rezoning of existing Industrial land to allow some commercial activities if less land is needed for industry.

95. We note that we have received a number of submissions seeking to enable alternative uses of industrial areas. These are discussed in section 4.7.1 of this decision.

3.5 What are the economic benefits of a more permissive planning environment?

96. As previously stated, many submissions were received seeking rezoning of specific areas or changing the status of activities within particular zones. In a number of cases, the rationale was not a shortage of land for a particular activity, but that being more permissive in general would accrue greater economic benefits to the city. Here we summarise the views of the economic experts on this topic.

97. Mr Foy's view on the economic benefits from a more permissive planning environment was that the approach was simplistic (Statement of Evidence, para 5.29–5.38). His view was that consideration should not be limited only to the best economic outcome, but should take a broader view of the environment. Furthermore, a more permissive regime may not necessarily result in the best outcomes even if the frame of reference is limited only to the economy.

98. Relaxing the planning framework can result in hidden costs to third parties (negative externalities). These are managed by the 2GP's objectives and policies, which balanced many desired outcomes, not just economic ones. Negative externalities include a loss of agglomerations benefits as businesses disperse, a decrease in the depth and breadth of retail in the CBD and centres, and consequently the attractiveness of these areas, less efficient travel patterns, loss of vibrancy and therefore social amenity in centres.

99. The cumulative effects of a more permissive environment, leading to more out-of-centre development, can potentially be significant, and result in an urban form not envisaged or desired by the community.

100. Mr Foy also noted that a more generous supply of land for commercial activities would reduce rents compared to a more restrictive approach, and that those lower rents would undermine the business case for property owners to renovate their buildings by reducing the underlying land values (Brief of Evidence, para 3.17).

101. Mr Colegrave considered the 2GP's approach to providing for commercial activity as overly-cautious and dis-enabling (Evidence for Calder Stewart, para 24-38). He considered concerns about the health of the CBD to be misguided, noting that decentralisation of retail is commonplace nationally, due to CBDs maturing and having limited capacity for additional growth, and high rents in the CBD (para 33-35). Limiting the spread of retail increases these rents, and retailers no longer able to afford them may leave town, reducing economic activity.

102. He noted that the citywide retail vacancy is 6%, within the 'natural rate of vacancy'. The share of retail within centres is high compared to other cities, showing Dunedin's retail network was in a 'healthier' state (para 37).

103. Mr Colegrave disagreed with Mr Foy that lowering rents would undermine the business case for property owners to renovate their buildings (para 66 – 67). Land values would need to change substantially to have any measurable effects on the viability of redevelopment, as they are only one part of the overall equation. He considered that even a small decrease in rents would provide significant benefits to retailers. In his view, economic theory suggests that a more generous supply of retail floorspace is preferred to the more frugal one contained in the 2GP.

104. Mr Thompson took issue with the claim in the s32 Report that 'higher density leads to higher economic productivity' (Evidence for Harvey Norman, para 53-63). In his view, the converse is true – higher economic productivity leads to higher density. This is because an increase in the economic productivity of firms leads to competition to be part of a successful cluster (firms are willing to pay higher prices to be part of the cluster, including for multi-level buildings). This leads to higher density clusters.

105. An artificial restriction of supply would reduce economic productivity, ultimately leading to lower density, because fewer firms would be able to pay the higher prices required for higher density.

106. As a consequence, Mr Thompson criticised the explanation of Objective 2.3.2 in the s32 Report, which states that the objective "*allow[s] for a wide range of commercial, community residential and industrial activities which maximises the intensity*."

107. Urban policy should support economic productivity by ensuring that there is sufficient land/floor space capacity for firms to establish in a city's commercial centres, but should *not* seek to support density by reducing zoned land (para 59).

108. In relation to the size of the CBD, his view was that it should only decrease if there is a declining economy and corresponding decline in demand for commercial space, or a market failure due to an excessive supply that is having adverse flow on effects, or there is sufficient capacity to meet the needs of all businesses in full within a smaller CBD without any significant impact on the price or range of space available (para 61).

109. His assessment was that none of these situations apply in Dunedin. He therefore concluded that the optimal economic approach would be for a larger CBD Zone than the one currently proposed.

110. Mr Thompson drew similar conclusions in relation to agglomeration economies – that urban policy that avoids artificially restricting land supply across a network of centres is more likely to result in agglomeration benefits (para 64–70). In particular, having larger, more flexible centres enables more opportunities within each centre.

111. We accept the general proposition that market forces will generally deliver economically optimum outcomes, and support the enabling purpose of the Act, provided there is no market failure, including "externalities" that commercial decision makers do not take into account. All of the economists implicitly acknowledged that businesses in Dunedin do not operate under perfect competition, and the differences between them appear to come down to different views on the extent of the failure of the market to recognise non-market factors of types that are relevant RMA considerations.

112. As noted earlier, the objectives and policies relevant to the important issue of commercial and mixed-use zoning, are largely not in dispute. We have accepted some requests for minor amendments to the wording of some objectives and policies, and with those amendments, they have guided our consideration of CMU zoning decisions.

113. The major theme of the objectives and policies is promotion of a strong CBD, supported by a hierarchy of suburban centres. While generally retail, food and beverage and entertainment activities are restricted to the retail core of the CBD and the other centres, specific provision is made for forms of retailing that are not readily accommodated in centres, such as large format retailing. This is how Dunedin operates at the moment, and the 2GP provides for "fine tuning" rather than any radical departures.

114. We received little evidence about how Dunedin functions compared to other main centres. At the risk of being parochial (although two of us are from outside Dunedin so

cannot be accused of that) we believe the Dunedin CBD in particular provides levels of convenience and amenity rarely found in other main centres. We see this as something to be safeguarded and we have kept this in mind when assessing any requests that could disperse the vitality of the CBD.

4.0 Decisions on submissions by topic

4.1 Activity status rules

4.1.1 Context - Centre Based Approach

115. The 2GP adopted a centres approach that concentrates commercial activities, including general retail, office, entertainment and exhibition, conference, meeting and function and restaurants, in the Central Business District (CBD) and local commercial centres. This approach is outlined in Objective 2.3.2, policies 2.3.2.1 and 2.3.2.2, Objective 2.4.3 and Policy 2.4.3.4, Objective 18.2.1 and policies 18.2.1.1, 18.2.1.2, 18.2.1.3, 18.2.1.8, 18.2.1.17 and 18.2.1.18.

116. The centres approach received substantial support, and in respect of the overarching strategic Objective 2.3.2, only supporting submissions were received.

117. The centres approach was also largely supported by evidence presented at the hearing. Mr Munro (planning and urban design consultant called by the DCC) and Mr Foy (economics consultant called by the DCC) gave evidence on the importance of maintaining strong and vibrant centres to enable the greatest possible amount and diversity of exchange for the least possible 'effort', such as transport cost and time, efficient servicing, and general convenience.

118. Mr Munro explained the importance of encouraging retail, office and entertainment and conference type activities within the CBD and centres, and noted that successful centres are mixed use centres. Office activity provides high density employment, which together with high density housing, complements retail activities. These activities together conveniently meet people's daily needs (Statement of Evidence, pp. 11-13).

119. He explained that entertainment and conference activities attract high volumes of people who also undertake discretionary expenditure on related activities such as food and drinks. Promoting these activities to cluster in the CBD and centres supports related co-location of accommodation and retail activities (Statement of Evidence, p. 14).

120. Mr Foy explained that any increase in the locations in which retail and office space is permitted would further contribute to (what is in his view) an oversupply of retail and office space. A larger oversupply means that land values and rents for retail and office space would be lower. The Reporting Officer also noted that an oversupply means greater vacancy rates in existing commercial zones which can lead to loss of vibrancy, amenity, and can sometimes result in anti-social behaviour (for example tagging) and a decrease in perceptions of safety (s42A Report, section 2.4.1, p. 9).

121. We also note that the 2GP centres approach was supported by Mr Thompson, in his economic evidence for *Harvey Norman*, and Mr Tansley, in his expert retail evidence for *Progressive Enterprises*. The need for a vibrant CBD was also supported by Mr Butcher, the economic expert for *Chalmers Properties* (Statement of Evidence, paragraph 11). Mr Butcher referred us back to the purpose of the Act set out in s5 and advocated free markets with minimal planning restrictions as the best way to achieve that purpose, noting that s7(b) of the Act promotes "efficient use and development of natural and physical resources". He questioned whether there are sufficient "externalities" to justify the zoning restrictions in the 2GP. We accept that the assumption should be against restrictions and throughout the hearings on the commercial and mixed-use zones we have sought to understand what the adverse effects of removing restrictions, as sought by most submitters, would probably be. This evaluation was complicated by the different methods of analysis used by the economists.

122. The Reporting Officer's view was that in general, requests to expand retail and office activity beyond the existing zoned centres should be rejected, to maintain vibrancy in those areas.

123. We note Mr Foy's evidence, summarised earlier, that there is already sufficient land zoned for retail and office activity in Dunedin, and allowing these activities in additional areas is not required to provide for the projected steady increase in market demand. Any increase in the locations in which retail and office space is permitted would further contribute to an oversupply of retail and office space. A larger oversupply would mean that land values and rents for existing retail and office space would be depressed. This is not just a matter of benefit for tenants and disbenefit for property owners; allowing dispersal of commercial activities would "dilute" them in areas of the city where they are provided for, and generally result in adverse effects on the viability and vibrancy of the CBD and centres.

124. Overall, based on the submissions and evidence considered at this hearing, as well as considering related matters heard at other hearings (in particular the Industry topic hearing and Cross-plan: Service Stations hearing), we are in no doubt that the centres approach is the best way of ensuring that Dunedin has a sustainable urban environment that enables people and communities and future generations to provide for their social and economic wellbeing.

125. This conclusion provides a framework for assessing the requests for particular liberalisation of restrictions in particular areas. The central question has been what effect the submitters' proposals would be likely to have on the CBD and the other commercial centres.

126. The 2GP centres approach also identifies many streets within centres as having primary or secondary pedestrian street frontages, and requires, through performance standards, minimum standards of activation and urban design controls along these frontages.

127. Mr Munro explained that streets that are safe, comfortable and convenient to use are more likely to be used by pedestrians for more and longer trips. This can in turn promote more exchange. The way in which development integrates with or addresses streets and open spaces can significantly affect the extent to which pedestrians wish to use them (Statement of Evidence, para 19). Buildings that are designed to be visually engaged with, such as having regular vertical expression or modulation in the façade have been shown to facilitate higher amenity values and more comfortable pedestrian environments. Conversely, vehicle-dominated footpaths, long blank walls, exposed ventilation outlets at eye level, and buildings that otherwise impede rather than enable pedestrian movement, can discourage pedestrian activity not only from in front of a given site, but other sites further along the footpath (Statement of Evidence, para 20).

128. He noted that the use of street frontage requirements (that is, the primary and secondary pedestrian frontage rules), complemented by more general landscaping requirements, is a means of targeting urban design requirements to those streets that are of particular importance to the performance and amenity of centres. It is more effective, and less onerous, than controlling design on all street frontages (Statement of Evidence, para 21).

129. We discuss the various submissions in relation to the street frontage rules later in the decision (see section 4.6), but note here that we agree with and accept Mr Munro's broad evidence in this regard.

4.1.2 Broad submissions

130. *The Construction Industry and Developers Association* made a broad submission in which they indicated that certain activities should be changed to discretionary from non-complying across a number of zones. Their reason was "the 2GP did not provide enough flexibility for activities and development in a financially viable way". The activities that were subject to a submission were:

- conference, meeting and function, and entertainment and exhibition activity in the Neighbourhood Centre and Neighbourhood Convenience Centres zones (OS997.46), and (OS997.48);

- small scale general retail and office not in a scheduled heritage building, and restaurant drive-through in the Warehouse Precinct Zone (OS997.50), 7(OS997.51), and (OS997.52);

- general retail, office and bulky goods retail, conference, meeting and function, entertainment and exhibition in the PPH Zone (OS997.104), (OS997.105), (OS997.100), (OS997.101) and (OS997.103);

- general retail, office not in a scheduled heritage building, bulky goods retail, conference, meeting and function, entertainment and exhibition, restaurant drive-through and trade related retail in the SSYP Zone (OS997.61), (OS997.53), (OS997.54), (OS997.56), (OS997.58), (OS997.59), and (OS997.60);

- office (OS997.110), bulky goods retail (OS997.106), general retail (OS997.109), trade-related retail (OS997.113), yard-based retail (OS997.114), and restaurant drive-through (OS997.111) in the Harbourside Edge Zone;

- small scale general retail, office, conference, meeting and function, entertainment and exhibition, early childhood education and residential activities in the CEC Zone (OS997.66), (OS997.67), (OS997.62), (OS997.64), (OS997.68), and (OS997.69);

- general retail, office, bulky goods retail, conference, meeting and function, entertainment and exhibition, visitor accommodation, early childhood education and residential activities in the Trade Related Zone (OS997.75), (OS997.76), (OS997.70), (OS997.71), (OS997.73), (OS997.77), (OS997.78) and (OS997.79).

131. We note that *CIDA* did not appear at the CMU hearing. Ms Emma Peters appeared at the Rural Hearing representing *CIDA* and gave evidence applying to all hearing topics. She noted that the RMA is an enabling Act. To be truly enabling, the Council should use the least restrictive activity status to achieve the policies and objectives of the plan. Activity status under the RMA is hierarchical, with discretionary activities being more flexible than non-complying ones. Discretionary activities allow consideration of any matters which the consent authority considers relevant. This might include future changes in technology, politics, climate etcetera, which change the way we live. While this broadness can make applications costly, the submitter would prefer this to the inflexibility of a non-complying consent (Statement of Evidence for *CIDA,* paras 6-22).

132. *The Property Council NZ* (OS317.61) sought a review of the plan's provisions to ensure they do not contradict each other, and will not result in an inappropriate number of activities being forced through the consenting process. The submitter is concerned that the District Plan's zoning rules will cause inefficiencies, costs and delays by forcing an inappropriate number of activities through the consenting process.

133. In response to these submissions, the Reporting Officer noted that submitters' concerns in respect of rules have been discussed, and recommendations made where appropriate (s42A Report, section 5.10, p. 297).

4.1.2.1 Decisions and reasons

134. We did not give much weight to the *CIDA* submission. The Plan Overview Decision discusses other submission points related to the appropriate use of non-complying activity status and our broad decisions on that issue.

135. Unless there were other submissions or evidence, including responses by the Reporting Officer to support the change requested by the *CIDA*, we largely disregarded these submission points, and unless otherwise indicated elsewhere in this report, make the decision to reject them.

4.1.3 Request to focus activities in the CBD

136. A number of submissions sought to focus retail, office and other 'centres' activities such as entertainment and exhibition within the CBD, rather than permit these activities within the CBD edge mixed use zones.

137. *Ms Elizabeth Kerr* (OS743.6) sought to review the objectives and policies to consider the potential for cumulative adverse effects due to expansion of retail and hospitality in the Warehouse Precinct Zone; and new zoning for mixed use activities (including restaurants, entertainment and exhibition activity) in the Harbourside Edge Zone. This submission was opposed by *One Zeal Ltd and Zeal Land Ltd* (FS2269.2).

138. *Heart of Dunedin Inc.* (OS454.1) sought to have Rule 18.3.4 (activity status table) amended to require consent for retail activity within the Warehouse Precinct, Harbourside Edge, Princes, Parry and Harrow and Smith Street and York Place zones. This submission was opposed by *One Zeal Ltd and Zeal Land Ltd* (FS2269.1) and *Bindon Holdings Ltd* (FS2471.2).

139. Mr Robert *Wyber* sought to amend the 2GP to reinforce that Dunedin's strongest and most important retail and pedestrian core is located between Frederick Street and the Exchange (along George St, the Octagon, Lower Stuart Street, and the first part of Princes Street) (OS394.31). *Mr Wyber* also submitted against allowing general retail as a permitted activity in scheduled heritage buildings in the CBD Edge mixed use zones (OS394.91). We are aware that *Mr Wyber* is a qualified planner and former City Planner, and has had considerable experience with issues such as this in Dunedin.

140. *Mr Wyber* was specifically concerned with objectives, policies and rules that propose to open the 'back door' to allow general retail as a permitted activity in scheduled heritage buildings in the CBD edge mixed use zones. He sought to limit the extent of the Central Area commercial zoning to within 5km by road of the Octagon (excluding the South Dunedin Centre) (OS394.90). He considered that there is too much land zoned or used for retailing, and if the CBD is to remain the centre of the city, there needs to be a reduction of available space for these activities beyond the CBD. In evidence, *Mr Wyber* reiterated that a holistic view needed to be adopted to 'reclaim the CBD'.

141. We note that the activities of concern (as we understand the submissions) provided for in the CBD edge mixed use zones are limited: office in the SSYP zone in scheduled heritage buildings, office and small-scale retail in scheduled heritage buildings in the WP Zone, large scale retail in the WP Zone, and conference, meeting and function, entertainment and exhibition and restaurants in the Harbourside Edge and WP zones. Mr Wyber was also concerned about retail in general in the CEC and Trade Related zones.

142. The Reporting Officer recommended that these submissions be rejected. She did not see a conflict in the provisions that permit retail activity in scheduled heritage buildings in the Warehouse Precinct. In her view, the 2GP's policies reinforce that Dunedin's most important retail pedestrian core is in the CBD. She emphasised the Warehouse Precinct's heritage value, which distinguishes it from other areas where more permissive rules for office and retail had been requested. The benefit for heritage buildings is not available in other locations (s42A Report, section 5.3.3, p.43).

143. Mr Glen Hazelton (DCC Urban Design Team Leader and Heritage Planner) assessed the additional potential retail space provided in the Warehouse Precinct under the notified rules to be 9,000m^2 (that is, ground floor space with reasonable access, ground floor windows and not recently developed for an alternative use), and the additional office space to be 18,200m^2. He was aware of only one retail business that had relocated from the CBD in recent years (s42A Report, section 5.3.3, p. 42).

144. Mr Foy's opinion was that potential retail and office development in scheduled heritage buildings in the Warehouse Precinct is likely to have a limited effect on the CBD. The reasons included constraints on re-development, such as the variety of competing activities permitted in the zone, established tenants limiting the developable area, and the feasibility of redevelopment. Where activities did establish, effects would be

tempered by the close proximity to the CBD, which allowed for customers to flow between the two areas to the benefit of both. In Mr Foy's view, it would be preferable to see any additional office growth on the fringe of the CBD than in the suburbs or industrial areas (Statement of Evidence for *DCC*, para 11.7).

145. Mr Foy's view was that the submitter's position represents a very restrictive retail environment, and one which would not be efficient or attractive to consumers. The submission does not appear to take into account that there are already retail activities spread throughout Dunedin in a network of centres and retail areas. Any activity status which requires consent to establish retail outside the CBD would represent a costly, inefficient way of achieving objectives to promote the 'health' of the CBD (Statement of Evidence, para 11.4).

146. Lawrie Forbes, representing *One Zeal Ltd*, gave oral evidence noting that his business had been located in the Warehouse Precinct for eight years. The existing zoning, which provides for large scale retail, did not work as the area has mainly smaller properties. Commercial tenants in his properties did not relocate from the CBD, they wanted the Warehouse Precinct location due to lower cost, easier parking, a point of difference and possibly the 'hip' feeling in the area.

147. *Heart of Dunedin* was represented by Mr Sam Guest and Mr Simon Eady. Mr Guest made oral submissions, noting that while the revival of the Warehouse area was seen as positive, the submitter disagreed that there was any justification for allowing retail in the area. He noted that the area is separated from the CBD retail area. Mr Guest estimated that the average tenancy size in George Street is 150m^2, and therefore an available 9,000m^2 for retail was "not insignificant". The group estimated that 46 businesses could start up there now. Any retail should require resource consent as a non-complying activity.

148. Adam Binns, a surveyor and valuer called by *Heart of Dunedin*, gave evidence on the vacancy rate on George Street between Moray Place and Frederick Street, using data he had collected between 2014 and August 2016. The data, which was based on unit vacancy (as opposed to vacancy by area), showed vacancy rates of 2% to 23% within individual blocks. Mr Binn's conclusion was that the overall vacancy rate in the three blocks increased from August 2014 to August 2016 from 8% to 12% (Evidence, para 25). Vacancy rates had increased particularly in the 'Golden Block' (between St Andrew and Hanover streets).

149. In response to a question, Mr Binns agreed that vacancy by land area was a more 'scientific way' of assessing vacancy.

150. The Reporting Officer, in her revised recommendations in December 2016, replicated the survey, but assessed the vacancy rate by area, rather than tenancy. The overall vacancy rate was 5.6% (Economic Evidence Analysis, p.8), which was within Mr Foy's 'healthy' vacancy rate of 5-8%, and we note, Mr Colegrave's 'natural rate of vacancy' (Revised Recommendations, p 6).

4.1.3.1 Decision and reasons

151. All panel members, including the two members resident outside Dunedin, are very familiar with the CBD, the Warehouse Precinct Zone and the other central city zones. We reject the submissions from Ms *Elizabeth Kerr*, Mr *Robert Wyb*er and *Heart of Dunedin* to amend the objectives, policies and rules that provide for retail, office and other centres activities in the CBD edge mixed use zones. We were convinced by the evidence of the DCC that the activities provided for in these zones are limited, and are necessary for the development of a vibrant Harbourside area or are sufficiently close to the CBD to add to the vibrancy there, rather than detract from it (e.g. entertainment and exhibition in the WP Zone).

152. In relation to the Warehouse Precinct, we agree with Mr Foy and Mr Forbes that the risk of retail businesses relocating from the George Street area is relatively low due to the constraints of the buildings, and that the benefits in terms of the Plan's objectives

around reuse of heritage buildings is high. We also agree that requiring consent for all retail development outside the CBD would be inefficient.

4.1.4 Neighbourhood Centres

153. *Moi Bien Investments Ltd* (OS826.11) sought an amendment to make visitor accommodation permitted, rather than discretionary in the St Clair 'neighbourhood centre'. We note, however, that as St Clair is a Neighbourhood *Destination* Centre, not a Neighbourhood Centre, visitor accommodation is already permitted and no decision is required.

154. *The Construction Industry and Developers Association* sought to provide for conference, meeting and function, and entertainment and exhibition activity in the Neighbourhood Centre and Neighbourhood Convenience Centres zones as a discretionary activity (OS977.46), and (OS977.48).

155. The Reporting Officer stated that this zoning is meant to provide primarily for smaller service type activities such as service stations, dairies, chemists, takeaway outlets, bars etc. The zones are not intended to be a location for conference facilities or entertainment and exhibition venues, which generally serve wider catchments. The 2GP provides for these facilities in the CBD and larger centres, in order to contribute to the vibrancy of these areas (s42A Report, section 5.5.8, p. 68).

4.1.4.1 Decisions and reasons

156. Our decision is to retain the activity status rule for the Neighbourhood Centres as notified, and reject the above submissions: (OS826.11), (OS977.46), and (OS977.48). We find it difficult to envisage how the activities sought by The Construction Industry and Developers Association could be fitted into the areas zoned for Neighbourhood Centres, without displacing the land uses needed by neighbourhood communities.

4.1.5 Warehouse Precinct Zone

157. With regard to the broad submission by *CIDA*, which included changing the status of restaurants drive-through (OS997.52) from non-complying to discretionary in the Warehouse Precinct, the Reporting Officer recommended rejecting the submission as drive-through restaurants are likely to be inconsistent with the character and built form of the area, and the high amenity expectations, as outlined in Policy 18.2.3.9. There are a large number of locations within the city where the effects of these activities can be managed, and where they are provided for as permitted activities. Discouraging them from developing in the Warehouse Precinct Zone will not unduly limit flexibility or the ability for activities to develop in a financially viable way (s42A Report, section 5.5.9, p. 70).

4.1.5.1 Decisions and reasons

158. We reject the submission by *CIDA* for the reasons outlined in the s42A Report.

4.1.6 Princes, Parry and Harrow Street Zone

159. *Bindon Holdings* sought to amend the activity status of the following activities in the PPH zone:

- Bulky Goods Retail, entertainment and exhibition, conference meeting and function from non-complying to permitted (OS916.7), (OS916.10), and (OS916.8)

- restaurants and restaurants ancillary to visitor accommodation (OS916.12), and (OS916.14) from discretionary to permitted.

160. The submitter considered that the area has strong potential to accommodate these activities given its proximity to major transport corridors, the Campus and Stadium zones.

161. *Bindon Holdings* (FS2471.28, 29, 31, 32,33, also supported in part the broad submissions by the *Construction Industry and Developers Association* (OS997) to make a number of non-complying activities in the PPH Zone discretionary, to the extent that it opposed the non-complying status of the activities. The *CIDA* submission is discussed in Section 4.1.2.

162. The s42A Report outlined that Princes, Parry and Harrow Street Zone (PPH Zone) encompasses the lower part of Princes Street and an area around Parry and Harrow Streets, close to the Stadium. The PPH Zone provides for a range of commercial uses, reflecting the zone's proximity to the Stadium, Campus, residential areas, and existing commercial development within the zone. This includes a mix of inner-city residential living, training and education, visitor accommodation, industrial, trade related and yard based retail activities. Office and general retail activities are non-complying.

163. The Reporting Officer noted that entertainment and exhibition, and conference, meeting and function are activities that the 2GP aims to locate within the CBD and centres, as they are all important for the vibrancy and viability of these areas. For this reason, she considered that non-complying status is the most appropriate, as a discretionary activity status is not a high enough test to ensure these activities do not develop here (s42A Report, p. 76).

164. She also noted that while visitor accommodation was permitted in the zone, restaurant ancillary to visitor accommodation activity was discretionary to ensure the restaurant primarily provided for guests, rather than a stand-alone activity more appropriately located in the CBD or a centre (Section 42A Report, section 5.5.10, p. 76). She recommended retaining the discretionary activity status.

165. Mr Foy was of the opinion that retail in this location is not required to provide for increasing market demand, and would effectively dilute retail activity throughout the city (Statement of Evidence, para 16.6).

166. Based on Mr Foy's advice, the Reporting Officer recommended that bulky goods retail remain non-complying (s42A Report, section 5.5.10, p. 76).

167. *Bindon Holdings* was represented at the Hearing by its property manager, Mr Peter Jackson. Mr Jackson highlighted that many of activities sought to be permitted were often co-located with other visitor-orientated amenities. The area was within walking distance of the CBD and suitable for more mixed-use development. Providing for these types of activities in the PPH Zone, provided they achieved appropriate performance standards, would encourage appropriate development of the area (Hearing Statement, para 3.9).

168. As an alternative, Mr Jackson suggested that the activities could be permitted on the Anzac Avenue frontage only.

169. In response to our questions about the centres policy, Mr Jackson responded that non-complying status was "really extreme" in this mixed-use area. He questioned why visitor accommodation was provided for in the zone, but not the associated activities. A zoning framework that only provides for visitor accommodation as a permitted activity, and discourages those other visitor amenities which are essential to the success of a hotel, will not foster new development in this part of the city (Statement of Evidence for *Bindon*, para 3.10).

170. Mr Jackson considered that bulky goods retail in the area was appropriate given its proximity to the CBD, industrial areas and transportation networks. Mr Jackson did not consider Mr Foy's conclusions about the impact of providing for bulky goods retail in the Princes, Parry and Harrow Zone was sufficient to reject the submission. In respect of transportation effects, he considered that that these could be addressed under a restricted discretionary activity status (Statement of Evidence for *Bindon*, para 3.7).

171. Mr Jackson also suggested a number of consequential changes to support the relief sought.

4.1.6.1 Decisions and reasons

172. We reject the submissions by *Bindon Holdings* for the reasons outlined by the Reporting Officer.

173. We have considered Mr Jackson's point about the need to provide for activities that complement visitor accommodation, but we consider the Plan does provide for facilities needed by guests; it just does not provide for other activities that guests might want to visit, along with people staying or living elsewhere. We accept that in some respects the PPH Zone is suitable for those activities, but location here would be instead of locating in the CBD where these activities would better contribute to synergies with other intensive activities and the general vibrancy of the CBD.

174. Similar considerations apply to bulky goods retailing. We accept that the PPH Zone would provide high profile sites because it is bounded by busy roads, but that is not sufficient reason to zone it for bulky goods retailing.

175. The s42A Report did not specifically consider amending restaurant activity from discretionary to permitted. We note, however, Policy 18.1.2.18, which states:

> "Only allow restaurants outside the CBD, WP, HE and centres where the activity is not of a scale or nature that is more appropriate to locate in the CBD, centres, WP or HE because:
>
> - *it is unlikely to contribute to the vibrancy and vitality of those zones; and*
> - *it has specific operational requirements that do not fit with those locations."*

176. In order to assess these matters, resource consent is required and so permitted activity status is not appropriate. As outlined in the policy and discussed in Section 4.1.3 of this decision, the preferred location of restaurant activity is in the CBD and centres in order to retain the vibrancy of those areas, and its location elsewhere should only be to the extent that does not compromise this approach.

4.1.7 Smith Street and York Place Zone

177. *Bunnings Ltd* (OS489.5) sought to amend the status of trade-retailed retail from non-complying to discretionary. However, it later advised that it no longer wished to pursue its submission (correspondence from Matt Norwell on behalf of *Bunnings Ltd* dated 25 July 2016).

178. *Tony MacColl* sought that visitor accommodation be restricted discretionary, rather than permitted (OS98.13), submitting that this was more appropriate.

179. *Mr MacColl* (OS98.10) also sought to make office activity discretionary or restricted discretionary. His view was that there are a number of existing office activities that are compatible with existing residential activities in the SSYP Zone.

180. The Reporting Officer recommended rejecting the submissions by *Bunnings* and *CIDA* (which sought that bulky goods retail, restaurant drive-through and trade related retail be made discretionary instead of non-complying, due to their potential to alter the built form of the area and because they are unlikely to meet amenity expectations for the zone, as expressed in Policy 18.2.3.9. She noted that there were many other locations in the city where these activities are provided for, and discouraging them from the SSYP Zone would not unduly limit flexibility for the activities to develop (s42A Report, section 5.5.11, p. 79).

181. The Reporting Officer also recommended rejecting *Tony MacColl's* submission to make visitor accommodation restricted discretionary, as she felt permitted activity status was appropriate due to the zone's location close to the CBD and the number of existing visitor accommodation activities in the zone. The potential effects from visitor

accommodation are dealt with through performance standards (e.g. noise, light spill, reverse sensitivity issues, parking, maximum height). Other effects, for example an increase in traffic, are anticipated but should be able to be absorbed within the zone (s42A Report, section 5.5.11, p. 79).

182. In response to *Mr MacColl's* submission to provide for office activity, the Reporting Officer recommended that this submission is rejected as the 2GP focusses this in the CBD, as discussed earlier. We note that an exception is made for office activity in scheduled heritage buildings, to encourage re-use of these buildings, which we agree is the most appropriate approach in terms of the Plan's objectives and policies.

183. *Tony MacColl* provided evidence in which he noted that the current commercial offices in the area do not create reverse sensitivity effects for the existing residents and therefore the non-complying activity status for office activities was overly onerous and inconsistent with the broader intent of the 2GP (Statement of Evidence for *Tony MacColl*, pp. 1-2).

184. The Reporting Officer did not alter her recommendation to reject the submissions of *Mr MacColl* or *CIDA*.

4.1.7.1 Decisions and reasons

185. We reject the submissions of *Tony MacColl,* and *CIDA*, for the reasons outlined in the s42A Report, and retain the land use activity status table for the Smith Street and York Place Zone as notified. We accept *Mr MacColl's* point that existing office activities in this area do not create significant adverse effects. However, the issue is whether more office activity would undermine the concentration of office activity in the CBD sought by the objectives and policies.

4.1.8 Trade Related Zone

186. The Trade Related Zone is located on either side of Andersons Bay Road between Strathallan Street and Portobello Road, as well as a small area on Macandrew Road between Glasgow Street and Reid Road. The zone provides for large format food and beverage retail, trade related and yard based retail, together with other categories of activities which generate high traffic volumes. Submitters questioned the proposed status of several classes of activity in this zone.

4.1.8.1 Restaurants / Cafés

187. *Foodstuffs South Island Properties Ltd* (OS713.6) sought to permit cafés associated with permitted activities, up to 220m^2 or 15% of the primary activity's gross floor area, whichever is smaller. Their rationale was this would ensure that customers would be limited to the primary activity's customers and would not impact on the CBD and centres. We note that cafes fall under the definition of restaurants in the 2GP.

188. The submission was supported by *Progressive Enterprises* (FS2051.4), *Nichols Property Group and others* (FS2173.7), and *Otago Land Group Ltd* (FS2149.13).

189. Mr Foy, called by the DCC, noted that such instore cafés are often popular due to the large 'captive audience' in the associated store. This allowed in-store cafés to compete with cafés located in centres, with a resultant opportunity cost to the centre in terms of people activity. He considered that this potential adverse effect requires some level of management (Statement of Evidence, for the *DCC*, p. 31).

190. The Reporting Officer agreed that in-store cafés provide a service to the customer and are likely to increase the number of people visiting that business, and acknowledged their positive effects. However, in her personal experience, the existing in-store cafés in the area (e.g. in Mitre 10 Mega and Nichols) are destination cafés and therefore must have some impact on cafés located elsewhere. Consequently, she preferred that consent is required so that these effects can be considered, and recommended that the submission is rejected (s42A Report, section 5.5.15, p. 99).

191. *Foodstuffs'* planning witness, Mr Mark Allan, disagreed with the Reporting Officer's and Mr Foy's conclusions on the effect of cafés on centres. In his opinion, performance standards limiting the café's size are the most appropriate way to ensure that the potential adverse effects are managed (Statement of Evidence for *Foodstuffs,* pp. 27-28).

192. Following the initial hearing, we sought further information from Mr Foy on whether a size limit of 50m^2 would be acceptable in terms of limiting effects on centres, and whether it was a relevant matter whether the café was operated as part of the primary activity, or as a separate tenancy. We reconvened the hearing on 30 November 2017 to consider this matter.

193. Mr Foy provided written evidence noting that the ability to dine-in, rather than take away food, is a strong influence on how much of a destination the business can be. He detailed the sizes of various Auckland cafés that provide predominantly either take-away or dine-in meals, concluding that there is a point somewhere between 50m^2 and 100m^2 gross floor area where restaurants become more targeted towards dining in rather than takeaways. He concluded that a maximum size limit of 50m^2 could be applied for restaurants as a permitted activity in the Trade Related Zone with a reasonable degree of confidence that they would have very little adverse effect on centres (Third Supplementary Evidence, paras 3.3 and 4.1).

194. He did not see any distinction between restaurants operated as a separate tenancy or as an ancillary activity.

195. We also received written evidence from Mr Foster, Planning Consultant called by *Progressive Enterprises*. He considered that Mr Foy's conclusion in regard to maximum size lacked an appropriate evidential basis because there was no analysis of tenancy type, commercial viability, tenancy location within primary tenant and the practicality of such a limit (Supplementary Statement of Evidence of Mr Michael Foster, p. 3).

196. He gave two examples of cafés within supermarkets, approximately 100m^2 in area with internal seating for 20 and 36 customers. Takeaway bars are not viable in supermarkets in New Zealand, and small cafés provide a 'sit and chill' area for families. He considered that any upper size limit should be based on commercial viability (100m^2). He also considered that the location of the café was relevant, with cafes within a larger tenancy, requiring customers to walk through that tenancy, attracting a different customer than a stand-alone café (p. 4).

197. During questioning, Mr Foy agreed that if the café is ancillary, he was comfortable with a size limit of 100m^2, rather than 50m^2. This was because there would be a natural restriction on the number operating out-of-centre (one per store). Although each café would have a greater effect on centres, the restriction on numbers would limit the overall effect.

198. He also considered that effects would be minimised if access to the café was through the primary tenancy, rather than direct from the street.

199. The possibility of providing for smaller, standalone, takeaway cafes, to provide services primarily to the local workforce was also discussed. Mr Foy considered that a 50m^2 limit would be appropriate for this type of café.

4.1.8.1.1 Decisions and reasons

200. Overall, we consider that cafes inside other stores can and do attract customers who are not already visiting the primary activity. The question is then can performance standards on the scale, design or operation of the cafés limit the effect to a degree which is acceptable and appropriate in terms of the Plan's objectives and policies related to the centres hierarchy. Overall, we accept Mr Foy's and Mr Foster's expert evidence that performance standards can be used to manage and limit this effect, in addition to the fact that the number of such restaurants, if ancillary, will be limited. Therefore, subject to appropriate standards, ancillary, but not stand alone, restaurants can be permitted.

201. We note that although not discussed at this hearing, the 2GP has provisions in the Campus Zone to manage the location of retail and restaurants ancillary to Campus activity in Rule 34.5.3 (performance standard for Location) to achieve a similar outcome, in terms of trying to limit the risk that ancillary activities become stand-alone activities that attract their own patronage independent of the primary activity.

202. Based on the evidence heard, we consider that the following performance standards, rather than those proposed by *Foodstuffs*, are used to manage the activity to ensure it operates at an ancillary level:

- a maximum gross floor area of 100m^2 (including food preparation and storage areas)
- requiring customer access to be internal to the building the primary activity is sited in
- restricting any signage about the activity to only be internal to the building
- having the activity status for contravention of the gross floor area and access location standards to be the same as a stand-alone restaurant (discretionary)

203. We believe these standards will ensure any ancillary restaurants are unlikely to act as a destination and attract business from the CBD and/or nearby centres to any significant extent.

204. While *Foodstuffs'* submission sought to permit restaurants 'ancillary to a permitted activity', we have narrowed the range of permitted activities to which the ancillary restaurants will be permitted to large scale food and beverage and trade related retail activities, as it does not make sense to permit them for other smaller activities or activities where it is unlikely that people would use the restaurant in an ancillary way.

205. We also note that in terms of non-ancillary, stand-alone restaurants, it seems odd that these are provided for in industrial zones up to 50m^2, but not in the Trade Related Zone. Ideally, for plan consistency and based on the evidence received, small, take-away type cafes with a maximum gross floor area of 50m^2 should be permitted anywhere in the zone, in line with the provisions in the Industrial Zones. However, this was not specifically requested and there is no scope to make this change. We recommend that this is considered for a future plan change.

206. To achieve the changes discussed above, we have made the following amendments:

- Amend activity status table Rule 18.3.5 to add a new row permitting restaurants ancillary to trade related retail or food and beverage retail greater than 1500m^2 in gross floor area, subject to performance standards
- Create a new policy under Objective 18.2.1, limiting the size, location and signage of ancillary restaurants to ensure they service people engaged in the primary activity and do not attract significant patronage from outside the area, do not affect the vibrancy of the centres and do not create reverse sensitivity effects.
- Amend Rule 18.5.4 (Location performance standard) to ensure customer access is internal (i.e. within the primary activity)
- Amend Rule 18.5.5 (Maximum Gross Floor Area performance standard), to limit the maximum gross floor area to 100m^2.
- Amend Rule 18.6.14 (Number, Location and Design of Ancillary Signs performance standard), to prevent external facing signs.
- Amend assessment rules 18.11.4 to add assessment rows for contravention of the maximum gross floor area and location performance standards.

- Amend the assessment rule for contravention of the Number, Location and Design of Ancillary Signs performance standard (18.9.4.13) to add general assessment guidance around non-compliance with the requirement that signs not be externally facing

207. These amendments are shown in Appendix 1, attributed to submission point CMU 713.6.

4.1.8.2 Bulky goods, large scale general retail and small-scale food and beverage retail

4.1.8.2.1 Submissions

208. *Nichols Property Group and others* (*Nichols*) (OS271.15), (OS271.4) and *Otago Land Group* (OS551.2), (OS551.14) sought to have bulky goods retail and general retail greater than 1,500m^2 gross floor area permitted within the Trade Related Zone. These activities are currently non-complying. Both submitters argued that the predominant land uses in the area are commercial, retail and service industry. They considered that Andersons Bay Road is no longer an industrial area and now serves an important function as a commercial centre.

209. The submitters stated that as well as trade related retail activity and supermarkets, there are bakeries, quick serve restaurants, liquor stores, a butcher, a frozen food retailer and furniture stores within the zone. They noted these activities have established on Andersons Bay Road because they are no longer a good fit in a CBD area and this area provides an accessible location with appropriately sized sites. They considered the existence of such activities on Andersons Bay Road has not negatively impacted on the CBD.

210. The submissions were variously supported by *MM One Group* (FS2405.2), *Calder Stewart Development Ltd* (FS2430.9), (FS2430.10) and (FS2430.11), *Kenton Investments Ltd* (FS2445.2) *Minaret Property Investment* (FS2036.8) and (FS2036.9), *Oakwood Properties* (FS2067.8) and (FS2067.9).

211. We note the broad submission by *the Construction Industry and Developers Association* discussed in Section 4.1.2 also covered this zone.

212. *Calder Stewart Development Ltd* (OS930.1), *Kenton Investments Ltd* (OS1019.1) and *MM One Group Ltd* (OS1013.1), supported by a number of further submitters, sought that within the area bounded by Kensington Avenue, Andersons Bay Road and Hillside Road, bulky goods retail, food and beverage less than 1,500m^2 GFA and general retail were made restricted discretionary activities, with discretion restricted to not conflicting with objectives 2.3.1, 2.3.2 and 2.4.3 and not generating adverse effects on the vitality and viability of the CBD and other centres. To achieve this, they requested a new Trade Related sub-zone is created. This proposal was an alternative to their request to rezone this area as part of the South Dunedin/King Edward Street Principal Centre (see Section 4.7.3.2 for our discussion on this).

4.1.8.2.2 Section 42A

213. The Reporting Officer agreed with the submitters that there are a small number of bulky goods and large scale general retail stores within the Trade Related Zone, particularly near Hillside Road. These include The Warehouse, Smiths City and Smyths Living. There are also some retail outlets, including Dowsons Shoes and Warehouse Stationery, below the 1,500m^2 threshold. Overall, however, she considered the number of shops to be small (s42A Report, section 5.5.15, p. 98).

214. Mr Foy's pre-circulated evidence was that the development potential in the Trade Related Zone is significant (28.2ha), and the requested change would permit the development of many tens of thousands of square metres of retail, creating a significant new retail node within Dunedin. Broadening the activity types would be expected to have an adverse effect on the CBD and other centres. As assessed in the Market Economics 2015 report, the slow rate of market growth projected indicated that the

need for space to accommodate additional retail activity will be limited. Provision for space in excess of that supported by market growth would be likely to have the effect of redistributing where the space exists in Dunedin, rather than supporting new retailers entering the market (Statement of Evidence, pp. 39-40).

215. In relation to the Hillside Road site, Mr Foy noted that this site could yield around 4-6,000m^2 of additional retail floorspace. Significantly increasing the amount of retail activity that could establish on the site would shift the retail gravity further away from the South Dunedin/King Edward Street Principal Centre than has already occurred with the development of the Pak'n'Save and The Warehouse on Hillside Rd. That would be detrimental to the existing South Dunedin Principal Centre, with the northern part of the larger centre likely to be much more attractive to shoppers than the southern part, given the presence of the large retail anchors in the north (Statement of Evidence, pp.21-22).

216. The Reporting Officer agreed that the requested activity status changes have the potential to create a significant change in the retail structure in the Andersons Bay area, with consequent effects on the CBD and the South Dunedin Principal Centre in particular. She accepted Mr Foy's advice and recommended that the submissions are rejected (s42A Report, section 5.5.15, p. 98). In addition, the submissions were inconsistent with the 2GP objectives and policies which aim to strengthen the existing CBD and centres (s42A Report, section 5.9.5, p. 238).

4.1.8.2.3 Hearing evidence

217. *Calder Stewart*'s Senior Project Manager, Mark Weaver, outlined the company's view that the Hillside Road site has the potential for redevelopment that is compatible and complementary with the existing businesses in the wider area. However, the TRZ provisions do not meet future occupiers' needs, and ignores existing development. The submitter's preferred option was for a Trade Related sub-zone, with more permissive activity statuses, as outlined in the submission and evidence.

218. The submitter called two experts: Mr Nigel Bryce (a consultant planner) and Mr Colegrave (a consultant economist). Mr Bryce set out the policy framework governing the centres hierarchy and considered that this approach is too restrictive (Statement of Evidence, p. 5). He preferred the economic assessment of Mr Colegrave over that of Mr Foy, and expressed the opinion that the assumptions and justifications for the notified zoning (and consequently activity status) do not have sound economic support and hence the s42A Report's conclusions are invalid (Statement of Evidence, p. 7).

219. He considered that a more liberal activity status for the specific block (through a TRZ sub-zone) would offer greater certainty for investment decisions for redevelopment of the block in future, and be the most effective and efficient planning response (Statement of Evidence, p. 16).

220. We note that in his evidence, Mr Bryce amended the preferred activity status for small scale food and beverage retail to a controlled activity. This is within scope as part of the original submission sought Principal Centre zoning for this area. This would permit small scale food and beverage retail.

221. He outlined proposed changes to the 2GP provisions, including a single matter to which discretion would be restricted for bulky goods retail and large scale general retail. This was a lack of conflict with strategic direction objectives governing the centres approach, and not generating adverse effects on the vitality and viability of the CBD and other centres (Statement of Evidence, p. 17).

222. Mr Colegrave's view was that activities permitted within the TRZ (dairies, large scale food and beverage retail, trade related retail, retail ancillary to industry, industrial activities and yard based retail) would be either an inefficient use of the site given that it fronts a busy road and is close to an existing centre, or would be unlikely to establish e.g. a supermarket, given the proximity to other supermarkets (Hearing Evidence, pp. 17-19).

223. He assessed that the developable area in the Hillside Road site would be 6,500m^2, yielding an estimated 3,250m^2 of floor space, somewhat less than Mr Foy indicated (Statement of Evidence for *Calder Stewart*, para. 84).

224. To assess the effects of establishing alternative activities in the area, Mr Colegrave assumed three potential retail scenarios for the area, with different percentages of various retail types, including electrical goods, food and beverage services, pharmaceutical, recreational goods and furniture etc. He then modelled the impact of the three scenarios on each centre within the city as a percentage reduction in turnover. This showed impacts of up to 0.7% on South Dunedin retailers, 3.1% on the Warehouse Precinct and 2.3% on parts of the CBD. He concluded these impacts were minimal and an expected outcome given the additional gross floor area from the requested rezoning would be less than 1.5% of the current citywide total (Hearing Evidence, pp. 24-25).

225. In response, Mr Foy questioned Mr Colegrave's modelling results, querying for instance why effects on the CBD would be greater than on the much closer South Dunedin centre itself. He also challenged Mr Colegrave's assertion that the current land value of \$460/m^2 is unaffordable for activities such as trade retail and yard based retail, noting that most other properties along Anderson's Bay Road have land values of over \$500/m^2, and many of these are currently tenanted by activities provided for in the TRZ, including car yards and fast food drive-through restaurants (Second supplementary Statement of Evidence, pp. 8-9).

226. *Nichols* was represented by Mr Alan Dippie (managing director), and Ms Alison Devlin (General Manager of Planning and Development), who also tabled a written statement. Ms Devlin's statement noted the development of mixed uses in the area, and particularly the submitter's expansion into a former commercial premise.

227. Ms Devlin explained that the outcome sought by *Nichols* is to enable a mix of uses that will facilitate ongoing regeneration and improvement of the zone over the lifetime of the Plan. She criticised Mr Foy's assessment of the extent of development that would result from the submitters' proposals. She assessed that of the 22ha of Trade Related zoned land on Andersons Bay Road, there is 5ha of existing retail and 1.5ha of service stations and restaurants, which she claimed have not adversely affected the CBD, and most of which could not be accommodated in the CBD. After considering other established businesses (e.g. Mega Mitre 10 and car yards) and non-usable land (e.g. road reserve), there is 7ha that she assessed could be redeveloped (Tabled Evidence, pp. 98-99). She considered that the level of retail likely to occur is unlikely to have any effect on the CBD.

228. Mr Dippie explained the development undertaken by the submitters, noting that in his view the zoning in the Andersons Bay area is dis-enabling. He considered that large scale retail and bulky goods retail should be permitted in a large-scale zone such as Andersons Bay.

4.1.8.2.4 Revised recommendation

229. In her revised recommendations, the Reporting Officer re-iterated that bulky goods retail and large-scale retail are provided for outside the CBD and centres (in the CEC Zone) in recognition that it can sometimes be difficult for them to locate in the CBD and centres, although noting that some do (e.g. Farmers, Kmart, JB Hi-Fi, H&J Smith) (Economic Evidence Analysis, p.16). The Market Economics 2015 report[9] considered that there is limited need for additional levels of floorspace for large format retail as most of the key national stores already have a presence in Dunedin, and given the projected slow growth in demand for additional large format retail floorspace, the equivalent of two to six new stores up to 2031. Given this, she considered it likely that there is sufficient land available for these activities within the CEC zone.

[9] Market Economics 2015. Retail and Office Demand. Second Generation Plan Assessment. Prepared for Dunedin City Council.

230. She also noted that *Calder Stewart's* proposed restriction of discretion includes "no adverse effects on vitality of CBD and centres". She cautioned that it would be relatively easy to show minor or no effects for a particular retail development using an assessment similar to Mr Colegrave's, but cumulative effects would be very hard to manage with a restricted discretionary activity status (Economic Evidence Analysis, p.10).

4.1.8.2.5 Decisions and reasons

231. Our decision is to retain the non-complying activity status for bulky goods retail, general retail and food and beverage retail (below the minimum size threshold) and general retail, in the Trade Related zone. We carried out site visits to the zone so as to better understand the submitters' arguments and evidence.

232. As noted above, there is broad acceptance of the strategy set out in the objectives and policies of concentrating retail activities in the CBD and zoned centres. The 2GP makes an exception for trade-related retail (and elsewhere for bulky goods retail) mainly because they are generally "destination" outlets rather than businesses that have much synergy with other retail outlets, in the way that smaller retail outlets in a traditional shopping centre do. Trade-related retail and bulky goods retail outlets often need large sites, and we accept that these are hard to find or assemble within the commercial centres. To the extent that trade-related retail and bulky goods retail outlets are generally "destinations" with large buildings and carparks, they can actually detract from shopping centres. From our observation, some types of Trade-related retail activities (and yard based retail activities) detract from the amenities of the surrounding area.

233. We are not persuaded by the submitter's assertions that liberalising what is permitted in the areas that have been set aside for trade-related retail activity would help to achieve the purposes of the Trade Related Zone. We accept that there are already some other types of retailing within the zone, which probably do not cause any difficulty for trade-related retail neighbours, but we do not see that as a reason to allow more.

234. The expert evidence and other evidence showed how difficult it is to predict what the effect of allowing other types of retailing in the Trade Related Zone would be on the CBD and other shopping centres. The effect could only be negative, and we do not accept that it could be dealt with by case-by-case assessment of applications. In our assessment, any undermining of the zoned centres is significant, not as a matter of trade competition (which we have ignored), but as a matter of best meeting the needs of people and communities.

235. We have also taken into account the need to provide for trade-related retail activities, bearing in mind that land in the zone occupied by other activities would not be available for them. Any shortage of appropriate zoning could lead to pressure by trade-related retail outlets to establish in industrial zones.

236. In relation to the Calder Stewart site, we accept Mr Foy's point (second Supplementary Statement of Evidence, para. 2.31) that the decline in vitality of the South Dunedin shopping centre is a reason to not allow new retail nearby. Superficially it might be thought that new retail nearby could have a positive effect by drawing more people into the area, but we accept that it is more likely that it would depress the viability of much-needed revitalisation of the nearby South Dunedin shopping centre.

4.1.9 CBD Edge Commercial Zone provisions

237. The CBD Edge Commercial Zone (CEC Zone) is located in three separate areas:

- along Cumberland and Crawford Streets south of the Octagon from Queens Gardens to Andersons Bay Road (South CEC block);

- along Cumberland Street, approximately between Stuart Street and Hanover Street adjoining Dunedin Hospital (North CEC block); and

- in the Broadway/Maclaggan Street area ('Broadway CEC block').

238. The s42A Report advised that the zone provides for large scale retail that does not fit comfortably into the CBD, including bulky goods retail and large scale general retail. Smaller scale general retail and office activities are non-complying (s42A Report, section 5.5.13, p. 82).

4.1.9.1 Broadway CEC Block: Rattray Street/Maclaggan Street area

239. Most of the area bounded by High Street, Clark Street, Canongate, Rattray Street and Broadway is zoned CEC Zone in the 2GP (Figure 2). It is zoned Central Activity (equivalent to CBD) in the operative plan.

Figure 2: The Broadway part of the CEC Zone

240. The area is adjoined by CBD zoning to the east of Broadway and south of High Street, industrial zoning to the west (along Maclaggan Street) and east (across Rattray Street), and residential zoning to the north. The area includes the Warehouse and Harvey Norman stores, as well as a number of office buildings. Speight's Brewery is located in the adjoining industrially zoned area on Rattray Street.

241. We received a number of submissions, and further submissions in support, seeking to rezone part or all of this area back to CBD, including from *Meadowflower Holdings Ltd (Meadowflower)* (OS202.1), *Harvey Norman Properties Ltd (Harvey Norman)* (OS211.1), *Stride Property Ltd (Stride)* (OS205.1), *Aorangi Laboratory Ltd* (OS819.1), *Mt Ida Properties Ltd* (OS960.1) and *Bowen Family Trus*t (OS1039.1, OS1039.5).

242. Broadly, the submitters' reasons were that CBD Zoning is appropriate given the mix of office and large-scale retail activities currently occurring in the area, and as office activity in the CEC Zone is non-complying, existing offices would face uncertainty, possibly losing existing use rights when tenancies or staff numbers change. This would make it difficult for existing office activities to expand, and therefore the proposed CEC Zone is considered to be a 'down-zoning'.

243. *Lion – Beer, Spirits and Wine NZ Ltd (Lion)* (OS1024.4) sought to retain 20 Maclaggan Street and part of 201 Rattray Street (the Harvey Norman site) as CEC Zone due to

potential reverse sensitivity issues on the Speight's Brewery operation across the road at 200 Rattray Street. *Harvey Norman* (FS2392.4) opposed this submission. *Lion – Beer, Spirits and Wine NZ Ltd (Lion)* (OS1024.6) also sought to retain the CEC Zone provisions. This was opposed by *Harvey Norman* (FS2392.5).

244. Mr Foy considered that existing uses were consistent with a CBD zoning, and as these were already established, it was unlikely that CBD zoning would draw further business away from the existing CBD (Statement of Evidence, para 9.4). Potentially some small-scale retail could establish; however, this was considered unlikely given that the operative Plan permitted this and such uses had not developed.

245. The Reporting Officer was of the opinion that given the existing office development in the area, CBD zoning was consistent with the 2GP and specifically Objective 18.2.1 and polices 18.2.1.2 and 18.2.1.3 (Section 42A Report, section 5.9.3, p. 224). If this was accepted, then she also recommended applying a pedestrian frontage to facilitate improved amenity values. This is discussed in Section 4.8.2.2 of this decision.

246. Two main issues arose in the evidence:

- potential retail distribution impacts on the remainder of the CBD from zoning the area CBD; and
- reverse sensitivity effects on the Speight's complex.

247. In terms of retail distribution, Mr Thompson, an economics consultant called by *Harvey Norman*, noted that the operative Central Activity zoning of the area had provided flexibility, allowing large scale retail to establish within the central city, rather than in suburban areas, as is often the case in other centres. Mr Thompson considered that reinstating the CBD zoning of the site would be an efficient use of infrastructure and would support density and provide agglomeration benefits for the CBD (Statement of Evidence, p. 3). His view, expressed orally to us at the 11 August 2016 hearing, was that a 'little more' CBD was preferable to a 'little less', as this provided choice and flexibility, and encouraged development.

248. We also note Mr Thompson's opinion on the availability of commercially zoned land within the city and refer to our views on this evidence discussed earlier in this decision.

249. Mr Haines, a planning consultant called by *Harvey Norman,* gave evidence in support of zoning the Maclaggan precinct CBD. In Mr Haines' opinion the proposed CEC Zone did not reflect the area, which contains a substantial number of offices, and would represent a disconnection with community expectations and result in uncertainty (Statement of Evidence, para 18).

250. We also heard from Ms Chadwick for the *Bowen Family Trust* and Mr Allan Cubitt (planning consultant) for *Mt Ida Properties Ltd* in support of CBD zoning.

251. In relation to reverse sensitivity effects impacting on the Speight's brewery, the issue of concern, as identified through mediation prior to the hearing, was the provision for residential activity as a permitted activity in the CBD Zone. We note that it is non-complying in the CEC Zone.

252. Ms Julia Pye, operations manager for Speight's Brewery, outlined that the factory operates 24 hours per day, five days per week. Delivery trucks attend the site daily, and can be noisy, particularly in the early morning. The keg plant is noisy and operates from 6.30am on weekdays, and this can extend to 10pm at night. Forklift trucks use Dowling and Rattray Street to transport materials. Ms Pye noted that odour from brewing can be noticeable under certain conditions, and while there have been no complaints locally, complaints were an issue of the Auckland site. If the brewery was constrained in the future, *Lion* would suffer significantly. Ms Pye also detailed the significant investment that *Lion* had made in the site, and the possibility of further development (Statement of Evidence, paras 3.2 to 3.6).

253. Legal submissions for *Lion* were provided by Ms Allison Arthur-Young, who submitted that the acoustic insulation standards for residential properties were inadequate to

prevent the risk of reverse sensitivity as they only address noise (not odour) and are only effective when windows are shut (Legal Submissions, para 4.6).

254. Ms Allison Arthur-Young suggested a number of alternative solutions, including that the *Harvey* Norman site should be zoned CEC Zone but with office activity permitted; or CBD zoning but with residential activities on the *Harvey Norman* site non-complying; or a buffer zone restricting sensitive activities in proximity to the brewery (Legal Submissions, para 4.11 to 4.18).

255. In response to questions from the Panel, Ms Pye confirmed that offices were not considered such a problem for reverse sensitivity issues. While complaints had been received from the Contact Energy offices on Rattray Street, these were manageable.

256. We also heard from *Harvey Norman's* legal counsel Ms Semple who noted that *Lion* had not provided expert evidence on noise or odour. She also questioned whether CEC Zoning was appropriate simply because of the location of the Speight's site; and queried whether there was evidence supporting a buffer zone (Legal Submissions, para 20).

257. In her Revised Recommendations, the Reporting Officer maintained her support for CBD zoning; however, she agreed that some restrictions on residential activity at the *Harvey Norman* site (201 Rattray Street), either in the form of a buffer zone or a setback would be appropriate to manage the reverse sensitivity issues raised by *Lion* (Revised Recommendations Summary, p. 5).

4.1.9.1.1 Decisions and reasons

258. Having considered the evidence presented, it is our decision that the Broadway CEC area should be rezoned CBD, as it is under the operative Plan. We therefore accept submissions OS211.1, OS202.1, OS205.1, OS819.1, OS960.1, OS1039.1 and OS1039.5. We agree with Mr Foy, Mr Thompson and with submitters supporting this approach that the area is intensively developed with offices and having a zoning that makes these non-complying would be inefficient in terms of their ongoing use and development. The area developed under a CBD-equivalent zoning, and retaining this zoning is unlikely to have any retail distribution effects on the remainder of the CBD.

259. We agree with *Lion* that it is appropriate to manage reverse sensitivity effects, given the importance of Speight's association with Dunedin and the recent significant investment in the site. We acknowledge that the noise created cannot be internalised completely within the site, being caused partly by vehicles loading and unloading on Rattray Street, and the need to use Rattray Street to access various parts of the site. The complex has retained and redeveloped heritage buildings and is a significant tourist attraction.

260. Having decided to rezone the area CBD, we think the most effective and efficient method to manage the reverse sensitivity issues is by imposing a buffer around the Speights site. The Speights operation is a major one and section 7(b) of the RMA requires us to "have particular regard to" the efficient use and development of built resources like this. Our choice in this matter is in part influenced by evidence we heard on similar issues at the Public Health and Safety topic hearing. Residential activity is to be non-complying within the buffer area. This will achieve a similar outcome as the alternative presented by *Lion* of making residential activity non-complying on the Harvey Norman site, but is more focussed on the area where effects are likely to occur.

261. No evidence was presented regarding an appropriate size of the buffer area. The issues raised were noise and odour. Noise is managed in the 2GP via a requirement for acoustic insulation within 20m of the industrial zone. In the absence of any other information we, therefore, assume that a 20m setback would effectively manage noise. The other matter raised was odour, about which the only evidence we received was from Ms Pye who stated that "…we have not had any local complaints regarding this". We note that the closest existing residential activity (in the Residential Zone) is 45m from the Speights complex and so consider that a buffer greater than this would be inappropriate.

262. We therefore impose a buffer extending 45m from the boundary of the Speights complex across Rattray Street into the (notified) CEC Zone. This will encompass part of 20 Maclaggan Street (Harvey Norman and other businesses) and all of 195 Rattray Street. Non-compliance with the buffer is a restricted discretionary activity.

263. The amendments to give effect to this decision are as follows and are shown in Appendix 1 (attributed to CMU 1024.4):

- create a new 'Speights buffer mapped area', as shown in Figure 2 overleaf
- amend Rule 18.5.4 (Location performance standard) to add a requirement that residential activities are not located in the Speights buffer mapped area
- amend (simplify) Objective 18.2.2 to include consideration of potential conflicts between CMU activities and adjoining industrial zones
- create a new Policy 18.2.2.11 requiring that reverse sensitivity between CMU and adjoining industrial zones is avoided, or if this is not practicable, adequately mitigated. This reflects the wording of existing Policy 18.2.2.2, which also deals with reverse sensitivity (including our amendment of possible to practicable (see the Plan Overview decision)).
- amend assessment Rule 18.9.3 (assessment of land use performance standards) to add a new row for contravention of the Location performance standard.

4.1.9.2 Speights Brewery and 180 Rattray Street

264. The Speight's Brewery is owned by *Lion*, and is located at 200 Rattray Street. *Lion* also owns 180 Rattray Street which is an empty commercial premises (formerly the 'Furniture Court' shop).

265. *Lion* sought to retain the Industrial zoning for 200 Rattray Street (OS1024.1); but sought to rezone 180 Rattray Street from Industrial to CEC Zone (OS1024.3), submitting that Industrial Zoning of 180 Rattray Street does not provide for the site's efficient use and development.

266. *Meadowflower* (OS202.1), *Harvey Norman* (OS211.1) and *Stride* (OS205.1) sought to rezone 180 and 200 Rattray Street to CBD and opposed the submission (OS1024.1) above (FS2282.1, FSD2393.1 and FS2402.1).

267. *Harvey Norman* (FS2393.3) opposed *Lion's* submission seeking to rezone 180 Rattray Street on the grounds that it would result in 'spot zoning', and that CBD zoning is more appropriate and would align with the Centres hierarchy.

268. In relation to the Speight's Brewery site at 200 Rattray Street, the Reporting Officer noted that the site is industrial in nature, and recommended maintaining this zoning to allow the ongoing industrial activity and expansion if appropriate (Section 42A Report, section 5.9.3, p. 226).

269. She agreed that Industrial zoning was not appropriate for 180 Rattray Street, and that zoning the land CEC Zone would result in a 'spot' zone, particularly if the existing CEC area is rezoned CBD. She recommended that the site is rezoned CBD (Section 42A Report, section 5.9.3, p. 226).

4.1.9.2.1 Decisions and reasons

270. We have visited the area and accept that the Speights complex should remain Industrial Zone, and that any other zoning would not reflect the industrial nature of the activity. If the activity ceased, the future of the site would best be determined then through a plan change or consent, rather than creating unnecessary uncertainty now.

271. We also agree that 180 Rattray Street should be a commercial zone, and given the adjoining CBD Zone, and given our decision above to rezone the Broadway CEC area as CBD, we think that CBD is the most appropriate zone (CMU 202.1).

272. Given our earlier decision on the appropriateness of a buffer around the Speights complex to manage reverse sensitivity effects, it is appropriate to extend this over 180 Rattray Street (CMU 202.1) (see Figure 2 below).

4.1.9.3 41 – 45 Dowling Street

273. *Kevin and Doreen Carter* (OS257.1) and *Paul and Angela Carter* (OS256.1) sought to rezone 45 Dowling Street from Industrial to CBD, to keep their property under a single zone. These submissions were supported by *Harvey Norman* (FS2393.9, 10).

274. *Lion* (OS1024.2) sought an Industrial zoning for 41 and 43 Dowling Street to recognise the industrial nature of the land. This was opposed by Harvey Norman (FS2393.2).

275. 45 Dowling Street adjoins the Speights brewery to the east and is occupied by a vehicle servicing workshop. The site is zoned Central Activity (CBD) in the operative Plan, the 2GP proposes to zone it Industrial. Adjoining that site is 43 and 41 Dowling Street. These sites are owned by the Carters and used for car parking. They are Central Activity in the operative Plan, and are proposed for CBD zoning under the 2GP.

276. The Reporting Officer noted that despite the industrial nature of 45 Dowling Street, the site is adjacent to the CBD Zone. She had no strong view on the property's zoning.

277. We heard from *Kevin and Doreen Carter, Paul and Angela Carter, Lion* and *Harvey Norman.*

278. Much of the evidence provided by *Lion* and *Harvey Norman*, discussed above in relation to the Harvey Norman site, also applied to these sites. Ms Pye's evidence for *Lion* was that during discussions with the Carters they had indicated they had no desire to redevelop their sites for residential activities and would accept a residential restriction on them (Statement of Evidence, p. 5).

279. Ms Arthur-Young for *Lion* concluded by seeking a CEC zoning for the sites (instead of the Industrial Zone sought in the submission) with specific enablement for office activities, and non-complying residential activity status.

280. Both *Mr* Kevin *Carter* and *Mr Paul Carter* spoke in favour of a CBD zoning.

4.1.9.3.1 Decisions and reasons

281. We accept the submission of *Kevin and Doreen Carter* (OS257.1) and *Paul and Angela Carter* (OS256.1) to rezone 45 Dowling Street from Industrial to CBD. We reject the submission of *Lion* (OS1024.2) to rezone 41 and 43 Dowling Street as Industrial.

282. Given the operative zoning of the sites as Central activity (CBD), and their location adjacent to CBD zoning, we consider that the most appropriate zoning is CBD for all three sites. For similar reasons as discussed above (Section 4.1.9.1), we think it appropriate that the buffer preventing residential use extend across all three sites (see Figure 2).

Figure 2: Speights buffer mapped area

4.1.9.4 Northern CEC Block: New Zone

283. *Oamaru Property Ltd* (OS652.5) supported the 2GP's proposed CEC zoning for the block containing 360 Cumberland Street (bounded by Cumberland Street, St Andrew Street and Castle Street and containing WINZ offices and a car parking building) subject to some amendments to the activity status rules to better reflect the current and most appropriate use of the land in this area.

284. In particular, *Oamaru Property* sought to permit training and education (OS652.2), registered health practitioners (OS652.7), and office activities (OS652.8). The submitter noted that training and education already occurs in the area, which has distinct characteristics from its proximity to the hospital, the CBD, the Campus Zone, and supporting infrastructure. Given these distinctive characteristics, *Oamaru Property* submitted that provision should be made for a specific 'North CEC area'.

285. *Otago Land Group Ltd* (OS551.12 and OS551.20) sought to change the policy framework and activity status rules for the CEC Zone 'north of the city centre' to provide for commercial, retail, residential and service activities that support the CBD and the adjacent major facilities zones (Dunedin Hospital and Campus). It considered activities such as offices, residential accommodation, service activities and smaller scale retail and food and beverage retail to be appropriate in this location. In particular, it sought permitted status for hospital activity (OS551.13), to allow extension of the hospital, and considered that yard based retail and industrial uses were an inefficient use of land in this location. Alternatively, the submitter sought to rezone this area to CBD.

286. In addition, it sought that yard based retail and industry activities were not permitted (OS551.20), as such activities would be an inefficient use of valuable land adjacent to the CBD as well as potentially having a negative impact on amenity. The submitter also made a further submission opposing the submission of *Oamaru Property* where that

submission did not align with its own, and supporting where it did align (FS2149.4, FS 2149.6 FS2149.8 and FS2149.9).

287. *Foodstuffs South Island Properties Ltd* (FS2086.4) supported *Otago Land Group's* submission, provided it did not impose additional restrictions on future development of Foodstuffs' Central City New World supermarket.

288. Mr Foy agreed with the submitters that the site was well located to accommodate training and education, registered health practitioners and office use, being located between the hospital, the CBD, and the Campus Zone. In Mr Foy's opinion there was an "appropriate basis for making some differentiation between this part of the CEC Zone and other parts" (Statement of Evidence, para 13.4).

289. In response to the *Otago Land Group's* alternative request to re-zone this area CBD, Mr Foy noted that while this would enable the activities sought by submitters, a CEC zoning would retain some distinction between the area and the CBD. In his view this was preferable as it would avoid adverse effects on the vitality and vibrancy of the CBD through the dispersal of general retail activities into the area (Statement of Evidence, para 14.8).

290. The Reporting Officer agreed with *Otago Land Group's* submission (OS551.13) seeking permitted status for hospital activity, and recommended the submission was accepted (Section 42A Report, p. 83). She also agreed that the northern CEC block was an appropriate location to provide for registered medical practitioners and training and education activities, given the hospital's proximity. In respect of office activity, she noted there already was some office activity in the area, and further office development was likely to enhance, rather than diminish the CBD, due to the area's relative proximity to the CBD (s42A Report, section 5.5.13, p. 84).

291. To achieve the proposed changes, the Reporting Officer agreed with *Oamaru Property Ltd* that a separate sub-zone called CEC - North should be created to enable the changes to activity status recommended for the area (s42A Report, section 5.9.12, p. 267).

292. She recommended rejecting *Otago Land Group's* submission (OS551.20) to remove the permitted status for yard based retail and industrial activity, on the basis that such activities currently exist in the area, and the area does not have the high amenity expectations of the CBD (s42A Report, section 5.5.13, p. 84).

293. *Otago Land Group* provided evidence from Ms Alison Devlin. She was supportive of the Reporting Officer's proposal for a new sub-zone, 'provided that' retail, visitor accommodation, residential and restaurant activities were permitted (paras 2.6 - 2.7).

294. The *Otago Land Group* filed evidence from architect Richard Chambers, detailing a mixed-use development on the submitter's site at the corner of Hanover Street and Cumberland Street (141 Hanover Street). The proposal included a 43m tall office and apartment block with small scale retail on the ground floor. The submitter also filed evidence from Fraser Colegrave which provided supporting economic evidence in respect of the proposed development and mix of activities, and particularly the risk of adverse retail distribution effects occurring from the development, which he assessed as being 'extremely unlikely' (para 128).

295. The Reporting Officer, in her revised recommendations, noted that the range of activities sought for the site is effectively those provided for in the CBD Zone together with hospital activity. She agreed this could be acceptable on this site, as it would be consistent with the 2GP's objectives. If this change was considered appropriate, the simplest way to achieve it would be to rezone the part of the site at 141 Hanover Street proposed for development as CBD, and permit hospital activities within the CBD (Revised Recommendations Summary, p. 10).

4.1.9.4.1 Additional information received after the hearing

296. Following the hearing, the Southern District Health Board announced that the site of the new Dunedin Hospital would be partly within the northern part of the CEC Zone, on the block surrounded by Cumberland Street, St Andrew Street and Castle Street. The

Hospital will also cover the block to the south, which is currently the site of the Cadburys factory.

297. Given these events, we gave the Southern District Health Board (SDHB) an opportunity to make further submissions on its relief sought. The SDHB responded (Memo from counsel, Ms Lauren Semple, of 14 May 2018) seeking that, in order to provide for hospital redevelopment, hospital activities are permitted in the part of the new hospital site that is zoned CEC ('the Wilsons block'), as requested by submitter *Otago Land Group*, with this area being zoned CEC-North, as recommended in the s42A Report.

298. The zoning of the remainder of the new hospital site is discussed in Section 4.7.1.2.

4.1.9.4.2 Decisions and reasons

299. We accept the submission of *Oamaru Property Ltd,* to distinguish the northern part of the CEC Zone (that is, all the CEC Zone north of the Octagon) as a separate zone, which we have called the CEC – North Zone, and permit a wider range of activities within it. In doing so, we also accept in part the submission of *Otago Land Group Ltd* insofar as it applies to office activity (which includes training and education and registered medical practitioners) being permitted in this zone, for the reasons identified by the submitters, Mr Foy and the Reporting Officer, in particular the proximity to the CBD and the existing office use in the area.

300. We reject *Otago Land Group's* requests to amend the activity status of retail and other commercial activities in the CEC - North Zone based on the economic evidence discussed in Section 3.2. We consider this would result in an over-supply of retail activity and detract from the main retail core. We also reject the alternative relief sought of making the entire area CBD, for the same reasons. We note that other changes to activity statuses in the CEC zones are discussed in Section 4.1.9.5.

301. In determining the consequential changes required, we have considered whether there is a need to apply additional performance standards to office activity. Office activity has no specific performance standards that apply in the CBD Zone or CEC Edge Commercial Zones, which also provide for office activity in close proximity to the CBD. We consider that a similar approach is appropriate in the CEC - North Zone.

302. Given the location of the new Dunedin Hospital, providing for Hospital activity within this zone is clearly the most appropriate outcome. We also discuss (and agree to) expansion of the new CEC - North Zone over the entire site of the Hospital redevelopment (that is, including the Cadburys site) in Section 4.7.1.2 below.

303. We do not, however, agree that Hospital activity in the CEC - North Zone should have permitted status. The scale of the Hospital redevelopment means that it is highly likely to have more than minor effects, particularly on traffic and car parking (in relation to the land-use activity), and on streetscape and pedestrian amenity and views (in relation to the development (buildings) activities). We have therefore made Hospital activity a restricted discretionary activity, with discretion restricted to effects on accessibility and safety and efficiency of the transport network; and have made new buildings that are part of the Dunedin Hospital redevelopment also a restricted discretionary activity, with discretion restricted to effects on streetscape and pedestrian amenity. We therefore accept in part *Otago Land Group's* submission to permit Hospital activity.

304. The hospital development will be subject to the standard performance standards for the CMU zones, including height, setbacks, landscaping and other boundary treatments, and minimum glazing and building modulation. We further note that parts of the existing buildings are listed in the Schedule of Protected Heritage Items and demolition or alteration of these items will require consent.

305. As discussed in Section 4.6.7.2, we have increased the maximum height limit in the CEC - North Zone to 20m.

306. We have also added a new policy to assist with assessment of the hospital development. This policy requires consideration of the need for verandahs (which is not currently a requirement outside pedestrian frontage areas but is relevant for a building generating

high foot traffic) and includes the guidance from the Dunedin Hospital Zone in relation to consideration of wind and shading effects for exceedances of the maximum height limit. On reflection, we believe the consideration of wind and shading effects would ideally apply to tall buildings in all CMU zones; however, there is no scope to apply it more widely.

307. As a consequence of providing for Hospital and registered medical practitioners activity in this zone, we have also amended Rules 18.5.1 and 9.3.1, which detail the requirement for acoustic insulation for noise sensitive activities. These rules currently list a number of zones in which acoustic insulation is required. We understand that these were based on CMU zones that provided for noise sensitive activities as permitted or restricted discretionary activities. As we are now providing for noise sensitive activities within the CEC – North Zone, it is appropriate that it is added to the list of zones in which these rules apply.

308. The amendments above clearly indicate that Hospital activity is appropriate in this location but provide sufficient safeguards to ensure that all relevant effects of major redevelopment can be considered through the resource consent process.

309. The amendments required for this decision, including consequential amendments, are shown Appendix 1 (attributed to CMU 551.13 and/or CMU 652.8, and are to:

- amend Rule 18.3.5 (activity status table) to split the CEC into 2 columns for CEC - North and CEC - South
- amend the abbreviations section to add CEC - North and CEC - South
- amend the Introduction zone description (Section 18.1.1.8) to include a new description for the CEC which reflects the amendments made to the activity status
- amend Objective 18.2.1 to reflect the split of the CEC into 2 zones and explain what is provided for in each
- permit office activities in the CEC - North
- amend Policy 18.2.1.3 to remove reference to the CEC Zone because office is now permitted in the CEC - North Zone
- amend Policy 18.2.1.16 as training and education (part of office activity) now permitted in the CEC - North Zone
- amend Policy 18.2.1.11 to refer to the new zone name and provide for hospital relocation
- make Hospital activity a restricted discretionary activity, with discretion restricted to effects on accessibility and safety and efficiency of the transport network
- add a new assessment Rule (18.10.2.5) to reflect the change in activity status of hospital
- amend rules 18.5.1 and 9.3.1 to include CEC-North in the list of zones in which acoustic insulation requirements must be met
- make buildings and structures as part of the Dunedin Hospital redevelopment a restricted discretionary activity, with discretion restricted to effects on streetscape and pedestrian amenity
- add a new restricted discretionary assessment Rule (18.10.3.X) to reflect the change in activity status of Hospital development activities

- add a new Policy 18.2.3.X providing additional guidance on Hospital redevelopment activities.

310. We do not accept the submission by *Otago Land Group* to require consent for yard based retail and industrial activities, for the reasons outlined by the Reporting Officer, and because as it is still appropriate in terms of the objectives of the zone and centres hierarchy, and as it would create unnecessary consent hurdles for existing activities of these types wanting to expand.

4.1.9.5 Other land use activity status rules – CEC Zone

311. *The Construction Industry and Developers Association* sought to make early childhood education (OS997.68) and residential activities (OS997.69) in the CEC Zone discretionary instead of non-complying activities.

312. *Capri Enterprises*, a landowner in the CEC – South area, sought to 'delete' Rule 18.3.5.19 to prevent the development of visitor accommodation in the CEC Zone, given the area's isolation from the CBD and visitor amenities (OS899.10). This was opposed by the *Otago Land Group* (FS2149.11), which considered that the CEC Zone was appropriate for visitor accommodation given its proximity to the CBD, and that it would enhance the area's vibrancy. We note that the thrust of *Otago Land Group's* evidence at the hearing was in relation to what we have now decided will be a separate CEC - North Zone, in which visitor accommodation will be permitted.

313. The Reporting Officer recommended that we accept in part the *CIDA's* submissions seeking to allow residential activities and early childhood education in the CBD Edge Commercial Zone. She considered that such activity may be acceptable in the zone, and that its activity status should be restricted discretionary (s42A Report, section 5.5.14, p. 91).

314. However, after further consideration, in her opening statement the Reporting Officer noted that given the poor amenity values in the southern CEC area, she considered that it would be appropriate for residential activity and early childhood education in this sub-zone to remain non-complying (Opening Statement, p. 8).

315. She recommended that we accept the submission by *Capri Enterprises* and make visitor accommodation a discretionary activity in the CEC-South, due to the low amenity in the area and the distance from the CBD and centres (s42A Report, section 5.5.14, pp. 90 - 91).

316. After hearing evidence from Ms Megan Justice (called by *Capri Enterprises)* that visitor accommodation is better suited to zones which have visitor amenities, which the CEC Zone does not (para 2.12), the Reporting Officer also recommended that we accept the submission by *Capri Enterprises* and make visitor accommodation a discretionary activity in the CEC-South, due to the low amenity in the area and the distance from the CBD and centres (Opening statement, p. 11).

317. Ms Arthur-Young, Legal Counsel for *Lion*, strongly opposed the recommendation that residential activity be amended to restricted discretionary in the CEC Zone. Ms Arthur-Young submitted that this change was not justified in light of the 2GP's provisions, including Strategic Directions Objective 2.3.1 and Policy 2.3.1.4 (protecting economically important land from incompatible uses), Objective 18.2.2 and Policy 18.2.2.8 (as recommended to be amended by the s42A Report), which recognise reverse sensitivity effects, and notified Policy 18.2.2.6 (which is to avoid residential activity in the CEC Zone). Additionally, she submitted that the recommendation was out of scope, as the submitter sought discretionary status, not restricted discretionary (para 4.15).

4.1.9.5.1 Decisions and reasons

318. We agree with *Lion* that there is no scope to amend the activity status of residential activity to anything other than discretionary. We accept *CIDA's* submission in part and amend residential and early childhood education activities to discretionary in the CEC-

North Zone, but retain the non-complying status in the CEC – South Zone, due to the poor amenity values in this zone.

319. We also accept *Capri Enterprise's* submission to amend the activity status of visitor accommodation in the CEC – South Zone to discretionary, due to the low amenity in the area and the distance from the CBD. The activity status will remain permitted in the CEC – North Zone. As a result, we have made the following amendments (see Appendix 1, attributed to CMU 997.68, CMU 997.69 and CMU 899.10):

- amend rules 18.3.5.21 and 18.3.5.26 to make early childhood education and residential activities discretionary in the CEC – North Zone
- amend Rule 18.3.5.19 to make visitor accommodation a discretionary activity in the CEC – South Zone
- amend Policy 18.2.2.6 (avoid early childhood and residential activities in the CEC zone) to make it specific to the CEC-South Zone only
- amend Policy 18.2.2.8 (allow early childhood education where there are reverse sensitivity effects) to also refer to residential activities, and make a consequential change to assessment rule 18.10.2.2 which paraphrases this policy
- add a new Policy 18.2.2.10 that allows accommodation in the CEC-South zone is only where the potential for reverse sensitivity is avoided, or if avoidance is not practicable, adequately mitigated
- amend Rule 18.12.3.7 (non-complying assessment rule) so that it refers to residential and early childhood activities in the CEC – South Zone only
- amend Rule 18.11.3 (discretionary assessment rule) to add residential and early childhood education activities in the CEC-North Zone
- amend Rule 18.11.3 (discretionary assessment rule) to add a new row to assess visitor accommodation in the CEC – South Zone
- amend Rule 18.11.2.1 (priority considerations for all discretionary activities) to refer to Section 6.11 for effects related to accessibility and safety and efficiency of the transport network. This allows consideration of traffic effects for discretionary visitor accommodation activities.

320. We have also amended Policy 18.2.2.8 as a result of submissions considered in the Plan Overview decision to amend the wording in relation to reverse sensitivity.

4.1.9.6 Size threshold for large scale retail

321. *Harvey Norman* (OS211.6), supported by *Capri Enterprises Ltd* (FS2383.2), sought to change the threshold for permitted general retail within the CEC Zone from 1,500m^2 gross floor area, to 450m^2. *Harvey Norman* stated that the recognised industry standard for large format retail is 450m^2. The submitter supported restricting specialty retail to the CBD, with large format retail outside the CBD; however, considered that the 1500m^2 threshold was arbitrary and unsupported in the s32 report.

322. *Capri Enterprises* (OS899.5), supported by *Otago Land Group* (FS2149.10), sought to remove the permitted retail threshold from the CEC Zone so that all general retail is permitted. It stated that the rule is unduly restrictive, and 1,500m^2 is a reasonably large area given existing buildings in the zone.

323. Mr Foy's evidence was that although 450-500m^2 is a common threshold, a slightly higher limit is useful to reduce the range of stores which can establish in large format retail areas. He noted that some brands will choose to establish in stores slightly larger

than their standard tenancy size, and only marginally larger than the threshold, in order to locate in a large format retail area. Those stores are not generally prepared to locate in much larger stores (for example 700-800m^2 +) to the same degree (para 9.12).

324. Mr Foy's conclusion was that a limit higher than 500m^2 would be appropriate in Dunedin, given the strong centres-based framework the 2GP applies and the limited growth projected for the market. A higher limit would also minimise the occurrence of small format and specialty stores moving into larger tenancies to increase their location options. He recommended that the minimum size for large format retail activities is reduced to 750m^2. We note that Mr Colegrave supported this reduced threshold, although he preferred reducing the threshold to 500m^2, or removing it altogether (para 75).

325. The Reporting Officer considered the typical site sizes in the CBD noting that only 5% of shops in the CBD are greater than 750m^2(Appendix 2, s42A Report). (The implication being that a 750m^2 threshold would retain most of the CBD shops in the CBD). An additional 9% of shops are between 450 and 750 m^2. She further noted that 27% of building footprints in the CBD exceed 450m^2, so there is unlikely to be an issue finding sites in the CBD for shops of this size (s42A Report, Appendix 2, p. 308).

326. The Reporting Officer, therefore, agreed with Mr Foy that the threshold should be reduced from 1,500m^2, but to support the centres hierarchy objectives in the plan (around maintaining the vibrancy and viability of the CBD and centres) a threshold of 750m^2 was recommended (s42A Report, section 5.5.14, p. 92).

327. She also recommended rejecting *Capri's* submission to allow general retail of any size in the CEC Zone, as it was not appropriate in terms of the Plan's centres hierarchy objectives (s42A Report, section 5.5.14, p. 92).

328. *Harvey Norman,* in legal submissions confirmed they had no issue with the Reporting Officer's recommendation.

329. Ms Megan Justice gave evidence on behalf of *Capri* noting that a decrease in size threshold from 1,500m^2 to 750 m^2 would increase flexibility, but that there would still be difficulty complying with the threshold due to the size of existing buildings in the area, many of which are protected heritage buildings. She suggested an exemption to allow smaller scale retail within an existing building (para 2.11).

330. The Reporting Officer in her opening statement agreed with Ms Justice that many of the CEC's buildings were smaller than 750m^2 (50 - 60% of the small sample surveyed), however relatively few had heritage controls (none in the CEC - North and six in the CEC – South). She further noted that only general retail is restricted by site size; bulky goods, trade related and yard based retail are not, neither are other permitted activities (para 81).

331. The Reporting Officer recommended rejecting *Capri's* submission given that permitting retail in existing buildings of any size would potentially have a significant impact on the CBD and centres, and not give effect to the 2GP's objectives and policies nor the RPS (para 84).

4.1.9.6.1 Decisions and reasons

332. Our decision is to reject the submissions seeking to permit retail of any scale in the CEC zone, as this would have the potential to significantly alter the distribution of retail activities within the city, with consequent significant effects on the vibrancy of the CBD and centres. This would not be appropriate in terms of the 2GP's centres hierarchy objectives.

333. However, we agree that there is justification to reduce the threshold and accept Mr Foy's reasoning that 750m^2 is an appropriate cut-off in order to discourage stores in the 450–500m^2 size range from moving out of the CBD.

334. We do not agree with Ms Justice's proposal to allow smaller scale retail into existing buildings. The zone is fully developed with existing buildings, and using that approach,

small scale retail could establish in all of them without the need for any assessment of the impacts on the CBD.

335. We also note that the same size threshold applies to general retail activity in the Warehouse Precinct Zone under Rule 18.3.4. Ideally, this change would be applied consistently across the plan; however,' there is no scope to do so.

336. We note that *Heart of Dunedin* (OS454.1) submitted against amending Rule 18.3.4, and specifically against allowing retail activity "*within areas other than the central business district".* Their submission was clearly directed towards opposing the expansion of permitted retail activity in the Warehouse Precinct Zone, with the reason giving being the negative impact this will have on the CBD. The submitter provided evidence from Mr Binns on the retail vacancy rates in George Street. We have discussed this evidence in section 4.1.3.

337. We have therefore amended the activity status table 18.3.5.11 and 12 to change the threshold from 1,500m^2 to 750m^2. Consequential changes are made to the minimum ca parking and minimum vehicle loading rules, which refer to these thresholds.

338. The amendments are shown in Appendix 1, attributed to CMU 211.6.

4.2 Harbourside provisions

339. The Harbourside Edge (HE) Zone comprises a narrow coastal strip on the western and southern side of Steamer Basin, and along the coast to the south. Adjoining the zone is an area of industrially zoned land, with a Transitional Overlay Zone applied to it, allowing it to be used as Harbourside Edge Zone in the future, when there is agreement on infrastructure issues and a critical mass of residential or commercial activities in the HE zone, as outlined in section 12 of the 2GP.

340. The HE Zone, together with the Transitional Overlay Zone area generally match the area zoned Harbourside in the operative Plan.

341. The background to the operative planning regime for the Harbourside area and a summary of subsequent consultation on the 2GP's provisions are in Appendix 5 of the s42A Report. We note that area was the subject of a lengthy plan change process completed in 2012. The Reporting Officer noted during her opening statement that despite the Harbourside Plan Change (PC7) becoming operative in 2012, "very little development" had occurred in the area.

342. The s42A Report identified the main ways that operative Plan provisions differ from the proposed 2GP Harbourside Edge provisions. These are as follows (from section 5.6.1, p. 116 of the s42A Report):

- The operative Plan splits the area into three sub-areas, as shown below (Figure 3). Slightly different provisions apply to each.

Figure 3: Harbourside sub-areas from the operative District Plan

- The operative Plan area includes the blocks between French and Buller Streets as part of the 'mixed character area'. A more limited range of activities may be undertaken in this area (for example no visitor accommodation or restaurants). Residential activity and community support activities may only develop in this area once 70% of the other sub-areas are developed.

- In the 2GP, the blocks surrounded by French, Buller and Kitchener Streets are zoned Industrial with a Harbourside Edge Transition Overlay Zone. The Overlay Zone provisions mean that the Harbourside Edge provisions will apply in full when a development trigger is reached. Essentially, this is similar to Rule 26.8.2 in the operative plan. Until then, the Industrial Zone rules apply. The intent of the two sets of provisions is similar. The Harbourside Edge Transition Overlay Zone in the 2GP is structured in a similar way to transitional provisions elsewhere in the 2GP, e.g. transitional residential and industrial areas.

- The operative Plan permits up to 3,000m^2 commercial office activity in the Steamer Basin South East area (the 'triangle' at the intersection of Birch and Kitchener streets), to ensure there are opportunities for development of the area as a destination. In the 2GP, office is a non-complying activity; however, the ORC may use a site in the same area for office activity under designation D214 to allow for proposed principal premises if it chooses.

- In the operative Plan, the wharf must be rebuilt or refurbished prior to any activity being carried out (the activity is otherwise non-complying), except for activities in the two scheduled buildings on Birch Street. In the 2GP, a 5m walkway must be constructed or the wharf refurbished, along the harbour's edge prior to the occupation of any new building. Activities in existing buildings may be undertaken prior to the walkway's construction. Both sets of provisions are to ensure a public walkway is provided along the harbour edge.

- In the operative Plan, new buildings are a controlled activity. A comprehensive development plan for the whole sub-zone must be provided, and design guidelines are included in the plan. In the 2GP, new buildings are a restricted discretionary activity. Performance standards apply to control height and setback from the road, and there are no design guidelines. The removal of the controlled activities / comprehensive development plan approach was an attempt to remove what was considered to be a complex rule, and replace it with something simpler.

343. An additional difference is the rules around berthing and mooring activity, which we discuss below.

4.2.1 Request to reinstate operative Plan Provisions

344. The *Otago Regional Council* (OS908.101 and OS908.98) sought to reinstate the operative Harbourside Zone provisions. The reason given related to achieving the purpose of the RMA. We note that at the hearing the submitter refined its relief sought to changes to specific provisions and did not pursue this broad request. We note there are also submissions to remove the performance standards and replace with them with design guidelines. These are discussed in section 4.2.3.

345. The ORC submission was supported by *Chalmers Properties Limited* (FS2321.9) and *Colin Weatherall* (OS194.7).

346. The Reporting Officer originally recommended rejecting this submission (Section 42A Report, section 5.6.1, p. 117). We note that through her opening statement and revised recommendations summary, the Reporting Officer gave more detailed recommendations once the requests were more refined. These focused on:

- provision for berthing and mooring facilities and Port activities in the zone
- the amount of office space enabled
- removal or amendment of the Harbourside Edge performance standards
- the zoning of the Harbourside Edge Transitional Overlay area.

347. We discuss these matters below, and have made some amendments to the notified plan, although do not agree that a wholesale return to the operative provisions is appropriate. For completeness, we record that we accept this request in part.

4.2.1.1 Providing for berthing and mooring

348. As part of a refinement of *ORC's* submission, Ms Megan Justice, Planning Consultant, requested specific reinstatement of the operative provisions in relation to enabling the berthing and mooring of ships, including passenger embarkation and disembarkation and slipway activities (Statement of Primary Evidence, para 4.18). As a consequential change she also sought to amend Objective 18.2.1.g, to acknowledge existing Port uses (Statement of Primary Evidence, para 4.12).

349. The Reporting Officer, in her opening statement, noted that the mooring and berthing of vessels is included in the 2GP only as part of Port activity. Port activity in general is not consistent with the amenity outcomes expected for this zone and so had not been provided for.

350. She suggested that tourism and recreation activities (Monarch boat trips or rowing facilities) might be considered as part of 'entertainment and exhibition' or 'sport and recreation' activity, which are provided for; however, this is not explicit in the rules. Consequently, she recommended that a new city-wide activity is included in the 2GP covering berthing and mooring of vessels, including loading and unloading of small fishing boats and embarking and disembarking of passengers, and community recreational slip-ways.

351. The amendment to Objective 18.2.1 was acknowledged as appropriate by the Reporting Officer (Opening statement, para 58).

4.2.1.1.1 Decisions and reasons

352. Although berthing and mooring of vessels is provided for in the operative Plan, in our view it is not a matter the 2GP should be concerned with, as it is an activity below mean high water springs, and therefore a Regional Council function.

353. We note that the plan does not deal well with the use of slipways and the landward activities of boating, but in relation to the Harbourside Edge Zone, we do not consider this to be an issue, as these can operate under existing use rights. Given the intent to transition port activities away from this area, we think it unlikely that there will be an increase in slipway activity that would require resource consent.

354. We therefore reject this aspect of the *ORC's* submission.

4.2.1.2 Office activity in the Harbourside Edge Zone

355. The *ORC* (OS908.102), supported by *Chalmers Properties Ltd* (FS2321.10) sought to reinstate the operative Plan provisions that allow up to 3,000m^2 of office space within the Steamer Basin South East Character Area (see map above) as a permitted activity. Part of this area is owned by the Otago Regional Council, and designated (D214) for the purposes of establishing a Regional Council office facility. Office activity under the 2GP is otherwise non-complying.

356. *Port Otago* (OS737.22) and *Chalmers Property* (OS749.24), supported by *Otago Regional Council* (FS2381.511), sought to have office activity permitted throughout the zone to encourage development. As an associated change, *Port Otago* (OS737.22) also sought to amend Policy 18.2.1.3 to provide for office activity in the zone where it is part of a 'comprehensive mixed-use development'.

357. The *Construction Industry and Developers Association,* as part of its broad submission, sought to make office activity not in a schedule heritage building a discretionary activity (OS997.110). This was supported by *Otago Regional Council* (FS2381.522).

358. *The University of Otago* (OS308.496), supported by *Otago Regional Council* (FS2381.528), sought to amend Policy 18.2.1.3. The *University* stated that the policy imposes restrictions on office and retail activities in the Harbourside Edge Zone, and these restrictions should not include ancillary office and retail.

359. The Reporting Officer noted that the Plan does not restrict ancillary office and retail activities and that these are implicitly included as part of the main activity, and do not need consideration as a separate activity (s42A Report, section 5.5.17, p. 113). The Reporting Officer recommended that the definitions section of the 2GP could be amended to clarify that office and staff facilities were included as part of the main activity (s42A Report, section 5.5.17, p. 113).

360. With regard to the submission to provide for office activity within the zone, the Reporting Officer agreed that providing for a limited amount of office activity was acceptable, and recommended that the operative Plan limit of 3,000m^2 of office activity was reinstated, but as a controlled activity, rather than permitted. This would allow the amount of floor space developed to be monitored and managed, to avoid simultaneous developments exceeding the limit (s42A Report, section 5.6.3, p. 129).

361. She also recommended restricting office development to the ORC's designation site, on the presumption that this is where the office activity was likely to be built. She noted consequential changes were required to the zone description, policies and assessment rules.

362. Mr Foy's primary evidence was that if there were no controls on the amount of office space, there would be potential for up to 30,000m^2 in the zone. Given that the projected demand in the city for office space to 2031 was less than 17,000m^2, permitting this

amount could draw existing office activities away from the CBD, and be inappropriate in terms of the 2GP's objectives and policies (Primary Evidence, pp. 27-28).

363. Ms O'Callahan noted in her evidence that permitting more office space was important for securing an anchor tenant for the area (Statement of Evidence, para 53). She disagreed with the Reporting Officer's recommendation to limit the provision of office space to within ORC's designation, submitting that the operative Plan allowed an excess of 6,000m^2 in the area, as an (unlimited) amount is possible under the designation, and the Plan permits 3,000m^2 within the SE Character area, which does not exactly align with the designated area (Statement of Evidence, para 52).

364. Mr Butcher, a consultant economist called by *Chalmers Properties* and *Port Otago,* accepted that a loss of office activity from the CBD would reduce its vibrancy, but noted that the overall floor space (whether 3,000 or 6,000m^2) was comparatively minor, and any loss to the CBD needed to be balanced against the benefits to the Harbourside area, through increased foot traffic and vitality (Statement of Evidence, para 11).

365. The *ORC* provided evidence from Ms Justice, who was critical of the recommendation for controlled activity status, believing that permitted activity status, with a performance standard controlling the maximum floor area, is appropriate (Primary Evidence, para 4.10; Summary Statement of Evidence, para 6-7). She also considered that any limit on floor area should not include any existing office activity in the area, and that marine related office activity should be exempt from the restrictions (Primary Evidence, para 4.10).

366. A number of consequential amendments were proposed by Ms Justice should we agree to changing the activity status of office activity in the HE Zone. In particular, she proposed changing the recommended wording of Policy 18.2.1.3 to remove the word 'avoid', as follows:

> "Avoid retail and office ... in areas where they are not provided for…" to
>
> "Enable retail and office activities … in areas where they are provided for as permitted activities, and for zones where they are not provided for, allow retail and office activities only where: …"

367. In his supplementary evidence, Mr Foy agreed that up to 6,000m^2 gross floor area of office would have little risk of significant effects on the CBD (Supplementary Statement of Evidence, p. 2).

368. In her opening statement, the Reporting Officer noted that 6,000m^2 of office activity would be significantly more enabling than the operative plan. She recommended that, if we consider that this is acceptable, any existing office in the zone (for example in the Jade/Ray White building at 12 Wharf Street), is counted within this limit (Opening Statement, para 28).

369. She disagreed with Ms Justice's proposed change to Policy 18.2.1.3, as the new wording loses the focus of the policy, which clarifies the very specific criteria under which non-complying office and retail activities should be assessed in order to achieve the relevant objective. The use of the phrase "avoid…unless" is the standard wording used in the 2GP for policies related to non-complying activities (Opening Statement, para 59).

370. At the hearing, Ms Justice's opinion was that if there is a limit of 6,000m^2, that this should be spread across the zone, with up to 3,000m^2 in the SE character area (rather than the designated area), and up to 3,000m^2 across the rest of the zone (Summary Statement of Evidence, 10 August, para 6–8).

4.2.1.2.1 Decisions and reasons

371. We accept the submissions of *ORC*, *Chalmers Properties* and *Port Otago* in part, and allow up to 6,000m^2 of office activity within the Harbourside Edge Zone. We do not consider that a controlled activity is necessary, and agree with Ms Justice that this can achieved as a permitted activity with a performance standard limiting the maximum gross floor area of office activity in the zone to 6,000m^2. Our decision is that this limit

should include any existing office activity within the zone, as well as any constructed under the designation.

372. We reject the submission of *CIDA* (OS991.110) to make office activity a discretionary activity.

373. We also consider it appropriate that contravention of this performance standard is a non-complying activity. This is consistent with the approach taken elsewhere in the 2GP, where office activity outside the CBD, centres and other zones where it is provided for is non-complying, in order to focus this activity in those areas.

374. With regards to the *Port Otago's* (OS737.22) and *Chalmers Property's* (OS749.24) requested amendments to Policy 18.2.1.3 we reject this change as the amended wording would not align with our decisions on the related rules.

375. With regard to *the University of Otago* (OS308.496) submission that restrictions on office and retail should not include ancillary office and retail, we have presumed this to mean where they are part of the activity. We note that as the Reporting Officer explained, where office and retail activities are an integrated part of the activity (e.g. Port operational offices), they are not excluded as they are assumed to be part of the primary activity. Therefore, the request is already included in the Plan. The Reporting Officer recommended that the definitions section of the 2GP could be amended to clarify that office and staff facilities were included as part of the main activity (s42A Report, section 5.5.17, p. 113). However, our view is adding this to every definition, or indeed spelling out every component part of every activity would make definitions overly long. We considered that a single statement could be added to the start of definitions, however, it is likely this statement would be overlooked particularly as people rely on 'pop-up' definitions.

376. We have, however, as discussed in section 4.3.6, added a statement to the definition of commercial activities clarifying that definitions in this category include all normal parts of that activity, for example warehousing, staff offices and facilities, even when those activities might on their own meet another activity definition.

377. Furthermore, we note that Policy 18.2.1.3.c lends support to applications for non-complying office and retail activities as true exceptions where "they are associated with port, industrial or marine related activities operating in the area". This lends support to associated activities, if the *University* submission was also speaking to these types of activities.

378. The amendments required for this decision, including consequential amendments, are (see Appendix 1, amendments attributed to CMU 908.102):

- amend Rules 18.3.4.13 and 18.3.4.14 (activity status table) to make Office permitted subject to the Maximum Gross Floor Area performance standard

- amend Rule 18.5.5 (Maximum Gross Floor Area performance standard) to add a new Rule 18.5.5.4: 'Maximum gross floor area of office in the Harbourside Edge Zone' limiting the cumulative gross floor area of office activity to 6,000m^2, with office activities ancillary to port, industry and marine-related activity exempt from the total

- amend the zone description in 18.1.1.6 to note that limited office activity is provided for in the zone

- amend Policy 2.3.2.3 to note that limited office activity is provided for in the zone

- amend Policy 18.2.1.2 to recognise that some office activities are provided for in the HE zone (and other CMU non-centre zones – see decision CEC - North Zone (section 4.1.9.4))

- add a new non-complying assessment rule under Rule 18.12.5 for contravention of the new 'Maximum gross floor area of office in the Harbourside Edge Zone performance standard'.

4.2.1.3 Request not to provide for industrial activities

379. In her evidence, Ms Justice also questioned the permitted status of heavy industry activities in the zone, given the mix of uses the zone is aiming to achieve (Primary Evidence, para 4.19).

380. The Reporting Officer noted that the operative plan makes industrial uses within the south and south-east character areas non-complying. Industrial uses have been generally permitted within commercial areas in the 2GP, recognising that many industrial activities do not have issues of noise, odour etc, and can locate within a mixed-use environment without undue effects. She did not anticipate that 'heavy industry' would choose to locate in such areas due to potential future reverse sensitivity effects (s42A Report, section 5.9, p. 207).

4.2.1.3.1 Decisions and reasons

381. We received no evidence as to why industrial activities should be non-complying. We also note that the noise limits in the HE Zone are the same as in the CBD, where industrial activities are also permitted. We reject the request to make industrial activities non-complying.

4.2.1.4 Request to amend Policy 18.2.3.9

382. A further change requested by Ms Justice at the hearing was to amend Policy 18.2.3.9 to be more enabling, as follows (Primary Evidence, para 4.16):

> "~~Avoid~~ Enable land use activities ... that require buildings or site design that are ~~is~~ ~~in~~compatible with:
>
> b. the higher level of urban amenity anticipated in the HE, SSYP and WP zones."

383. The Reporting Officer noted that use of the phrase "avoid…unless" is the standard wording used in the 2GP for policies related to non-complying activities (ref).

384. We question whether there is scope to make the requested change as the matter was raised during evidence, rather than in the original submission, and does not appear to directly relate to reinstatement of the operative provisions.

385. In any event, we reject the change as it is contrary to the drafting protocol for the reasons explained by the Reporting Officer.

4.2.2 Rule 18.6.18 Standards Harbourside Edge

386. Development activities in the Harbourside Edge Zone are subject to a suite of performance standards (Rule 18.6.18). These control setbacks from the street and harbour's edge, height, provision of a walkway along the harbour's edge, and a requirement for public access through buildings at certain points to the walkway. The walkway must be in place prior to the occupation of any new building and is itself subject to particular design standards. Policies 18.2.3.4 and 18.2.3.5 require that buildings and other development in the Zone are designed and located to provide a high level of amenity.

387. New buildings that are visible from either an adjoining public place or the harbour are a restricted discretionary activity, provided they comply with the performance standards. This is to ensure high quality design that is coherent and "appropriate to the setting" (s42A Report, section 5.6.4, p. 132). This differs from the operative District Plan, where new buildings within the Harbourside Zone are a controlled activity.

388. In the 2GP, non-compliance with the performance standards means the activity becomes a discretionary or non-complying activity. Rule 18.4.3.3 requires that resource consent applications for non-compliance with the standards relating to the public walkway, or providing access to it, must be publicly notified.

389. The *University* supported the Harbourside Edge standards and sought that they are retained (OS308.298). The *University* commented that the provisions are significantly less prescriptive than the operative Plan rules, and so better support the development of the area.

390. The *Otago Regional Council* (OS908.101 and OS908.98) sought to reinstate the operative Harbourside Zone provisions. In a separate submission (OS908.100) and a further submission opposing the *University's* submission (FS2381.521), it identified which parts of the 2GP standards it opposed. These were:

- Rule 18.6.18.1 (which requires buildings are built no more than 400 mm from the road frontage), as this is overly restrictive and greater flexibility is required for buildings along Birch and Kitchener streets.

- Rule 18.6.18.3 (which details the locations of the pedestrian accessways through to the public walkway) as this does not provide enough flexibility in the location of the accessways. It sought that these be identified on the map as 'indicative only'. The developer of sites at 15 Birch Street and 39 Kitchener Street should be able to provide access through each site at a location to be determined.

- Rule 18.6.18.5 (which details the specifications and location of the public walkway and requires that it is constructed prior to the occupation of any new building), as the location is impractical and may affect the operation of the slipway. The location should be identified on the map as 'indicative only', should avoid the coastal marine area and should not occupy the slipway until slipway operations cease.

- The requirement for the first developer to construct the entire walkway (Rule 18.6.18.5), as there is also a need to ensure the ability to provide for maintenance of the walkway and ensure that the slipway can be used by vehicles.

391. *Port Otago Limited* (OS737.23) and *Chalmers Property Limited* (OS749.25) sought the removal of the performance standards, submitting that these matters should be assessed through the restricted discretionary consent process. They noted that the standards are prescriptive and are likely to limit design opportunities. The submitter considered a design guide or assessment criteria would be a more appropriate means of providing guidance on the type of design sought. They considered the discretionary or non-complying activity status when the standards are not met (Rule 18.6.18.7 and 8) is unnecessarily restrictive and would inhibit development of the area.

392. The *ORC* (FS2381.517) supported *Chalmers Property's* submission in part, with the exception of the height standard which they thought should be retained. It also sought to amend the activity status if the standards are not met from discretionary or non-complying to restricted discretionary. We note we have discussed the height performance standard separately in Section 4.2.4.

393. *Dunedin City Council* (OS360.194) sought to remove the words 'green' and 'red' from the rule detailing the location of the walkway and accessways (Rules 18.6.18.3.a and 18.6.18.6.a). The Council's reasoning was that these items were not coloured green and red in the 2GP maps (only in the map embedded within the rule), and the words do not add anything to the rule.

394. The Reporting Officer considered that specifying design matters as performance standards, rather than as matters to be considered during the consent process, gives greater certainty that they will be achieved. She noted that several of the standards

relate to the provision of a walkway around the coast. This is an important part of any development of the area and it is appropriate that this is required through standards. However, she accepted that the wording of the standards could be improved (s42A Report, section 5.3.4, p.136).

395. In relation to the location of accessways, the Reporting Officer noted that these are in the same location as in the operative Plan and sited to preserve viewshafts from Roberts and Kitchener streets across the Steamer Basin. The 2GP allows them to be located within 5m of the marked locations. She considered any further deviation risked losing the viewshafts. Instead, she recommended that non-compliance with the Standard be a restricted discretionary activity, rather than a non-complying activity (s42A Report, section 5.3.4, p. 136).

396. She also agreed that labelling the walkway's location 'indicative' was pragmatic, allowing the route to be determined within the limits set in Rule 18.6.18.3. Additionally, given that the public walkway passed through the slipway area, she recommended that the walkway only be required in that area when the slipway infrastructure had been removed.

397. Consequently, she recommended a number changes, including (s42A Report, section 5.6.4, pp. 132-140):

- removing the words 'red' and 'green from the map showing the location of the walkway and pedestrian access, and marking the location as 'indicative only'
- amending Policy 18.2.3.5 to require that the accessways should be located to maintain the viewshafts from Roberts Street and Kitchener Street across Steamer Basin
- rewording rule 18.6.5.18 to clarify that a building developer is responsible only for constructing the section of walkway on their site
- clarifying that the walkway can be constructed at any location between the building and the harbour
- specifying that the walkway must allow vehicle access to the slipway
- removing the standard requiring buildings to be built to the road frontage, and adding additional policy guidance to Policy 18.2.3.4 detailing that buildings can be set back from the road frontage for pedestrian entrances and provision of public amenity space in front of buildings
- amending the activity status for non-compliance of the location of accessways performance standard to restricted discretionary, rather than non-complying.

398. In her written evidence, Ms O'Callahan, planning consultant called by *Chalmers Properties* and *Port Otago*, criticised the restrictive nature of the rules and the impact they may have on attracting development to the area. She considered that performance standards were appropriate for matters such as height, but other matters should be determined through the consenting process, possibly with the benefit of a design guide for the area. She also considered that the setback rules should exclude port related buildings, which generally do not have the same built form as other buildings (Statement of Evidence, pp. 12-13).

399. Ms O'Callahan was strongly of the view that non-complying activity status and public notification is not appropriate for breaches of the Harbourside Edge Standards, given the physically constrained nature of the sites. She preferred restricted discretionary activity status for all breaches, with an express provision for non-notification, to encourage good design outcomes (Statement of Evidence, para 61).

400. Ms Justice, planning consultant called by *ORC*, noted that *ORC* supported the provision for a public walkway and pedestrian access to the water's edge. She noted that the

proposed amendments to the standards go some way to addressing ORC's concerns in relation to use of the slipway, but sought alternative wording in relation to construction of the walkway and upgrading of the wharf, as these activities may not be required (Primary Evidence, para 4.22). She also preferred specification of a non-slip finish to the walkway, rather than asphalt, and suggested further changes to facilitate vehicle access to the slipway and for maintenance purposes (Primary Evidence, paras 4.23 - 4.24). She sought to delete the requirement for public accessways across *ORC's* site, with Rule 18.6.18.3 referring only to the accessway at Roberts Street.

401. In addition, Ms Justice suggested that the activity status table 18.3.6.5 be amended so that any works to rebuild or upgrade the wharf to construct the public walkway are a permitted activity (Primary Evidence, para 4.20).

402. Ms Justice suggested amendments to Policy 18.2.3.4, as she considered the Reporting Officer's proposed wording was subjective and difficult to measure. Her suggested amendments included adding 'where practicable' to the requirement to build to the street frontage, and deleting all other requirements, which include providing visual interest, a design that is coherent and appropriate to the setting and history of the area, and provision of active edges with strong connections between the street and interior of the buildings (para 4.34).

403. Ms Justice also objected to the recommended addition to Policy 18.2.3.5, which introduces requirements for protection of viewshafts across Steamer Basin, considering that these are not required. She sought to add recognition that the walkway must not prevent operation of the slipway (Primary Evidence, para 4.36).

404. She supported the Reporting Officer's recommended changes to the activity status where performance standards are contravened.

405. The Reporting Officer addressed the pre-circulated evidence in her opening statement and explained that the 2GP intended to simplify and reduce many of the requirements in the operative Plan. As a result, the design guide was not carried over from the operative Plan; instead the focus was on outcomes, detailed in the performance standards She considered that this should provide more flexibility than the operative Plan (Opening Statement, paras 19 and 36).

406. In response to Ms Justice's evidence, the Reporting Officer noted the following (Opening Statement, pp. 8-9):

- consent for re-building the wharf is required only due to non-compliance with the Setback from coast and water bodies performance standard (Rule 18.6.17.4), not because of activity status rules

- she had no objection to the suggested amendments to the public walkway performance standard Rule 18.6.18.5

- if guidance on the design of new buildings is removed from Policy 18.2.3.4, there would be no guidance in the plan. The guidance derives from the design guide in the operative Plan and she strongly recommended that this was retained in Policy 18.2.3.4

- if guidance around setbacks from road frontages is removed, and replaced with a setback 'where practicable', there is a risk that car parks or storage areas will be developed along the street frontage, with adverse effects on streetscape amenity, undermining the overall objective for a high amenity environment.

407. In response to Ms O'Callahan's evidence, she noted (Opening Statement, p. 10):

- port activities are non-complying in the zone, and are not anticipated in the mixed-use environment promoted by the 2GP provisions

- that removal of the public notification requirement was appropriate where the activity status for breach of the standards was restricted discretionary

- in her view, the request for non-notification for all breaches of the standards was beyond the scope of *Chalmers'* submission.

408. After discussions with the *ORC,* the Reporting Officer provided a set of amended standards in her Revised Recommendations. We understand that these were circulated to the *ORC* for feedback and the *ORC* generally agree with them. These standards included changes to the height performance standard discussed in Section 4.2.4.

4.2.2.1 Decisions and reasons

409. We accept in part the submissions by *Port Otago Limited*, *Chalmers Property Limited* and *Otago Regional Council*, to the extent that we have made the performance standards more flexible, amended the activity status when some of the performance standards are contravened, and amended the associated notification provisions. We agree with the final amendments recommended by the Reporting Officer to address these submission points. The changes:

- remove the requirement that buildings are built to the street (Rule 18.6.18.1), relying on the restricted discretionary consent process to identify an appropriate setback. An associated change to Policy 18.2.3.4 directs that buildings are built to the street frontage except for pedestrian entrances and the provision of amenity space for customers and residents

- amend the rule to allow more flexibility in the location of the accessways through to the public walkway

- amend the rule to allow flexibility as to the precise location of the walkway and clarify that each site owner/developer is responsible only for developing the walkway on their own site

- amend the rule to allow vehicle access along the walkway if required and provide choice of walkway surface, provided it is complementary to adjoining surfaces

- amend the activity status for non-compliance with the performance standards to a restricted discretionary activity, except for provision of the public walkway, which remains non-complying

- amend the notification Rule 18.4.3 such that the only performance standard contravention that will result in automatic public notification is non-provision of the public walkway.

410. We also accept the Reporting Officer's earlier recommendation to amend Policy 18.2.3.5 to require that the accessways are located to maintain the viewshafts from Roberts Street and Kitchener Street across Steamer Basin.

411. We note that in the Natural Environment decision we have removed the Setback from Coast and Water Bodies performance standard from the Harbourside Edge Zone, and so alterations are permitted under Rule 18.3.6.8. Rebuilding of the wharf is therefore a permitted activity and no further change is required in response to this aspect of ORC's submission.

412. We also accept *DCC's* submission to remove 'red' and 'green' from rules 18.6.18.3.a and 18.6.18.6.a, and *ORC's* submission in part to mark the location of the walkway and accessways on the map as indicative only. While the location of two of the accessways is flexible, the location of accessway at the end of Roberts Street is important to retain views across Steamer Basin. We have amended the mapping to simplify it, with the walkway shown on the plan maps, and the accessways shown only in Rule 18.6.18.

413. Consequently, we have amended the following provisions, as described above:

- Harbourside Edge performance standards, Rule 18.6.18
- notification Rule 18.4.3
- policies 18.2.3.4 and 18.2.3.5
- consequential changes to assessment rule 18.10.3.1 to reflect the amended policy wording
- new restricted discretionary performance standard contravention rules under Rule 18.9.4, to reflect the changed activity status where standards are contravened
- delete discretionary assessment Rule 18.11.4.3, as no longer required
- the non-complying assessment Rule 18.12.5.4 to reflect the change in status to restricted discretionary when most standards are contravened.

414. These are shown in Appendix 1, attributed to CMU 908.101.

4.2.3 Request for minor amendment to Objective 18.2.1.g

415. *Tony MacColl* (OS98.3), the *NZTA* (OS881.128) and *The Otago Chamber of Commerce* (OS1082.2) support the objective.

416. The *University of Otago* (OS308.292), supported by the Otago Regional Council (FS2381.504), sought that 'training and education' activity be added to point (g) - the Harbourside Edge Zone, as an activity that is provided for in this zone.

417. The Reporting Officer agreed that point (g) should also include training and education. This would correct an error in the objective; it does not alter the activity status within the zone.

418. She recommended that the submissions are accepted

4.2.3.1 Decisions and reasons

419. We accept the submission of *University of Otago* (OS308.292) to amend Objective 18.2.1. The amendment is shown in Appendix 1, attributed to CMU 308.292.

4.2.4 Height limit

420. *The University of Otago* (OS308.297) supported the 20m height limit along Birch Street (Rule 18.6.18.2), as this provides design flexibility for a possible new aquarium. However, the submitter noted that the height limit in Rule 18.6.6.2 for the CBD Edge Zone is 16m, and therefore conflicts with Rule 18.6.18.2.

421. The Reporting Officer noted the potential for confusion between the two rules (Section 42A Report, section 5.6.4, p. 133). While there is no conflict, it is confusing that the Harbourside Edge height limits are not listed in 18.6.6.2. An explanatory note to plan users adjacent to Rule 18.6.6.2 was recommended explaining that Harbourside Edge height limits are in Rule 18.6.18. This is done as a minor and inconsequential change under clause 16(2) of the RMA.

422. The Reporting Officer also identified other errors in the rule. One was that the Height performance standard was not clear on which of the two height limits – 16m or 20m within the zone apply to buildings on Wharf Street and the area covered by the Harbourside Edge Transition Overlay Zone when it is 'released'. She recommended amending Rule 18.6.18.2 to indicate that the maximum height of 16m and a minimum height of 6m will also apply in these areas (s42A Report, section 5.6.4, p. 134).

423. A further recommendation in the s42A Report was to correct an oversight in Rules 18.6.18.1 to 18.6.18.4 by amending them to read: 'New buildings and structures and additions and alterations…', which is consistent with the approach in other commercial and mixed-use zone performance standards, and providing for the standard height exceptions in Rule 18.6.18.2 (s42A Report, section 5.6.4, p. 134).

424. She also recommended that the standard height exceptions that are provided for in most Height Performance Standards, including in 18.6.6, be included in 18.6.18.

425. Murray Brass *for* the *University of Otago* agreed with these suggestions (Statement of Evidence, p. 9).

426. In her written evidence, Ms Justice pointed out a further issue with the rule, that due to Birch Street changing into Kitchener Street on a curve, it was unclear where the height limits in the Plan change, as they are listed against street names rather than mapped. She suggested adopting the operative Plan's approach of allowing taller buildings (up to 20m) in the SE character area (15 Birch Street, 49 Kitchener Street and part of 39 Kitchener Street) (Primary Evidence, para 4.30).

427. In response, the Reporting Officer noted that taller buildings along Kitchener Street would increase shading of the public walkway; however, given the relatively small area involved and the extent of the shading that could potentially result from the existing 16m height limit, the effects of the increase would not be significant (Opening Statement, para 68).

428. Consequently, the Reporting Officer's revised recommendations was to amend the Harbourside Edge performance standards to provide for a 20m limit in a 'height mapped area' (equivalent to the former SE Character area), and 16m elsewhere.

4.2.4.1 Decisions and reasons

429. We acknowledge the *University's* support of the height limit in the zone, and note the confusion in terms of the location in the rule in 18.6.18, rather than 18.6.6. We have therefore added a note to plan user in Rule 18.6.6, as a cl. 16 change, referring the reader to Rule 18.6.18.

430. We consider that the change recommended to the height rule to set a maximum height of 16m and a minimum height of 6m for buildings on Wharf Street and the area covered by the Harbourside Edge Transition Overlay Zone is inconsequential as, in lieu of a standard being specified for these parts of the zone, height would be considered as part of the RD activity status for new buildings, structures and additions and alterations. Consequently, we make this change under cl. 16. Including a maximum and minimum height performance standard simply removes consideration of height from any consent application for a building that meets the standard.

431. However, we do not agree that the recommended change to add 'structures and additions and alterations' to the rule, can be achieved under Clause 16, as it is more substantive.

432. Nor do we agree that the standard exceptions can be added to the rule under Clause 16.

433. As discussed above (section 4.2.2), we have made non-compliance with most of the Harbourside Edge performance standards a restricted discretionary activity. We note that the notified assessment rule for contravention of the Harbourside Edge height performance standard (Rule 18.11.4.3) refers to Policy 18.2.3.4; however, this policy gives only general guidance on breaches of the height standard, by requiring that buildings are "designed and located to provide a high level of amenity by...being of a design that is coherent, appropriate to the setting and history of the area, and provide a positive relationship to both the street and the harbour". While not referred to in the assessment rule, Policy 18.12.3.1.d (building height reflects the general heights of the block) is also relevant. This has been moved into a new height policy, Policy 18.2.3.12 (see section 4.6.7.1). We consider that it would be of assistance to plan users if the assessment rule for breaches of the height rule refers to the new Policy 18.2.3.12. We

have made this change as a minor and inconsequential change under cl. 16 of the 1st Schedule to the Act.

434. The amendments required for this decision, including consequential amendments, are shown in Appendix 1, and are made under cl. 16. They are as follows:

- include a map in Rule 18.6.18 showing the Harbourside Edge Height mapped area as shown below (Figure 4);
- amend Rule 18.6.18 to specify a maximum height of 20m within the height mapped area, and 16m elsewhere, including the Transitional Overlay Zone;
- amend Rule 18.6.18 to specify a minimum height of 6m; and
- amend Rule 18.6.6.2 (the Height performance standard for other CMU zones) to add a Note to Plan User referring the reader to Rule 18.6.18 for the Height performance standard in the Harbourside Edge Zone, in response to the University's submission (cl. 16).

Figure 4: Harbourside height mapped area

4.3 Management of food and beverage retail

435. Food and beverage retail is a sub-activity of general retail, and is treated separately from other retail types as it is recognised as a core necessity (s42A Report, section 5.5.16, p. 105). The definition of food and beverage retail is:

> "*The use of land and buildings for the sale of food products, including meat, fish, fruits and vegetables, processed foods, and baked goods. This definition includes ancillary sales of household consumables, on-site bakeries and other food preparation facilities, and the sale of pre-prepared meals from a deli counter (but excludes on-site cafés or other restaurant facilities).*
>
> *Examples are:*
>
> - *supermarkets*
> - *butchers*

- *greengrocers*

Food and beverage retail is a sub-activity of retail."

436. In the CBD and centres zones food and beverage retail is a permitted activity. In the Warehouse Precinct and PPH zones they are discretionary. In the SSYP and Harbourside Edge zones it is non-complying. In the Trade Related and CEC zones, food and beverage retail less than 1500m^2 in gross floor area is non-complying, and that greater than 1500m^2 is permitted. The s42A Report explained that this provision is specifically designed to cater for larger supermarkets in these zones.

437. Food and beverage retail is non-complying in the residential and industrial zones.

4.3.1 Submissions overview

438. Various submissions were made on the management of supermarkets. Although the issue touched upon several zones of the 2GP, given these submissions predominantly relate to the CMU section, they are dealt with here.

439. *Progressive Enterprises Ltd* (OS887) submitted to relax the provisions around supermarkets. In particular they sought to:

- define supermarkets separately, so that they are no longer included in the definition of food and beverage retail (OS877.38)
- add or amend performance standards relating to signage and boundary treatments. These are discussed later in this report
- add a new Strategic Direction policy specifically providing for supermarkets away from commercial centres and detailing appropriate assessment criteria (OS877.2), with a consequential change to Policy 15.2.1.5 (OS877.4)
- provide for supermarkets as a restricted discretionary activity in Industrial zones (OS877.11). This submission was opposed by the *Oil Companies* (FS2487.79). Associated submissions include amendments to performance standards in the Industrial section relating to car parking (OS877.12), vehicle loading (OS877.13), boundary treatments (OS877.14), signage (OS877.15).

440. Four additional submissions were also received:

- the *Construction Industry and Developers Association* sought to amend the activity status for "food and beverage retail" in the HE (OS997.108), SSYP (OS997.57), CEC and Trade Related zones (OS997.65), as part of a large range of activities they sought to change from non-complying to discretionary
- *Oamaru Property Limited* (OS652.10) supported Rule 18.3.4 (land use in CEC Zone, permitting food and beverage retail ≥1,500m^2)
- *Foodstuffs* sought to amend the definition of 'food and beverage retail' to provide for ancillary warehousing and storage (OS713.1)
- *Foodstuffs* sought to amend Rule 18.3.5 to permit ancillary offices and staff facilities (OS713.3).

4.3.2 Request for a new supermarket definition

441. *Progressive Enterprises Ltd* (OS877.38) considered that the definition of food and beverage retail was too wide, and sought a new definition of 'supermarket'. The submitter considered that there was a significant difference between supermarkets, greengrocers and butchers. It proposed a new definition for supermarkets as follows:

"*A retail shop where a comprehensive range of predominantly domestic supplies and convenience goods and services are sold for consumption or use of the premises and includes lotto shops and pharmacies located within such premises and where liquor licences are held for each premise.*"

442. The Reporting Officer accepted that large supermarkets have different characteristics and operational requirements to smaller Food and Beverage Retail and noted that this distinction is recognised in the provision for large scale Food and Beverage Retail (i.e. supermarkets over 1500m^2) in the Trade Related Zone. However, she could not distinguish between smaller supermarkets and larger food and beverage retail outlets such as Veggie Boys and Mad Butcher, as they appear to be of an equivalent size and to have similar operational needs to a small supermarket (s42A Report, section 5.5.16, p. 107). Consequently, she did not see a need to treat supermarkets differently from other food and beverage retail, and recommended that this aspect of the submission be rejected (s42A Report, section 5.5.16, p. 107).

443. She further noted that the proposed definition includes pharmacies within the definition, which in the 2GP are treated as a General Retail activity and are only a permitted activity in the CBD and centres. In her opinion, allowing such retail operations as part of supermarket activity could draw these businesses and their customers away from the centres. This would be inappropriate in terms of the 2GP's objectives related to maintain the vibrancy and viability of centres.

444. In respect of lotto outlets, the Reporting Officer noted that these were commonly found in supermarkets. They were classed in the 2GP as a General Retail activity, and provision for them could be made in the definitions for Food and Beverage Retail and Dairies (s42A Report, section 5.5.16, p. 107).

445. Mr Foster gave expert planning evidence for *Progressive* and stated that the definition being sought was an accepted industry standard included in plans throughout New Zealand. Mr Tansley gave economic evidence for *Progressive* supporting the inclusion of pharmacies in supermarkets. He commented that pharmacies can be described as convenience outlets, and apart from prescription drugs, there is considerable overlap between the products sold and those sold in supermarkets. In his view, competition between them "finds its own level" and does not need RMA intervention (Statement of Evidence for *Progressive,* p. 12).

4.3.2.1 Decisions and reasons

446. We do not consider that there is a need for a separate definition of 'supermarket' and reject Progressive's submission. The 2GP has an unusually complicated, but precise, way of distinguishing between activities for various RMA reasons - "nested tables" - and we accept the Reporting Officer's advice that defining supermarkets would create more anomalies than it would solve. The anomalies raised by submitters can be resolved more easily, if appropriate, as discussed below.

447. Turning first to the inclusion of pharmacies within supermarkets, we agree with the Reporting Officer that where these are not in the CBD or centres, they have the potential to draw business away from these centres, contrary to the objectives and policies related to maintaining vibrant and viable centres.

448. However, as the Reporting Officer noted, lottery sales are different. They are an established part of all supermarkets, and we agree that amending the definition of food and beverage retail and dairies to specifically include this is appropriate. We therefore accept in part the submission of *Progressive Enterprises Ltd* (OS877.38) insofar as this amendment gives partial relief to their request. We have amended the definition of food and beverage retail and dairies accordingly. These are shown in Appendix 1 (see submission reference CMU877.38).

449. However, overall, we reject the submission to have a separate definition for supermarkets as we agree with the Reporting Officer that it is difficult to distinguish between a small supermarket (like a Four Square) and other shops like Veggie Boys or Mad Butchers, which focus on one type of product but which also have a range of other

products. Administering more than one definition would be less efficient. We also agree there was no evidence of different effects to indicate that a different set of definitions was required.

4.3.3 Out-of-centre development

450. *Progressive Enterprises* (OS877.2) sought to amend Objective 2.3.2 (centres hierarchy) by adding a new policy allowing supermarkets to locate outside centres, provided certain assessment criteria were satisfied. The approach was described by *Progressive* as being a "centres plus" approach. The policy requested was as follows:

> "*To allow some out of centre commercial activities provided assessment criteria dealing with adverse effects on existing centres and any traffic, social, economic and amenity effects are satisfied. Such assessment criteria to include:*
>
> *Supermarkets*
> *An assessment of the effects of a supermarket shall be made considering the following:*
> - *(a) The extent to which the new activities would result in adverse effects on the commercial and community services and facilities of any existing or proposed business centre as a whole;*
> - *(b) The extent to which the overall availability and accessibility of commercial and community services and facilities will be maintained in any existing business centre;*
> - *(c) The extent to which the new activities would result in a significant adverse effect on the character, heritage and amenity values of any existing or proposed centre;*
> - *(d) The extent to which the benefits of a new development are able to directly or indirectly mitigate any adverse effects listed above;*
> - *(e) Any traffic, social, economic effects and any cumulative effects associated with the additional activity on any other area within the City;*
> - *(f) The extent to which alternative locations have been considered; and*
> - *(g) Whether the supermarket activity will result in the sustainable management of the land resource."*

451. A consequential change was also sought, to Policy 15.2.1.5, as follows:

> "*Avoid commercial activities other than those expressly provided for ~~from locating in residential zones~~ or contemplated by new Policy x and its associated assessment criteria, from locating in residential zones, unless:* …" [remainder unchanged].

452. The submitter provided a list of matters for the new strategic direction policy to be satisfied (listed in s42A, section 5.5.16, p. 107).

453. The Reporting Officer believed that the proposed policy did not provide a good test for a non-complying activity, in that it did not state what outcome was sought, i.e. what effects were acceptable (s42A Report, section 5.5.16, p. 109).

454. Additionally, Mr Munro, who provided urban design expert evidence for the DCC, noted that in almost any scenario supermarkets are not appropriate in residential areas and can give rise to significant amenity and traffic effects in environments that are intended to provide quiet and attractive living environments. These effects are undesirable and he strongly preferred that supermarkets locate in Centres (Statement of Evidence for the DCC, para 50).

455. The Reporting Officer referred to the report by M.E. Spatial (2015) which considered the available and projected demand for space for various retail activities. The analysis showed that in 2031 there is predicted to be significant levels of available space in Dunedin centres to cater for demand and it is not necessary to make additional land available in any centre over the timeframe of the 2GP (M.E. Spatial, pp. 39-40). However, she did acknowledge that due to site size requirements large supermarkets

may have difficulty finding an in-centre location compatible with their intended catchment.

456. She also drew our attention to Policy 15.2.1.5, which provides a set of considerations to support a non-complying commercial activity in a residential zone, if that activity was located and designed to support a well-integrated expansion of a centre that is at, or close to, capacity. She felt that this policy did provide some policy support for out-of-zone supermarkets, particularly where they were needed in growing residential areas.

457. She recommended that no change be made to the current policies regarding out-of-centre supermarkets.

458. Through Ms Amanda Dewar's legal submissions at the hearing *Progressive* submitted that "in light of Mr Foster's evidence …discretionary activity status is appropriate in this instance" (legal submissions for *Progressive*, para 25).

459. The explanation and reasons given for *Progressive's* suggested approach, as outlined in statements by Mr Tansley, Mr Foster and the legal submissions, included:

- an emphasis on ensuring that out-of-centre supermarkets do not undermine the strong centres based approach (which is supported by *Progressive*). Out-of-centre development under the policy would be "the exception rather than the rule" (Mr Foster's Statement of Evidence for *Progressive*, para 13);

- there is a need to provide for these exceptions, as future proposals outside the adopted zoning and rules are likely to arise over the lifetime of the plan (Mr Tansley's Statement of Evidence for *Progressive*, para 10);

- supermarkets are (suburban) catchment driven and this approach provides some locational flexibility on a catchment basis. Supermarkets need to be located as close as possible to where their customers live or work (Mr Foster's Statement of Evidence for *Progressive,* para 13);

- there is insufficient space in some centres (e.g. North Dunedin) to provide for a new supermarket (Mr Foster's Statement of Evidence for *Progressives*, para 23);

- the policy would ensure that any potential adverse effects of out-of-centre development are appropriately controlled through a consent process (Mr Tansley's Statement of Evidence for *Progressives*, para 34);

- the proposed approach matches the approach taken by the Environment Court in Auckland's North Shore (see *St Lukes Group Ltd v North Shore City Council* [2001] NZRMA 412 (EnvC)) (legal submissions for *Progressive*, para 29); and

- the approach is not inconsistent with the RPS requirement to avoid unplanned extensions of commercial activities that have significant effects on a CBD (legal submissions for *Progressive*, para 32).

460. The Reporting Officer acknowledged in her Revised Recommendations that more policy support was required for out-of-zone supermarkets where true exceptions applied, both in terms of creation of new centres, and to provide better support for Policy 15.2.1.5 in the strategic directions. She suggested amendments to Strategic Policy 2.3.2.2 to manage this (Revised Recommendations Summary, p.12).

461. These changes:

- provided a cross reference to Policy 15.2.1.5 in relation to expansion of centres

- encouraged proposals for the creation of new centres or out-of-centre commercial development to be considered through a plan change process;

- included a test allowing supermarkets outside the CMU zones where necessary to meet catchment growth and where there are no practicable options to locate in a centre in the same catchment

- included a test ensuring there is a demonstrated need for additional zoned land, and adverse effects on the distribution, function, viability and amenity of existing centres are avoided.

462. We were concerned to understand what impact Dunedin's relatively low growth rate meant for Mr Tansley's criticism of the 2GP's centres hierarchy. In response, Mr Tansley advised that regardless of the low growth, an exception was required, the door needed to be left open to consider other things.

463. We note as well that *Mr Robert Wyber* (OS394.2), as part of a broad submission to improve the wording of the strategic directions (which we deal with in the Plan Overview decision report), specifically sought improvements to Policy 2.3.2.2, which he found difficult to understand (even as an experienced planner).

4.3.3.1 Decisions and reasons

464. We do not accept that "centres plus" is actually an alternative strategy to the 2GP's "centres" approach. The provisions recommended by Progressive seem to us to be just a watering down of the centres approach, to enable supermarket developments almost anywhere. The assessment criteria are broad and potentially subjective, and we do not believe the Auckland situation has much relevance to Dunedin.

465. We do accept however that there may be situations where supermarket expansions or new developments could be appropriate outside the zones identified for them in the 2GP. These situations include where an existing centre has insufficient land or where major new residential development requires services. To that extent the submissions are accepted in part.

466. In our view, there is benefit in separating the policy direction for resource consent applications from that for plan changes to rezone an area commercial, and to include a hierarchy of the preferred locations for commercial activity.

467. We have made the following amendments to implement this decision: (see Appendix 1, attributed to CMU 877.2):

- amended Strategic Direction Policy 2.3.2.2 to focus on the situation where out-of-zone activity is applied for through resource consent, connect this to existing Policy 15.2.1.5, and make general improvements to its readability to address the concerns of Mr Wyber, as follows:

> *"Maintain or enhance the density and productivity of economic activity in the CBD and centres , ~~in order to provide sufficient supply for the projected needs for retail and office development for a 15 year period, while avoiding over-supply, and decentralisation of these activities and location outside of centres, unless they are unlikely to contribute to, or may detract from, the vibrancy of centres~~ through ~~a. zoning and~~ rules that restrict ~~the distribution of~~ retail and office activity outside ~~of~~ these areas unless:*
>
> *a. they are unlikely to contribute to, or may detract from, the vibrancy of centres; or*
>
> *b. as provided for under Policy 18.2.1.3 or 15.2.1.5."*

- added a new Strategic Direction Policy 2.6.3.5, to guide future plan changes for rezoning land to commercial and mixed use:

"*Identify areas for new commercial and mixed-use zoning based on the following criteria:*

a. rezoning is necessary to meet a medium term (up to 10 year) shortage of capacity to meet demand in the intended customer catchment; and

b. the new area will not detract from, and preferably support, Objective 2.4.3 (Vibrant CBD and centres)"

- added a new Strategic Direction Policy 2.6.3.6, to encourage use of the plan change process for new commercial centres:

  "*Encourage any proposal for the creation or expansion of a centre to be considered through a plan change process unless it represents a minor extension to a centre in accordance with Policy 15.2.1.5*."

- add additional assessment guidance to assessment Rule 15.12.3.3 (assessment of non-complying commercial activities):

  "General assessment guidance

  In assessing the effects on the vibrancy and functioning of the centres hierarchy, Council will also consider effects on the economic feasibility of any redevelopment necessary to maintain the vibrancy and attractiveness of those centres."

4.3.4 Provision for supermarkets in the Industrial Zone

468. *Progressive* sought to provide for supermarkets as a restricted discretionary activity in Industrial zones in order to provide locational flexibility (OS877.11). Associated submissions include amendments to performance standards in the Industrial section relating to car parking (OS877.12), vehicle loading (OS877.13), boundary treatments (OS877.14) and signage (OS877.15).

469. This approach was closely tied to *Progressive's* submissions to amend Objective 2.3.2 to provide for out-of-centre development, which we have discussed in Section 4.3.3 above.

470. The submission was opposed by the *Oil Companies* (FS2487.79) as supermarkets attract a large number of people, thus creating the potential for reverse sensitivity issues and public health and safety concerns.

4.3.4.1 Decisions and reasons

471. We have addressed the issue of appropriate assessment criteria for out-of-centre development in Section 4.3.3. Issues relating to industrial land are discussed in our decision report on the Industrial topic. Two key conclusions in relation to this request to provide for supermarkets in Industrial zones were firstly that there is a limited supply of industrially zoned land to meet the range of activities permitted in those zones, and secondly that Industrial zones are not intended to necessarily provide amenity standards needed by activities drawing in members of the public. We are not persuaded that there is a real possibility that it would be appropriate to put those considerations aside in order to facilitate a new supermarket.

472. We therefore reject *Progressive's* submission to make supermarkets restricted discretionary in industrial zones and its associated submissions to amend performance standards. We consider that non-complying activity status sets an appropriately high threshold, given supermarkets in the Industrial Zone are not appropriate in terms of the objectives of that zone, and given the potential for significant effects on the zone and loss of industrial land. Industrial locations also present poor travel options for

people if they wish or need to travel by modes other than by car, and therefore is not appropriate in terms of Objective 2.2.2.g

4.3.5 Activity status of food and beverage retail in CMU zones

473. *The Construction Industry and Developers Association's* (*CIDA*) broad submission touched on the activity status for "food and beverage retail" in the HE (OS997.108), SSYP (OS997.57), CEC (OS997.65) and Trade Related zones (OS997.74), as part of a large range of activities they sought to change from non-complying to discretionary. The reason given for this broad request was that the 2GP does not provide enough flexibility for activities and development in a financially viable way. We note that *CIDA* did not appear at the CMU hearing.

474. The Reporting Officer noted that each commercial zone identified in the 2GP has a different mix of activities provided for, reflecting the different types of commercial (and other) uses that have developed in each area over time, site specific factors such as ease of vehicle access and pedestrian amenity, built form, site size and the preferred amenity outcomes for particular sites (s42A Report, section 5.5.16, pp. 110-111).

475. The SSYP zone has a high proportion of residential use, with supermarkets nearby in the CBD Zone. The Harbourside Edge Zone is intended to provide a mixed-use environment with high amenity values. Dairies (which are permitted) are expected to provide the day-to-day needs for the local residents in both zones. Large supermarkets would be unlikely to meet the character and amenity expectations of these zones.

476. The CEC and Trade Related zones provide for specific categories of high traffic generating activities. Allowing small scale food and beverage activity may result in an increase in smaller speciality food retailers, such as butchers and greengrocers, which could, and should, be located within the centres in order to support their viability and vibrancy (s42A Report, section 5.5.16, p. 111).

4.3.5.1 Decisions and reasons

477. We note we have made general comments about *CIDA's* submission that the plan should be more flexible and that non-complying activities generally should be amended to discretionary in Section 4.1.2 of this decision.

478. In respect of food and beverage retail specifically, we consider that retaining non-complying activity status is appropriate for the reasons outlined by the Reporting Officer.

4.3.6 Ancillary activities

479. *Foodstuffs South Island Properties Ltd* (OS713.1) submitted that it was not clear whether the gross floor area specified for food and beverage activity includes the storage and warehousing area required to support the retail activity, and sought to add: "This definition includes any ancillary warehousing and storage facilities" to the definition of food and beverage retail.

480. The submitter considered that it would be nonsensical if these components were not counted when calculating whether a proposal is permitted under this rule, as both are required for food and beverage retail activities.

481. The Reporting Officer agreed that there was a lack of clarity in terms of what activities comprise 'food and beverage retail', and recommended adding a note after the Activity definitions heading highlighting that warehousing and other functions that form a normal ancillary part of the operation of the activity are included within the activity definitions (Section 42A Report, section 5.1.4, p. 31).

482. In a separate submission, *Foodstuffs* also sought (OS713.3) to permit ancillary offices and staff facilities within the Trade Related Zone. They noted that the lack of provision for these may have been an oversight, as the definition of 'industry' specifically includes such facilities. Office activities are currently non-complying.

483. The submission was supported by *Otago Land Group* (OS2149.12) and *Nichols Property Group and others* (FS2173.6), who note that these facilities are required to operate efficiently.

484. The Reporting Officer recommended that, to avoid confusion, a general statement is made within the definition sections that such ancillary activities are considered to be part of the land use activity definition (s42A Report, section 5.5.17, p. 113).

4.3.6.1 Decisions and reasons

485. We accept *Foodstuffs'* submission (OS713.1) that the inclusion of warehousing and storage in the gross floor area should be clarified. We note that in our decisions on the Plan Overview topic, we have added a definition of gross floor area to the Plan, to read:

> "*The total internal floor area used for the stated activity. This includes all normal parts of the activity, for example storage, warehousing, office and staff facilities*."

486. This clarifies that the 1,500m^2 gross floor area includes storage, warehousing and staff facilities, and addresses the submitter's concerns. We consequently accept their submission OS713.3 (to permit ancillary offices and staff facilities in the Trade Related Zone) in part.

487. We do not agree with the Reporting Officer's recommendation to apply a generalised statement to the definitions section, as we are concerned that it is likely this statement would be overlooked, particularly as people rely on 'pop-up' definitions (see also our discussion on this matter in relation to activities in the Harbourside Edge Zone in Section 4.2.1.2). However, we think there is merit is adding additional explanation to the definition of commercial activities. This would address *Foodstuffs'* concerns, as well as similar concerns raised by *the University of Otago* in relation to a lack of clarity as to whether various activities in the Harbourside Edge Zone include ancillary office activities (see Section 4.2.1.2). The explanation reads:

> "*For the sake of clarity, definitions in the commercial activities category include all normal parts of that activity, for example warehousing, staff offices and facilities, even when those activities might on their own meet another activity definition*."

488. We have therefore made the following amendments:

- amended the definition of commercial activities to add additional explanation (CMU 713.3)

489. This is shown in Appendix 1, attributed to CMU 713.3.

4.4 Request for Campus to be treated as a Centre

490. The *University of Otago* sought to make various amendments to objectives and policies to have the Campus Zone identified as a centre.

491. The *University of Otago* reasoned that the Campus Zone should be identified as a centre in Strategic Directions Objective 2.3.2 (OS308.58) and Strategic Directions Policy 2.3.2.1 (OS308.59) because this would recognise that the zone provides the functions identified in the objective. For similar reasons the *University* (OS308.70) also sought to widen Strategic Directions Objective 2.4.3. It was also submitted that recognising the Campus Zone as a centre would not weaken the CBD.

492. As an alternative, if these submissions were to be rejected, the *University* (OS308.60) sought to remove the references to decentralisation and restricting the distribution of retail and office from Strategic Directions Policy 2.3.2.2. This submission is supported by *Niblick Trust* (FS2247.1).

493. Furthermore, the *University* (OS308.294) sought to delete or revise Policy 18.2.1.3 to recognise that some retail and office activity is appropriately located in the Campus Zone. This was supported by the *Otago Regional Council* (FS2381.505).

494. While the Reporting Officer acknowledged the importance of the campus to the city, she noted that the campus was primarily used by University students and staff for study, research and as a workplace rather than functioning as a centre for the employment and retail needs of a catchment of the city. It is, therefore, not a centre in the sense of the centres hierarchy in Strategic Directions Objective 2.3.2 (or the normally accepted concept of a centre) (s42A Report, p. 37).

495. The Reporting Officer recommended rejecting the *University's* submissions on Strategic Directions Objective 2.3.2, Strategic Directions Policy 2.3.2.2, and Policy 18.2.1.3. A clarifying amendment was recommended for Policy 18.2.1.3, stating that the policy only applies in the CMU zones (s42A Report, section 5.3.1, p. 37).

496. The *University* tabled evidence from Mr Murray Brass noting the similarities between the campus area and the centres policies, and specifically the similarity of the provided services in the Albany Street Neighbourhood Centre (Statement of Evidence for *University of Otago*, p. 4). We note that the zoning of the Albany Street Neighbourhood Centre was separately submitted on and is discussed in Section 4.7.5. Our decision is to retain the Neighbourhood Centre zoning.

4.4.1 Decisions and reasons

497. We reject the *University of Otago's* submissions to amend the 2GP's provisions to identify the Campus as a centre, and the alternative relief sought to remove references to restrict the distribution of office and retail. The University campus does have some characteristics of a commercial centre, but it also has important differences and we accept the Reporting Officer's advice that it is best managed through specific provisions in the Plan.

498. We agree with the recommendation from the Reporting Officer to make a minor amendment to Policy 18.2.1.3, as shown in Appendix 1 (attributed to CMU 308.294). We note the topic of providing for office and retail activities as a permitted activity in the Campus Zone was discussed in more depth in the Major facilities Hearing. Our decision is to permit 'Campus-affiliated office activities' in the Campus Zone, which are office activities based on or supporting the research, development or innovation activities of the University of Otago, Otago Polytechnic, Dunedin Hospital or Otago Museum staff or students.

4.5 Submissions on objectives and policies wording

4.5.1 Policy 2.2.2.4.a - Location of commercial activities near travel options

499. Strategic Directions Policy 2.2.2.4.a reads:

> *"Support transport mode choices and reduced car dependency through rules that:*
>
> *a. require activities that attract a high number of users, including major retail areas, offices and community facilities, to locate where there are several convenient travel mode options, including private vehicles, public transport, cycling and walking; …"*

500. The *University* of *Otago* (OS308.482) and *BP, Mobil and Z Energy* (OS634.51) sought to change 'require' to 'encourage'.

501. The *University* noted that the transport modes in the vicinity of a development are outside the control of the developer, and improvements may occur as a consequence of development, rather than being available beforehand.

502. *BP, Mobil and Z Energy* commented that for some activities which attract high numbers of users, such as service stations and bulk retail, private vehicles rather than cycling or walking will remain the most practical access option. They also seek to add 'wherever practical' into the policy wording.

503. The Reporting Officer noted that Policy 2.2.2.4 describes the rules that restrict office activities and general retail areas outside the centres hierarchy (location in centres is seen, in general, to support access to multiple travel modes). As such, the word 'require' more accurately describes the rules as proposed than 'encourage' (s42A Report, section 5.4.1, p. 50).

504. The Reporting Officer considered that the *University's* concerns are more appropriately dealt with through a resource consenting process, because that would allow evidence from public transport providers to be considered. She did, however, recommend changes to the policy to ensure that activities which require vehicle use, such as service stations, are not captured by the policy (s42A Report, section 5.4.1, p. 50).

505. In tabled evidence from Ms Georgina McPherson, the *Oil Companies* sought additional changes to the wording, to clarify this further, whereby the policy would apply only to activities where users are able to use a range of travel modes (para 3.3).

506. Subsequently, discussions were undertaken between the submitter and the Reporting Officer, and resulted in a further refinement being recommended by the Reporting Officer, as below (Revised Recommendations, p. 2):

> *"Support transport mode choices and reduced car dependency through rules that:*
>
> *a. ~~require activities that attract high numbers of users, including, major retail areas, offices, and community facilities, to locate where there are several convenient travel mode options, including private vehicles, public transport, cycling and walking~~*
>
> *restrict the location of activities that attract high numbers of users (but excluding service stations), to where there are several convenient travel mode options, including private vehicles, public transport, cycling and walking;*
>
> *b. encourage new community facilities to locate where there are several convenient travel mode options, including private vehicles, public transport, cycling and walking, unless there are specific operational requirements that make this impracticable; …."*

4.5.1.1 Decisions and reasons

507. We agree there is merit in amending Policy 2.2.2.4.a and b. We have amended the wording of (a) that was proposed by the Reporting Officer slightly as shown below and in Appendix 1 (CMU 634.51). We therefore accept the *Oil Companies'* submissions in part:

> a. *"~~require activities that attract high numbers of users, including, major retail areas offices, and community facilities, to locate where there are several convenient travel mode options, including private vehicles, public transport, cycling and walking~~ restrict the location of activities that attract high numbers of users, and to which access by a range of travel modes is practicable, to where there are several convenient travel mode options, including private vehicles, public transport, cycling and walking;"*

4.5.2 Policy 2.2.4.2. - Encouraging housing in the central city and larger centres

508. Strategic Directions Policy 2.2.4.2 reads:

> *"'Encourage new residential housing development in the central city and larger centres, through:*
>
> *a. the use of mixed-use zoning that provides for residential development in the central city and centres; and*

b. rules that enable adaptive re-use of heritage buildings for apartments, including by exempting scheduled heritage buildings from minimum parking requirements."

509. *Ms Elizabeth Kerr* (OS743.60) sought a review of this policy, along with other Strategic Direction policies, to link it to zoning overlays and rule provisions for sustainable management of residential heritage and urban amenity. The concern is that the proposed areas of medium density housing will adversely affect Dunedin's residential heritage and townscape character.

510. The policy was supported by the *University of Otago* (OS308.484) and *Radio New Zealand* Limited (OS918.65).

511. We note that the issue of impact of medium density development on Dunedin's residential heritage and townscape character is dealt with in both the Residential and Heritage decision reports.

512. The Reporting Officer explained there are no density restrictions on residential activity within the commercial and mixed-use zones, so in that respect there is the potential for medium or high-density development. However, the bulk of the central city is protected under heritage precinct overlay zones and rules require that consent is obtained for demolition of buildings and construction of new buildings, to ensure that heritage values are maintained (s42A Report, section 5.4.2, p. 51). Rules encourage re-use of heritage buildings; however, work visible from a public place must be undertaken in a way that maintains heritage values.

513. She did, however, recommend a minor amendment to Policy 2.2.4.2 to make it clearer:

"Encourage new residential housing development in the central city and larger centres, through <u>rules that</u>:

a. ~~the use of mixed-use zoning~~ ~~that~~ provide~~s~~ for residential development in the central city and centres; and

b. ~~rules that~~ enable adaptive re-use of heritage buildings for apartments, including by exempting scheduled heritage buildings from minimum parking requirements."

4.5.2.1 Decisions and reasons

514. We reject *Ms Kerr's* submission as we consider that the policy effectively provides a link between allowing residential development and protection of heritage.

515. However, we agree with the Reporting Officer's proposed minor amendment to the policy to improve its clarity, and we make this amendment under cl. 16 of the First Schedule to the RMA (see Appendix 1).

4.5.3 Objective 2.4.3: Vibrant CBD and centres

516. Objective 2.4.3 in the strategic direction section of the 2GP is:

"Dunedin's Central Business District and hierarchy of urban and rural centres are vibrant, attractive and enjoyable spaces that are renowned nationally and internationally for providing the highest level of pedestrian experience that attracts visitors, residents and businesses to Dunedin."

517. This objective is achieved through various policies including those that direct land use and development performance standards, as well as restrictions on where various activities (for example, service stations and drive-through restaurants) can locate.

518. A number of submitters supported the objective as notified: *Southern Heritage Trust* and *City Rise Up* (OS293.69), *Rosemary and Malcolm McQueen* (OS299.113), *John and Clare Pascoe* (OS444.37) and *New Zealand Transport Agency* (OS881.36).

519. *The Property Council* (OS317.39), supported by *Otago Land Group* (FS2149.27) and *Nichols Land Group and others* (FS2173.2), sought to amend the Strategic Direction 2.4 so that it was not overly prescriptive in terms of maintaining a compact city.

520. The Reporting Officer did not recommend any changes be made to Objective 2.4.3 or Strategic Direction 2.4 on the basis that it was unclear what changes, if any, were sought by *The Property Council* (s42A Report, section 5.4.3, p. 53).

521. The Property Council did not appear.

4.5.3.1 Decisions and reasons

522. We reject the *Property Council's* submission, and retain the objective as notified, as the submitter did not provide enough detail about what amendments were required and there was no evidence provided by them or other parties to support an amendment.

4.5.4 Policy 2.4.3.4

523. Strategic Directions Policy 2.4.3.4 reads:

> *"Maintain or enhance the vibrancy and density of activity in the CBD and centres through rules that restrict the distribution of retail and office activity."*

524. The *University of Otago* (OS308.71) sought the removal of Policy 2.4.3.4 as it effectively restates Policy 2.3.2.2.

525. The Reporting Officer agreed that Policy 2.4.3.4 is very similar to Policy 2.3.2.2 but noted that it sits under a different objective. The 2GP is required to identify the most appropriate provisions for achieving an objective. These provisions were considered appropriate for achieving both objectives 2.4.3 and 2.3.2, hence it is appropriate to include them against both objectives. She recommended that the submission was rejected (s42A Report, section 5.3.4, p. 44).

4.5.4.1 Decisions and reasons

526. We reject the submission of the *University of Otago* to remove Policy 2.4.3.4 for the reasons outlined by the Reporting Officer. We accept that it is very similar to Policy 2.3.2.2, but it is important that someone reading an objective can follow the policies flowing from that objective, without having to consider policies under another objective.

4.5.5 Suggested new strategic direction - a strong, vibrant, compact and functional central city

527. *Mr Robert Tongue* (OS452.1), supported by Mr *Robert Wyber* (FS2059.8), sought to add a new strategic direction, along with associated policies and rules, as follows:

> *"Dunedin has a strong, vibrant, compact and functional central city that is easily accessible and is a pleasant place for people to be."*

528. The submitter's reasoning was that the central city is important and requires its own strategic direction that integrates the various policies in one section of the plan. Significant policies that need to be integrated include attractions - a reason to go to town; access - the ability for all to get there quickly and easily by whatever means of travel they choose; and amenity - a pleasant place to be, compact and walkable.

529. The Reporting Officer did not see any particular benefit from making this change, as the matters raised by the submitters were adequately covered in the strategic directions already. She believed that the central city was not the only centre that needed to be a pleasant place for people, as other centres also have an important role for surrounding communities and visitors alike. She considered that the importance of the CBD at the top of the centres hierarchy was reflected in its separate identification in Policy

2.3.2.1.a, and the use of the phrasing 'CBD and centres' in other policies (s42A Report, section 5.4.5, p. 56).

530. *Mr Tongue* appeared and submitted in support of a clear statement in the Strategic Directions that the CBD is strong and vibrant. He considered that George Street at present was failing.

531. *Mr Wyber* also appeared and re-iterated the detail of his submission. This has been discussed earlier in relation to the discussion on retail and office distribution in the central city (section 4.1.3). A key part of his submission was to make all changes necessary to reinforce that Dunedin's strongest and most important retail land pedestrian core is located along George St, the Octagon, Lower Stuart Street and Princes Street as far as the Exchange.

4.5.5.1 Decisions and reasons

532. We agree in part with the submitters and consider that Objective 2.4.3 should be reworded to provide greater emphasis on the CBD. Our preferred wording is:

> *"Dunedin's Central Business District ~~and hierarchy of urban and rural centres are~~ is a strong, vibrant, attractive and enjoyable space~~s~~ that ~~are~~ is renowned nationally and internationally for providing the highest level of pedestrian experience that attracts visitors, residents and businesses to Dunedin. It is supported by a hierarchy of attractive urban and rural centres."*

533. This amendment is shown in Appendix 1 and attributed to submission reference CMU 452.1.

4.5.6 Policy 18.2.1.1

534. Policy 18.2.1.1 is to:

> *"Provide for a wide range of commercial, residential and community activities in the CBD and all centre zones in order to encourage vibrant and viable centres"*

535. The *Property Council NZ* (OS317.25) sought to add 'economic and socially' before 'vibrant' in the policy, noting that although they supported the provision, they wanted to see a focus on economic factors as well.

536. The Reporting Officer agreed that the addition would assist in clarifying the policy and recommended that the submission be accepted (s42A Report, section 5.3.6, pp. 46 – 47).

4.5.6.1 Decisions and reasons

537. We accept the *Property Council NZ's* submission and have amended Policy 18.2.1.1 as requested. See Appendix 1, amendment attributed to submission point CMU 317.25.

4.5.7 Policy 18.2.1.15 - Service stations, drive-through restaurants and yard retail

538. Policy 18.2.1.15 is to:

> *"Avoid service stations, drive-through restaurants and yard based retail in the CBD, Smith Street York Place, Harbourside Edge and Warehouse Precinct zones, except where:*
>
> *a. they are designed and located to meet the built form expectations of the zone, as set out in the development activities performance standards;*
>
> *b. any drive-through components will not be accessed or visible from the primary pedestrian street frontage (see Policy 18.2.3.11); and*

c. there are no, or only insignificant, adverse effects on streetscape and pedestrian amenity from vehicle movements."

539. *The Property Council* (OS317.28) supported the policy's intention, but sought to delete clauses (a) and (b) because of their prescriptiveness which, it was submitted, would significantly impact development viability. This was supported by *Otago Land Group* (FS2149.26) and *Nichols Property Group and others* (FS2173.1); and opposed by *Tony MacColl* (FS2189.1) due to amenity concerns.

540. *The Oil Companies* (OS634.35) suggested deleting the policy because it was unduly onerous; and point (b) was duplicated in Policy 18.2.3.11 and was therefore unnecessary.

541. *Tony MacColl* (OS98.6) sought to have the following clause added to the policy:

"d. there are no, or only insignificant, adverse effects on existing residential activities within the SSYP zone".

542. The Reporting Officer noted that Policy 18.2.1.15 was unusual in that it touched on amenity issues that are covered under other objectives (with Objective 18.2.3 being the objective that is primarily focused on amenity) (s42A Report, section 5.5.3, pp. 59 – 60). She noted that under that objective there was another policy, Policy 18.2.3.9, which reads:

"*Avoid land use activities (including stand-alone car parking) that require buildings or site design that is incompatible with:*

a. the high level of pedestrian streetscape amenity expected for the location in a primary pedestrian street frontage and secondary pedestrian street frontage; and

b. *the higher level of urban neighbourhood amenity anticipated in the HE, SSYP and WP zones."*

543. Consequently, she recommended deleting Policy 18.2.1.15 because the matters are already covered in Policy 18.2.3.9.

544. In response to the *Oil Companies*' submission, the Reporting Officer's view was that as service stations are non-complying activities within the listed zones, a policy explanation is appropriate. This can be achieved under Policy 18.2.3.9 (s42A Report, section 5.5.3, p. 60).

545. With regard to *Mr MacColl's* request to add an additional clause, the Reporting Officer noted that the matter of concern is covered by Policy 18.2.2.4. However, neither Policy 18.2.2.4 or Policy 18.2.3.9 are correctly referenced in the assessment rules, and an amendment to assessment Rule 18.12.3.5 is required to rectify this (s42A Report, section 5.5.3, p. 60).

4.5.7.1 Decisions and reasons

546. We reject the submissions from the *Property Council* and the *Oil Companies* to delete Policy 18.2.1.15, as it is important that policy guidance is provided to explain the link between the objective and the rule, and to guide assessment of applications where there are unusual circumstances which could justify consent to these non-complying activities.

547. We also reject the submission from *Tony MacColl* to add a reference to the Smith Street York Place Zone, as this matter is already covered by Policy 18.2.2.4, as explained by the Reporting Officer.

548. We agree with the *Oil Companies* (OS634.35) and the Reporting Officer that the duplication between policies 18.2.1.15 and 18.2.3.11 should be removed, but have chosen to delete Policy 18.2.3.11 instead as this has a narrower focus. This deletion

requires consequential changes to the assessment rule for service stations and restaurant drive-throughs (Rule 18.12.3.5) to delete the reference to 18.2.3.11 (the rule already refers to Policy 18.2.3.15), and to 18.11.3.4 to replace the reference to Policy 18.2.3.11 with a reference to Policy 18.2.1.15.b.

549. To summarise, amendments have been made as follows (attributed to CMU 634.35):

- delete Policy 18.2.3.11
- amend Rule 18.12.3.5 to refer to Policy 18.2.3.9 and Policy 18.2.2.4
- amend Rule 18.11.3.4 to replace the reference to Policy 18.2.3.11 with a reference to 18.2.1.15.b; and
- amend Policy 18.2.1.15.b to remove reference to Policy 18.2.3.11.

550. We also note another minor correction that we have made under cl. 16. The assessment rule for non-compliance of the performance standard for new vehicle accessways in a primary pedestrian frontage (Rule 18.6.15.b) is incorrectly placed in Rule 18.12.4 (assessment of non-complying development activities), when it should actually be located within Rule 18.12.5 (assessment of non-complying performance standard contraventions).

4.5.8 Policy 18.2.2.4 – restaurants drive-through and service stations

551. Policy 18.2.2.4 is to:

> *"Only allow restaurants – drive-through and service stations in zones that provide for residential activity or on sites adjoining a residential zone, where any adverse effects on the amenity of residential activities can be avoided or, if avoidance is not possible, adequately mitigated."*

552. *The Oil Companies* (OS634.36) sought to delete the policy as service stations were commonly located in Residential zones, their effects could be appropriately avoided, remedied or mitigated. It considered that there is no effects based reason to require avoidance of effects in the first instance, and that this approach is out of proportion with the nature and scale of effects generated by service station activities. This submission was supported by *Nichols Property Group and others* (FS2173.4).

553. The Reporting Officer considered that it is appropriate that effects on residential amenity are considered and that Policy 18.2.2.4 is retained. Siting of service stations within the commercial areas should be managed to avoid neighbouring residential activity where possible, and where this is not possible, effects should be mitigated (s42A Report, section 5.5.6, p. 63).

554. The *Oil Companies* filed a statement from Ms Georgina McPherson, advising that although the submitter did not oppose the proposed changes in principle, they sought different policy wording. Ms McPherson was of the view that the requirement to completely avoid adverse effects on residential amenity in the first instance was inappropriate as the zone provides for commercial activities, and therefore properly has a different level of amenity compared to residential zones. Furthermore, service stations' effects on adjoining residential amenity have previously been appropriately managed. The submitter urged us to reject the recommendation, or alternatively, amend the policy to require appropriate measures to be taken to ensure compatibility with existing adjoining residential amenity (para 5.5 to 5.10).

555. Following discussion with the submitter, the Reporting Officer suggested amended wording in her revised recommendations (p. 2):

> *"Only allow restaurants drive-through and service stations in commercial and mixed-use zones ~~that provide for residential activity or on sites adjoining a residential zone,~~ where ~~any~~ significant adverse effects on the amenity of existing*

residential activities ~~can be~~ are avoided or mitigated as far as practicable ~~if avoidance is not possible, adequately mitigated~~."

4.5.8.1 Decisions and reasons

556. We accept the *Oil Companies* submission in part, and accept the Reporting Officer's recommendation to retain, but amend, Policy 18.2.2.4 to address their concerns.

557. We also note that we have amended the activity status of service stations in several commercial and mixed-use zones, from discretionary to restricted discretionary (see the Cross Plan decision). Consequently, and in light of the focus of Policy 18.2.2.4, it is appropriate to amend the matters to which discretion is restricted in assessment rule 18.10.2.1, to include 'effects on residential amenity', with Objective 18.2.2 and Policy 18.2.2.4 as relevant objectives and policies to be considered.

558. The changes we have made are therefore:

- an amendment to Policy 18.2.2.4 as shown above
- a consequential change to Rule 18.11.3.4 to reflect the amended wording of Policy 18.2.2.4
- an amendment to the assessment rule for high trip generating activities in certain zones (Rule 18.10.2.1) to add an additional matter of discretion 'effects on residential amenity' and refer to Objective 18.2.2 and Policy 18.2.2.4 as relevant considerations.

559. These are shown in Appendix 1 (see submission point CMU 634.36).

4.5.9 Changes to wording of policies resulting from Plan Overview decision

560. A number of policies were not submitted on, but we have made changes as a result of submissions considered in the Plan Overview decision. These are: Objective 18.2.2, Policy 18.2.2.7, Policy 18.2.2.9 and Policy 18.2.3.10, and associated assessment rules.

561. We also note that Policy 18.2.1.10 duplicates Policy 18.2.2.9. It is not necessary to have both policies, so we have deleted Policy 18.2.1.10 as a clause 16 change. A consequential amendment is required to the assessment rule for discretionary ancillary licensed premises (Rule 18.11.3.1) to refer to Policy 18.2.2.9 rather than 18.2.1.10.

4.6 Performance standards

562. Performance standards generally apply to permitted activities and set limits on the activity to ensure that effects are minor.

4.6.1 Rule 18.5.4.1 Location of activities with pedestrian street frontages

563. The performance standard for Location (Rule 18.5.4.1) limits the activities that are permitted on the ground floor of buildings facing the street within primary and secondary pedestrian street frontage mapped areas. Within primary pedestrian street frontage areas, only retail, restaurants and entertainment and exhibition activities may be located on the ground floor of buildings facing the street. Within secondary pedestrian street frontage areas, residential activities may not be located on the ground floor. This rule is to ensure a high level of pedestrian amenity through active street frontages, and derives from policies 18.2.3.2 and 18.2.3.3.

564. *Mr Robert Wyber* (OS394.92) and (OS394.34) sought to remove the requirements in primary pedestrian street frontages in order to encourage residential and visitor accommodation, offices and technical space.

565. *Mr Wyber* also sought (OS394.35) to permit multi-story apartment buildings on Filleul Street, as this would be better than car parks, empty buildings and loading zones. We also note he submitted to increase the height limit on Filleul Street to enable this. We discuss this submission in Section 4.6.7 of this report and our decision is to retain the height limit at 16m.

566. The submissions (OS394.34) and (OS394.35) were opposed by *Sergio Salis and Chris Robertson* (FS2348.3) and (FS2348.1).

567. *Michael Ovens* (OS740.17) sought to remove Rule 18.5.4.1 due to the restrictiveness of the provision.

568. Mr Christos, DCC Urban Designer, provided expert evidence on this matter. He considered it important to retain commercial/retail activity on the ground level within the CBD and centres to encourage vibrancy and activity at the street, and that this would be difficult to achieve with residential activity at street level, where privacy and controlled entrances shape the interface (Statement of Evidence for the DCC, para 4.6).

569. The Reporting Officer considered that although there may be circumstances when it is appropriate for residential uses to locate on the ground floor, this was best considered on a case by case basis through the resource consent process. She therefore recommended that the rule be retained (s42A Report, section 5.7.3, p. 145).

570. We refer back also to Mr Munro's evidence (see section 4.1.1) on the importance of activation of important pedestrian street frontages within centres, to maintain a pleasant environment for pedestrian and promote them staying longer.

571. *Michael Ovens* tabled a statement submitting that the "ban on residential activities" was not practical as there may be no other use for sites at ground level, and the low demand for commercial buildings will be exacerbated by increasing the dispersal of such activities across the city.

572. The Reporting Officer did not add anything further in her revised recommendations.

4.6.1.1 Decisions and reasons

573. We reject the submissions of *Mr Wyber* and *Mr Ovens*. We accept the evidence of Mr Christos that managing activities at the ground floor of buildings to encourage activity and activation is important and appropriate for the plan's objectives related to having vibrant centres. We note as well that *Mr Ovens* is incorrect in characterising the rule as a 'ban' as the rule merely triggers a consent requirement for a restricted discretionary activity, so consent can be granted where adverse effects can be appropriately managed in line with the plan's objectives and policies.

574. In relation to *Mr Wyber's* request to allow multi-story apartment buildings on Filleul Street we note that buildings are permitted up to 4 storeys in this zone so the plan does provide for the 2nd-4th floors being occupied by apartments.

4.6.2 Rule 18.5.5.3 Retail ancillary to industry

575. The performance standard for maximum gross floor area for retail ancillary to industry (Rule 18.5.5.3) restricts the size of 'retail ancillary activity' to 10% of the gross floor area of the industrial activity. It applies to zones in the Warehouse Precinct, Princes Parry and Harrow, Harbourside Edge, CEC and Trade Related zones as these zones have restrictions on the retail allowed but provide for retail ancillary to industry as a permitted activity. The same rule applies within the industrial zones (Rule 19.5.5).

576. *Capri Enterprises Ltd* (OS899.8) sought the removal of this performance standard within the CEC Zone, submitting that it was unnecessarily restrictive and may adversely affect investment in commercial areas. The s42A Report did not contain a recommendation on this submission point.

577. *Calder Stewart* (OS930.11) sought to amend Rule 19.5.5 to exempt retail sales that are primarily designed to service trade related business activities from the 10% floor

area limit. The submission noted that the rule is not efficient and should be targeted at retail sales to the general public, rather than retail sales that are directly linked with trade business activities. This point was heard in the Industrial hearing.

578. Ms Megan Justice, consultant planner, provided planning evidence in support of *Capri's* submission. She considered that as items manufactured on-site are limited, any retail floor area enabled will also be limited. Therefore, not having a maximum floor area would not draw retail activity away from the CBD.

579. In her opening statement, the Reporting Officer said she did not agree that the retail floor area would always be limited and considered there is the potential for greater retail development. She noted that exceeding the threshold leads to a restricted discretionary activity status, which must consider effects on the vibrancy, and economic and social success of CBD and centres. She considered this to be appropriate and reasonable (Opening Statement, p. 11).

580. The Reporting Officer in the Industrial hearing, Mr Rawson, recommended that the submission point by *Calder Stewart Development Limited* (OS930.11) be rejected because he considered a larger proportion of retail activity on a site has the potential to have adverse effects on the vibrancy and viability of the CBD and other centres, and to undermine the economic viability of industrial activity. He also noted that as the 10% threshold for retail ancillary to industry activity is in the operative plan, it is familiar to industrial landowners, and has not caused significant problems (Industrial s42A Report, section 5.36, p. 70).

581. In her Revised Recommendations, the CMU Hearing Reporting Officer noted that 'industry' is widely defined and includes distribution activities. There is the potential that goods being distributed could be sold under this rule. She therefore proposed that the term 'retail ancillary to industry' is defined, to limit its application to products manufactured on-site or associated with the repair of vehicles and machinery undertaken on site. The wording proposed was:

> *"Retail sales of goods and materials manufactured or processed on site, or associated with the repair of vehicles and machinery undertaken on site."*

582. We note, however, that there is no scope to make this amendment.

4.6.2.1 Decisions and reasons

583. We reject the submissions of *Capri Enterprises Ltd* and *Calder Stewart* to remove or amend the performance standard. We accept the evidence of the Reporting Officers that it is more appropriate and effective in terms of the Plan's objectives to retain it. We were not persuaded by Ms Justice that being ancillary to industry was adequate to manage the potential adverse effects of drawing retail activity away from the centres, particularly given the broad definition of industry. As there is no scope to constrain the range of what may be sold from industrial activities (including distribution activities), it is necessary to retain a floorspace limit. We note that the limit of 10% of gross floorspace provides considerable opportunity for ancillary retail activity.

584. We recommend that the Council monitors retail activity ancillary to industrial activities, bearing in mind the clear policy of consolidating retail activities in commercial centres. If monitoring shows that retailing provided for by this rule is undermining that policy, a plan change could be considered. One option to constrain retailing would be a new definition such as that suggested by the CMU Reporting Officer.

4.6.3 Residential amenity in the SSYP Zone: Policy 18.2.2.3 and associated performance standards

585. Policy 18.2.2.3 reads:

> "*Require development to maintain the amenity of adjoining residential, school and recreation zoned sites by:*

a. *requiring buildings to be of a height in relation to boundaries and setback from side boundaries that maintains a reasonable level of sunlight access to adjoining residential and recreation zoned sites; and*

b. *require fencing along property boundaries which adjoin residential or school zoned properties to provide screening for the purposes of privacy and security*."

586. *Tony MacColl* (OS98.8) sought to amend the wording of Policy 18.2.2.3 to maintain amenity for existing residential activities within the SSYP Zone, not just adjoining residentially zoned properties. He also requested that Rule 18.6.6.1.a.i (Height in relation to boundary performance standard) also applies to buildings adjoining existing dwellings within the SSYP Zone, as the amenity of existing residential activities within the zone needs to be maintained (OS98.11).

587. As Policy 18.2.2.3 is achieved through performance standards rules 18.6.6.1 (Height in Relation to Boundary), 18.6.17.2 (Setbacks) and 18.6.1.5 (Boundary Treatments), we have interpreted the submission on the basis that it is seeking amendments to these performance standards as well.

588. Mr Christos gave evidence on the zone's residential amenity and concluded that additional setback and fencing requirements for commercial activities establishing adjacent to existing residential development had merit. However, the existing character and built form needed to be considered and overly constraining rules should be avoided (Statement of Evidence for DCC, p. 7).

589. Mr Christos suggested the following changes to address the submitter's concerns (Amendment to Expert Evidence, pp. 1-2):

- Amend Rule 18.6.1.5 – Boundary Treatments and other Landscaping, so that it also applies where new development and alterations adjoin an existing residential dwelling in the SSYP Zone.

- Amend Rule 18.6.6.1 - Height in Relation to Boundary, so that the rule that applies to the boundary with the Inner City Residential Zone also applies to new buildings and additions and alterations within the zone, where they adjoin an existing residential dwelling.

- Amend Rule 18.6.17.2 - Setback from Boundaries of Residential or Recreation zoned sites, such that new buildings and additions or alterations to buildings that adjoin an existing residential dwelling within the SSYP Zone, must be set back 1m minimum from the side boundary within 13m of the front boundary, and thereafter are set back 2m minimum from the side and rear boundary.

590. Mr Christos considered that the amendment to Rule 18.6.17.2 would not be unduly onerous on future development, would avoid excessively wide side yard setbacks at the street, and would provide reasonable solar access to the back of existing residential dwellings. It would provide a similar level of privacy and amenity as can be expected within the Inner City Residential Zone.

591. The Reporting Officer provided amended rule wording in her opening statement to implement these recommendations (Opening Statement, p. 16-17).

4.6.3.1 Decisions and reasons

592. We reject *Mr MacColl's* submission to protect existing residential dwellings in the Smith Street York Place Zone. Although we acknowledge its residential zoning under the operative plan, the new SSYP zoning is intended to allow the area to transition to a more highly developed mixed-use area.

593. We have therefore made no amendments in relation to this submission.

594. However, we have made the following amendments under clause 16:

- amendments to Policy 18.2.2.3, and creation of a new policy under Objective 18.2.2 to more explicitly specify which performance standards the policy relates to. Policy 18.2.2.3 is now focussed on breaches of the height in relation to boundary and setback rules, and the new policy focuses on the fencing performance standard;

- some additional amendments to Rule 18.6.6.1 to refer the reader to the identical rule in the residential and recreation sections. This is to avoid duplication within the plan.

4.6.4 Rules 18.6.1 and 18.6.9: Boundary treatments and landscaping requirements

595. The performance standard for boundary treatments and other landscaping (Rule 18.6.1) specifies a landscaping strip is provided along certain boundaries, and details the requirements of that landscaping. The following clauses are relevant to submissions:

1. *"A landscaping area with a minimum width of 1.5m must be provided along the full length of any street frontage boundary that does not have a building within 1.5m of that boundary (except for where vehicle access is provided).*

2. *Landscaping areas must:*

    a. *be planted with a mix of trees and shrubs and/or ground cover plants that achieves a total coverage of the ground area in planting (when mature), except for 10% of the area, which may be used for pedestrian paths;*

    b. *have an average of one tree for every 5m of frontage;*

    c. *not have more than 10% cover in impermeable surfaces (for pedestrian paths);*

    d. *be designed to allow surface water run-off from surrounding areas to enter;*

    e. *be protected by a physical barrier that prevents cars from accidentally driving into or damaging plants;*

    f. *for required trees, use trees that are at least 1.5m high at the time of planting and capable of growing to a height of 5m within 10 years of planting;*

    g. *be planted prior to occupation or completion of any relevant building(s) or site development; and*

    h. *be maintained to a high standard, which means trees and under-planting are healthy and areas are regularly cleared of rubbish and weeds.*

3. *Any road boundary fences provided must be placed on the property side of any required road frontage landscaping.*

4. *Within any parking areas greater than 200m² (excluding loading areas), a minimum of 1m² of additional landscaped area must be provided for every parking space, with an average of one tree per 10m² of landscaping. This standard does not apply to sites used for yard based retail or sites with a street frontage of 12m or less."*

596. Rule 18.6.9 is concerned with location and screening of car parking, and references Rule 18.6.1:

> 1. *"Any parking areas (including stand-alone car parking) on a site within a heritage precinct (except View Street Heritage Precinct) or that contains a **primary pedestrian street frontage**, must locate behind or within a building that meets Rule 18.5.4.1.*
>
> 2. *In all other locations, any parking areas (including stand-alone car parking) on a site must be either located behind or within a building, or separated from the street frontage by a minimum 1.5m wide landscaping strip that meets Rule 18.6.1.*
>
> 3. *Parking areas that contravene this performance standard are a non-complying activity."*

597. *Nichols Property Group Limited* (OS271.5) and (OS271.9), *Otago Land Group Limited* (OS551.6) and (OS551.19), and the *Property Council New Zealand* (OS317.29) and (OS317.33) sought to delete rules 18.6.1.1, 18.6.1.2, 18.6.1.3 and 18.6.1.4 and 18.6.9.2. The submitters argued they were too prescriptive and impracticable. For example, requiring total plant coverage of ground area is impossible when 5m high trees are located at 5m intervals. Furthermore, the submitter felt the level of landscaping required is unnecessary in commercial areas.

598. *Nichol's* submission (OS271.5) was supported by the *Oil Companies* (FS2487.60) as far as it related to service stations; with a particular concern being the impact of trees on public safety and on underground infrastructure. *Progressive Enterprises* supported *Nichols* and *Otago Land Group's* submissions (FS2051.9, 11).

599. *Scenic Circle Ltd* (OS896.16) requested that Rule 18.6.1 was amended so it did not apply to development in the CBD Zone, due to concerns around shading, litter, and vandalism. The *Otago Chamber of Commerce Incorporated* (OS1028.1) sought to amend Rule 18.6.1 so that retail activities do not have to provide landscaping. No specific reasons were given.

600. *Progressive Enterprises* (OS877.34) and (OS877.6) sought to amend Rule 18.6.1 to require 1m² of landscaping for every five parking spaces, rather than for every one. It also sought an amendment to Rule 18.6.1.2.b to require an average of one tree per 10m of frontage, rather than one per 5m.

601. Mr Christos, DCC Urban Designer, gave evidence was that where buildings in commercial areas are not built to the street frontage, landscape treatments offer improved visual amenity and can be designed to meet the functional requirements of sites. Technology was available to deal specifically with problems associated with underground services and stormwater control. Planting design could deal with variable site conditions, including shade, run-off and preservation of sight lines (Statement of Evidence for the *DCC*, p. 5).

602. In response to specific concerns raised by submitters, he considered that trees could be successfully established and under-planted at 5m intervals, referring to the Great King Street Countdown supermarket car park as a successful example.

603. In relation to the number of trees required in car parks, Mr Christos noted that as a car park space is about $10m^2$, Rule 18.6.1.4 essentially means that one out of 11 car parks must be provided for landscaping. He concluded that to mitigate the negative visual effects of large hard surfacing, landscaping needs to be sufficiently frequent and sizable, and that the proposed rule provides this to a reasonable level.

604. Based on this evidence, the Reporting Officer recommended retaining both Rule 18.6.1 and 18.6.9.2 (s42A Report, section 5.7.5, p. 151).

605. She further noted that the requirement in the 2GP for a landscaping strip will result in significantly improved streetscape amenity compared to the alternative, which is having car parks up to the footpath with no screening or landscaping strip. There is benefit to

all from requiring landscaping, even in the commercial zones outside the central city. The difference that landscaping strips make can be seen when comparing the frontage of Mitre 10 Mega's car park, with nearby car yards that have (display) parking up to the footpath with no amenity strip. Given the obvious amenity benefits and the fact that the standard is not particularly onerous, she recommended that Rule 18.6.9 be retained (s42A Report, section 5.7.14, p. 171).

606. *Scenic Circle* called Megan Justice to provide planning evidence in support of their submission. Ms Justice considered that a variety of landscaping treatments in the CBD should be permissible, and in some cases hard surfacing would result in better environmental outcomes. Rather than being prescribed, the options, should be determined at the time by the developer.

607. Ms McPherson, who provided planning evidence in support of the *Oil Companies* submission, considered the requirement for one tree per 5m was unduly onerous, and would obscure views. She noted that the purpose of landscaping was to define the street edge rather than provide screening. The submitters' preference was for one tree per 10m, noting that this was common in other plans (Statement of Evidence for *the Oil Companies*, p. 8 and 14).

608. In her opening statement, the Reporting Officer responded to Ms Justice's evidence by stating that if alternative landscaping options are preferred, a restricted discretionary consent could be obtained to achieve this. The risk of removing rules 18.6.1 and 18.6.9.1 is that there would be no consideration of streetscape amenity, which could result in blank expanses of fence, or areas of car parking, against the road frontage (Opening Statement, p. 11).

609. *Progressive Enterprises* called Mr Knott, consultant urban designer and town planner, to provide urban design evidence. Mr Knott spoke specifically in relation to supermarket sites. He considered that the requirement for landscaping and trees on the boundary (Rule 18.6.1.2) is appropriate to provide some containment to a site, but this should not be at the expense of allowing views into the car park. Trees at 5m intervals had the potential to create safety issues, and it would be more appropriate to encourage fewer, larger trees, with lower planting beneath them (Statement of Evidence, p. 8).

610. In relation to the requirement for landscaping within the car park, Mr Knott interpreted this requirement as requiring additional boundary landscaping. He calculated that in Countdown Central, the requirement would result in the need for a 3.9m wide landscape strip along the site frontage. This would be inappropriate, detracting from the Cumberland Street environment and providing a space which is out of keeping with the otherwise urban landscape. He was of the opinion that this could result in a very deep landscaping strip, which could appear out of keeping with the otherwise urban environment (Statement of Evidence, p. 9).

611. Mr Munro, consultant urban designer and planner, appeared for the DCC, and argued strongly for the importance of high levels of pedestrian amenity to ensure the streets are destinations for pedestrians to linger, as a key feature of the centres-based approach (Statement of Summary Given at Hearing, para 1.5). He also argued that road frontage controls for a supermarket (such as landscaping requirements) communicate to consent applicants that these matters are important. In his experience, applicants either seek to achieve compliance or focus effort on getting an outcome as close to the standard as possible (Statement of Summary Given at Hearing, para 1.20).

4.6.4.1 Decisions and reasons

612. We reject the submissions to remove Rule 18.6.1 and Rule 18.6.9.2. From our observations of car parks and sites mentioned during the hearing, and others, landscaping is an important means of providing the high amenity sought by relevant objectives and policies. In relation to the CBD Zone, it is unusual for buildings not to be built within 1.5 metres of the frontage so the rule will not normally be relevant. However, if sites are left open - perhaps pending a major redevelopment - interim use as a carpark or something else should be landscaped.

613. We have considered the concerns raised about the various elements of the standards. While they are, like many standards, somewhat arbitrary there is plenty of scope with standards like this for good design. For example, while we accept Mr Knott's point that a complying landscape design could block views into a carpark, we would not expect any responsible designer to do that. Alternatives to meeting any of the standards can be sought as a restricted discretionary activity, and given the clear guidance on what the landscaping is intended to achieve, we are satisfied that good design will not be unnecessarily constrained.

614. We accept that service stations have particular traffic layout requirements - in particular wide entrances and exits. The rule is not based on the total length of frontage however, so this simply means service stations have a lesser frontage where the rule applies. As in the case of supermarkets, in areas where landscaping is required, there is scope within the rule for design to meet the needs of service stations, and further variation can be approved as a restricted discretionary activity.

615. Mr Knott questioned the requirement for additional landscaping based on the number of carparks because he envisaged this leading to very wide perimeter landscaping. We gather the intention is that this planting would be primarily within big carparks rather than around the perimeter. Ideally the rule would require this, but there is no scope to make that change.

616. We also note a minor correction we have made to Rule 18.6.1.1, to refer to 'road boundary' rather than 'street frontage boundary' as this is the terminology generally used in the Plan. We make these changes under cl 16. They are shown in Appendix 1.

4.6.5 Rule 18.6.9 Location and screening of car parking

617. *Progressive Enterprises* (OS877.7) sought to exempt supermarkets from the location and screening of car parking performance standard (Rule 18.6.9), for operational and functional reasons, as it considered no existing Dunedin supermarket could comply with the rule.

618. The Reporting Officer noted that Rule 18.6.9 only applies within primary pedestrian frontage areas or heritage precincts. These apply to the CBD and Centres zones, and aim to retain a high standard of pedestrian amenity. The rule ties in with the setbacks performance standard (Rule 18.6.17.1) that requires that buildings must be built to within 400mm of the road boundary along primary pedestrian frontages, for the entire length of the frontage. It also links to the location performance standard (Rule 18.5.4.1) which requires activities with high public interaction on the ground floor. She saw no reason why supermarkets locating within these areas should not meet these requirements, as all other businesses must.

619. She also noted that during plan consultation, *Progressive* provided a copy of the North Shore Provisions of the Auckland District Plan (Section 15A Urban Design Code), as a recommended approach to car parking standards. These provisions are detailed in the s42A Report and the Reporting Officer was of the opinion that the proposed 2GP provisions aim to achieve similar outcomes, through rules 18.6.17.1 and 18.6.9 (s42A Report, section 5.7.14, p. 171).

620. Mr Knott expanded on *Progressive's* submission in his pre-circulated evidence, stating that requiring a car park to be located behind a supermarket building would result in crime and security concerns, would not meet operational requirements, which could lead to a store underperforming. The operational requirements referred to include the need to have a large car park, safe routes for delivery vehicles, and large service areas (usually at the rear). *Progressive* also seek parking in view of the store entrance (statement of Evidence for *Progressive*, pp. 5–7, & 15).

621. Mr Foster disagreed with the Reporting Officer's comments that the proposed 2GP provisions reflect the North Shore landscaping provisions, as the Council had made very arbitrary use of the proposed 'primary pedestrian street' and 'secondary street frontage' controls. Mr Foster considered that the rule should be re-drafted to more closely match the North Shore requirements for 'town centre edges' because, as a general rule,

supermarkets seek to locate at the edge of centres, not in the middle of a main street. He considered that the Mosgiel Countdown supermarket delivers an attractive and vibrant footpath interface, while at the same time recognising the functional and operational requirements for a successful supermarket.

622. *Progressive* also called evidence from a retail expert, Mr Tansley, on the interaction between customer parking and patronage activity for supermarkets, suggesting that supermarket parking other than in full view of the street was only a feasible option in larger retail or comprehensive development complexes (usually in CBD or inner-city locations). More generally, the regular 'chore' nature of supermarket shopping was minimised by simple, convenient parking around the supermarket lobby (Statement of Evidence, p. 13).

4.6.5.1 Decisions and reasons

623. We reject the submission to exempt supermarkets from Rule 18.6.9.1. We consider it important that a high standard of pedestrian amenity is maintained within primary pedestrian frontage areas and heritage precincts. It must be emphasised that these are the only places where Rule 18.6.9 applies. The evidence from the submitter appeared to be referring to supermarkets generally.

624. We note that very similar provisions are part of North Shore plan's Urban Design Code, and apply to large developments with the aim of ensuring the development is an integral part of the centre and relates in a positive manner to the streetscape.

625. The explanation to the Code states that for new supermarkets, a building set back from the road with parking in front is only appropriate in those locations where, having regard to the context of the site, the continuity of built edge, pedestrian shelter and streetscape character are of lesser concern (Appendix 1 to Mr Foster's evidence, p15A-24). Car parking should be located away from the street frontage wherever practicable (Appendix 1 to Mr Foster's evidence, p. 15A-26). Some exceptions existing for supermarkets at 'town centre edges' and on particular streets.

626. We note that (acknowledging that we did not receive a detailed explanation or interpretation of the rules) the North Shore provisions appear to be similar to the approach promulgated in the 2GP, whereby streets are treated according to their importance to pedestrian amenity (similar to the 2GP's primary and secondary pedestrian frontage approach). Developments are required to address the street (including building up to the street boundary (clause (n) of the provisions), except where located at the edge of a town centre, or in what we assume are less significant streets.

4.6.6 Rule 18.6.6.1: Height in relation to boundary

627. Rule 18.6.6.1 (Height in relation to boundary) reads:

> *a. "New buildings and additions and alterations to buildings must not protrude through a plane (see Figure 18.6D) raising at an angle of 45 degrees measured from a point:*
>
> *i. 3m above ground level at the side or rear boundary with an Inner City Residential or General Residential 2 Zone;*
>
> *ii. 2.5m above ground level at the side or rear boundary with all other residential zones or the Recreation Zone;*
>
> *iii. except:*
>
> *1. where new buildings or additions and alterations are built to a common wall, any part of a building where the height and angle of the roofline are the same as the adjoining building, may protrude through the height in relation to boundary plane.*

2. *gable ends and dormers may protrude through the height in relation to boundary plane by a maximum of 1m (see Figure 18.6E).*

iv. *Rooftop structures are exempt from the performance standard for height in relation to boundary."*

628. *Philip Gilchrist* (OS597.6) sought to remove Rule 18.6.6.1 as he considered that it would produce irregular structures and forms to the site boundaries, fracture street facades and contradict the 6m facade height requirement.

629. *Mr Gilchrist* also considered there needs to be clarity around roof structures in Rule 18.6.6.1.a.iv, as a gable ended roof of, for example, 4m high, could push the building height to allow a building height of 16 metres.

630. *Oamaru Property Limited* (OS652.6), supported by *Otago Land Group Limited* (FS2149.7), similarly sought the removal of Rule 18.6.6.1 for any new development on land bounded by Cumberland Street and Castle Street (State Highway 1), particularly in the CEC – North Zone.

631. The reasons given were that rules should allow development up to the boundary of these sites, as there are no amenity considerations which need to be taken into account for developments on State Highway 1. Instead, it is more likely that a building is required at the boundary to screen any land use within the property from the adjacent highway.

632. The *Bowen Family Trust* (OS1039.3) sought that their property at 229-231 Moray Place be exempt from Rule 18.6.6.1, to allow a further increase in height to this building, which already exceeds the 2GP height limit.

633. The Reporting Officer noted that the rule applies only to the side or rear boundary, not the front boundary (street façade), and only where a site adjoins the residential or recreation zone. Consequently, the rule does not apply to the frontage facing State Highway 1 (concern of *Oamaru Property Ltd*), nor 229-231 Moray Place.

634. She continued, noting that a 6m facade is possible if the building is set back 3m from the side boundary, as it must be under Rule 18.6.17.2 (setback from the boundary with a residential or recreation zone). If a higher street facade is required, a wider setback from the side boundary would be necessary.

635. The Reporting Officer also noted that rooftop structures are defined as "structures attached to roofs that do not form part of the internal usable space of the building". The gable end is part of the roof and, therefore, is not exempted as a "rooftop structure". However, Rule 18.6.6.1.a.iii.2 allows gable ends to protrude through the height plane angle by 1m (s42A Report, section 5.7.8, p. 157).

636. She recommended that the rule remain unchanged, however recommended that the rule should be clarified to emphasise that it does not apply to the front boundary (s42A Report, section 5.7.8, p. 156).

4.6.6.1 Decisions and reasons

637. We reject the submissions to remove the rule in its entirety, or exempt particular properties from the rule, for the reasons outlined in the s42A Report. We note, however, that we have amended the rule under cl. 16 to remove the part of the rule which repeats the residential and recreation zone rule wording, and replaced it with a statement that the rules in those zones apply. This simplifies the rule and avoids unnecessary repetition.

638. We note the apparent confusion caused to some submitters and have considered the Reporting Officer's recommendation to add a clarifying note to the rule advising that it does not apply to front (street) boundaries. However, in our view, when the rule is read as a whole, it is clear that it does not apply to front road boundaries, and no amendment is necessary.

4.6.7 Performance Standard for Height in the CMU zones

639. Rule 18.6.6.2 sets maximum and minimum height standards and maximum and minimum numbers of storeys for the different CMU zones.

640. In part it responds to Policy 2.4.1.4 which states:

> *"Identify and protect key aspects of the visual relationship between the city and its natural environment or heritage buildings and landmarks through rules that:*
>
> *a. restrict the height of buildings along the harbourside to maintain views from the central city and Dunedin's inner hill suburbs across the upper harbour toward the Otago Peninsula; and*
> b. *manage the height of buildings in the CBD to maintain a primarily low-rise heritage cityscape*."

641. *Bunnings Limited* (OS489.7), *Oamaru Property Limited* (OS652.3), and *Capri Enterprises* (OS899.14) supported the height rule 18.6.6.2. These submissions were opposed by Otago Land Group (FS2149.2 and 5).

4.6.7.1 Rule 18.6.6.2.a Height (Central Business District Zone)

642. Rule 18.6.6.2 sets a maximum height for buildings on sites that adjoin George Street of 12m, with 16m on other sites in the CBD. In the operative plan, the height limit is 11m.

643. The 2GP's provisions are supported by *Scenic Circle Hotels Limited* (OS896.17).

644. *Sergio Salis and Chris Robertson* (OS270.2) sought to amend Rule 18.6.6.2.a to reduce the maximum building height from 16m to 11m on Filleul Street. Additionally, they sought that the matters of discretion for non-compliance with this rule were amended to include the amenity of neighbouring properties, and that Objective 18.2.1 and Policy 18.2.11 are added as relevant objectives and policies to be considered. Loss of light on neighbouring properties is a relevant matter. This submission was opposed by Mr *Michael Ovens* (FS2198.1).

645. *Mr Robert Wyber* (OS394.36) requested an increase in the permitted height limit from 16m/4 storeys to 24m/6 storeys for buildings fronting Filleul Street, in order to allow high intensity residential development in the area.

646. *Mr Wyber's* submission (OS394.36) was opposed by *Sergio Salis and Chris Robertson* (FS2348.2), as they considered that an increase in height limits would adversely affect amenity values, and potentially prevent their speech and dental services being conducted in the submitters' building on the comer of Filleul Street and London Street.

647. *Mr Wyber* (OS394.33) also sought that there should be a two-floor maximum height for non-residential uses in commercial zones "west of George and Princes Streets". The height limit for residential and visitor accommodation should remain at 16m.

648. *Mr Michael Ovens* (OS740.4) made submissions in relation to the height limit that were heard at the Industrial hearing, and presented evidence at both the Industrial and CMU hearings. His main point was that maximum heights should be greater in the commercial areas further away from the harbour than in the industrial zone close to the harbour, in order to implement Strategic Direction 2.4.1.4 – to protect key aspects of the visual relationship between the city and its natural environment. The submitter proposed either increasing the CBD height limit (e.g. to 12m, 18m and 21m), or reduce the industrial height limit (e.g. to 12m and 15m).

649. The Reporting Officer considered that increasing the maximum permitted height to 24m, as proposed by *Mr Wyber*, or exempting buildings from it altogether, would potentially have significant effects on streetscape amenity. Buildings of such height should go through a resource consent process to ensure that effects are acceptable, or that the benefits of the increased height outweigh the adverse effects. She

recommended that the height limit of 16m is retained, and that no exceptions are made for individual buildings.

650. In relation to Filleul Street specifically, the Reporting Officer noted that existing buildings are generally no taller than 11m, with a few exceptions. 229/231 Moray Place (the building of interest to the *Bowen Family Trust*) is 23m tall.

651. Mr Christos, in his written evidence, considered that Filleul Street is able to absorb the proposed 2GP height increase to 16m without having negative effects on the amenity of existing adjoining inner city residential zones and George Street. He considered that the proposed 2GP height limit is a good balance between acknowledging existing tall buildings, avoiding negative impacts on adjoining residential zones, and being compatible with the bulk and scale of the CBD. A 16m height limit would encourage more intensive use, with benefits in terms of increased vibrancy and activity along Filleul Street, and within the central city in general. Mr Christos did not support existing buildings that are currently above the proposed maximum height being exempt from height rules.

652. Legal submissions were provided on behalf of *Sergio Salis and Chris Robertson* by Mr Len Andersen. His submissions focussed on the part of Filleul Street north of Hanover Street, this section being steep and elevated above George Street. Houses on the west of this section of the street are zoned residential under the operative plan, and their views would be potentially adversely affected by the increase in height limit.

653. Mr Andersen submitted that there was no identifiable benefit to having a greater height limit in that part of Filleul Street, and that the assessment criteria's focus on streetscape amenity was too narrow.

654. *Mr Wyber's* reasons focussed on the view that there is too much land zoned for retail, and in a low-growth environment, residential and visitor accommodation should be allowed at a higher density than other land uses. This would protect the vibrancy of the CBD, which in the submitter's view is being eroded by the spread of land available for retail development outside the CBD. We note that this matter is discussed more fully in relation to office and retail the distribution in the central city, in Section 4.1.3.

655. The *Bowen Family Trust* (OS1039.4) sought an exemption from the maximum height limit of 16m for 229-231 Moray Place, as the building, at 5 storeys high, already exceeds the proposed height provisions. It was the submitter's view that it would be pragmatic to allow buildings that already breach the desired height limit to offset the demand for new commercial offices or other activities by enabling increased height. In this way, provision could be made for future CBD growth in places that are already inconsistent with the proposed height limit, which would ultimately strengthen the integrity of the new plan. This represented an efficient and economical use of land.

656. Ms Chadwick provided legal submissions for the *Bowen Family Trust* supporting this approach, and proposed a rule allowing height extensions to modern buildings (later than 1975) to exceed the height limit where the addition does not cause any significant effects on streetscape.

657. In her revised recommendations, the Reporting Officer referred to the policies which the height limit implements (Policy 2.4.1.4.b and Policy 18.2.3.1.d.). These respectively require a 'primarily low-rise heritage cityscape' and heights that 'reflect the general heights of the block'. The operative Plan limit of 11m had generally limited buildings to 2 storeys, which reflected the (heritage) heightscape of most of George St and its side streets, but did not reflect the Octagon and areas immediately south. In this area there are multiple buildings taller than the proposed 16m. These were shown in height maps appended to the s42A Report.

658. The policies described above would provide for buildings taller than 16m that reflect the existing heights, but consent would be required. The Reporting Officer did not change her recommendation with regard to the above submissions.

659. More generally, the Reporting Officer highlighted in her Revised Recommendations additional relevant policies that manage height, as follows:

- Policy 18.2.3.2.e, which applies specifically to primary pedestrian street frontages, requires a height that maintains existing sunlight access to footpaths and public open spaces

- Policy 2.4.1.4.a, which is to protect key aspects of the visual relationship between the city and its natural environment through rules that restrict the height of buildings along the Harbourside, in order to maintain views from the central city and Dunedin's inner hill suburbs across the upper harbour toward the Otago Peninsula. This policy applies over the multiple zones in which land along the Harbour's edge falls into.

660. The Reporting Officer noted that the submission of *Ms Margaret Davidson* (OS417.10), which was heard in the Residential Hearing, sought to broaden Policy 2.4.1.4.a to allow consideration of the effect on views from buildings in sites other than along the Harbourside. The recommendation at the Residential hearing had been to reject the submission in relation to buildings in the residential zones. However, the (CMU) Reporting Officer was of the view that consideration should be given to adding a new policy to Section 18 to manage the height of buildings in the central city commercial zones, which could impact on views from the hill suburbs to the same or greater extent as buildings closer to the harbour.

661. To achieve this, she recommended deleting Policy 18.2.3.1.d and replacing it with a new Policy 18.2.3.12:

"*Require buildings and structures to be of a height that:*

a. reflects the general heights of the block; and

b. *avoids significant adverse effects on views from Dunedin's inner hill suburbs across the upper harbour toward the Otago Peninsula*."

662. She noted that if the above policies are amended, the permitted height limits should be considered against these. The effect on views across the harbour is determined significantly by the location of the building. Buildings of 20m height in, for example, the Exchange, would have no impact on views from residential areas. However, in the SSYP zone, it would have significant effects. To protect views, any increase in permitted height would need to be limited to particular parts of the central city.

663. In relation to Policy 18.2.3.2.e, she provided diagrams showing the heights of existing buildings in George, Princes and Stuart Streets, and the shading in associated public open spaces. Based on these, she considered that the notified height range for the CBD in the 2GP (8m–12m on George Street, and 8–16m elsewhere) is generally appropriate, being consistent with the range of building heights in each area. Existing buildings on the Princes Street block between Rattray Street and Manse / Jetty Street are higher, apart from a 7m building fringing Exchange Square. Raising the height limit in this area (to for example, 20m) would be unlikely to result in any adverse effects, and would be consistent with the policies discussed above (i.e. no effect on existing sunlight access, consistent with existing heights, and would not affect views).

664. She also noted that another matter the height diagrams highlight is that the minimum height (8m) may not be appropriate in some areas, particularly on Princes Street, where older short buildings are juxtaposed against much taller buildings, giving unusual breaks in the heightscape. However, as these areas are within heritage precincts, consent is required and so the minimum height of new buildings can be addressed through that process.

665. We note on this matter that there are no submissions to raise the minimum height of buildings in this area.

4.6.7.1.1 Decisions and reasons

666. We consider that the heights within the CBD as notified are appropriate. We note that the limits are for a permitted activity; a restricted discretionary resource consent process allows consideration of taller buildings. We therefore reject the submissions of *Mr Wyber*, *Mr Ovens*, the *Bowen Family Trust* and *Sergio Salis and Chris Robertson*.

667. We do, however, consider that there is merit in amending the policies governing height, as proposed by the Reporting Officer, for the reasons given. We therefore accept the submission from *Margaret Davidson* (OS417.10) in part.

668. Amendments are made as follows (see Appendix 1, attributed to CMU 417.10):

- add a new Policy 18.2.3.12, to include the content of Policy 18.2.3.1.d and a new clause protecting views across the harbour. We have based this on the height policy in the Dunedin Hospital Zone which covers the same issue. This is:

  "Require buildings and structures to be of a height that:

  a. reflects the general heights of the block; and
  b. *minimises as far as practicable adverse effects on the skyline vista of the city, particularly as viewed from Dunedin's inner hill suburbs across the upper harbour toward the Otago Peninsula, including through the use of quality and contextually appropriate architectural design."*

- delete Policy 18.2.3.1.d, which is now included in new Policy 18.2.3.12

- amend the assessment rule for non-compliance with the Height performance standard (Rule 18.9.4.10) to add a new matter of discretion 'effects on views across Otago Harbour' and refer to new Policy 18.2.3.12.

4.6.7.2 Rule 18.6.6.2: Height (CEC Zone)

669. *Otago Land Group Limited* (OS551.15) sought to increase the maximum height limit in the northern CEC Zone from 16m to 25m as a permitted activity, and up to 48m as a discretionary activity. The submitter referred to the adjacent height limits at the Hospital and Campus major facilities zones, submitting that these limits should be aligned to avoid reverse sensitivity effects, and to maximise development potential.

670. The Reporting Officer recommended rejecting the submission and keeping the height limit at 16m. She noted that existing heights of buildings in the northern CEC Zone and adjacent buildings in surrounding zones are typically around 5-10m high, with the exception of the Te Rangi Hiroa College at 184 Castle Street, and the Dunedin Hospital Oncology Building, which both reach approximately 16m.

671. In the Reporting Officer's view, Strategic Direction Policy 2.4.1.4 (to identify and protect key aspects of the visual relationship between the city and its natural environment by restricting building height along the harbourside and in the CBD) and Policy 18.2.3.1.d. (building heights reflect the general heights of the block) supported maintaining the notified limits.

672. She noted that he Hospital and Campus zones' height limits recognise the ongoing development and redevelopment needs in these zones, and the limited land supply for these activities. She further noted that the Campus Zone does not adjoin the CEC Zone and there are unlikely to be issues of reverse sensitivity. Taller buildings clearly have increasing effects on amenity values through shading and potential wind tunnelling and may impact on views across the harbour. While a decision has been made that in the Hospital and Campus zones these effects are outweighed by the benefits of allowing ongoing development, this argument did not apply in the CEC Zone, which covers a wide area with plenty of development potential (s42A Report, section 5.7.9, p. 160).

673. The *Otago Land Group* provided evidence from Mr Chambers about the height limits in the area, and shadow effects, in relation to a proposed multi-storey block on *Otago Land Group's* site at 141 Hanover Street. Mr Chambers noted the various height limits

in the surrounding zones meant that the proposal would simply 'infill the gap between Cadbury to the south and the hospital to the north'. In respect of shade, the height of the proposed building meant any shadow would move quicker than with wider shorter buildings. (Statement of Evidence on behalf of *Otago Land Group*, pp. 7–8).

4.6.7.2.1 Decisions and reasons

674. We accept Otago Land Group's submission in part and increase the height limit in the CEC - North Zone to 20m. Height limits for the existing CMU zones (and other zones) have generally been set based on the height of the existing built form. This zone has been extended to include the Cadburys site (see section 4.7.1.2), and considering this, and the fact that the area contains no pedestrian street frontages (the two one-way streets run through the zone), we consider that a higher height limit is acceptable.

675. The change is attributed to CMU 551.15.

4.6.7.3 Rule 18.6.6.2.g Height (Centres)

676. Rule 18.6.6.2.g sets a maximum height limit of 12 metres (three storeys) within all Centres zones.

677. *Niblick Trust* (OS929.4) sought to increase the height limit from 12m / three storeys to 16m/four storeys in the Neighbourhood Centre Zone. The Trust considered the rules to be unnecessarily restrictive.

678. The Reporting Officer noted that Policy 18.2.3.1.d (now 18.2.3.12.a) aims to maintain or enhance streetscape amenity by ensuring building heights reflect other building heights. Existing building heights are no more than 11.5m in the Albany Street Neighbourhood Centre. She considered that allowing building heights of an extra four metres would significantly alter the scale and feel of the centres. Accordingly, she recommended that the height limit be retained without amendment (s42A Report, section 5.7.11, p. 165).

4.6.7.3.1 Decisions and reasons

679. We reject *Niblick Trust's* submission to amend Rule 18.6.6.2.g for the reasons given by the Reporting Officer.

4.6.7.4 Rule 18.6.6.2.c Height (PPH)

680. Rule 18.6.6.2.c sets maximum height limits for the PPH Zone of 12m for sites outside the PPH height mapped area and 20m within the PPH height mapped area.

681. *Bindon Holdings Limited* (OS916.23) sought to increase the maximum height limit in the PPH Zone mapped area from 20m to 25m. *Bindon Holdings* submitted that under the operative Plan, the PPH Zone area has either no height limit (in the operative Industrial Zone) or a height limit of 40m (in the Campus Zone), in light of which the proposed height limit of 20m was considered conservative. Additionally, development in excess of the 20m limit was not considered to be detrimental to the area's amenity, and would be an efficient use of land.

682. The Reporting Officer noted that the maximum height rule responds to Policy 2.4.1.4. and 18.2.3.1.d (now 18.2.3.12). Existing building heights in the PPH Zone height mapped area do not currently exceed 14 metres, while nearby buildings in the adjoining Industrial Port and Campus zones rarely exceed 20 metres. The permitted maximum height in the 2GP Stadium Zone is 20m and in the Campus Zone is 25m. The adjoining Ravensbourne Height mapped area (in the Industrial Zone) also has a maximum height limit of 20m.

683. The Reporting Officer advised that the height provisions were determined following consultation with landowners to enable the scale of development that is realistically anticipated. A height limit of 25m was requested for the Anzac Avenue area during consultation; however, it was considered that given Policy 2.4.1.4, existing heights in

the area, and the maximum height limits in other zones, that 20m was an appropriate maximum. Resource consent can be applied for if additional height is needed, and the appropriateness of this can be assessed against the relevant policies (s42A Report, section 5.7.13, p. 168).

684. Mr Peter Jackson gave evidence for *Bindon Holdings,* that a 25m height limit could be supported in that part of the PPH Zone bounded by Anzac Avenue, Minerva Street and Ravensbourne Road, without impacting on views from the central city and inner hill suburbs across the upper harbour, because the areas surrounding this part of the PPH Zone predominantly had 25m height limits (Statement of Evidence for *Bindon Holdings,* pp. 5 to 7).

4.6.7.4.1 Decisions and reasons

685. We reject the submission from *Bindon Holdings Limited* to increase the maximum height limit in the PPH Zone height mapped area from 20m to 25m. Rule 18.6.6.2.c is retained without amendment.

686. As discussed above, we accept that there is merit in encouraging similar heights within a locality to avoid visual incongruity. In our assessment 20m provides some scope for some increase in height when buildings are replaced, without conflicting with the direction set in policies 18.2.3.1.d (now 18.2.3.12) and 2.4.1.4. We note this is not an absolute limit as greater height for a particular design can be considered through the resource consent process.

4.6.7.5 Rule 18.6.6.2.e Height (SSYP)

687. Rule 18.6.6.2.e sets a minimum and maximum height limit for the SSYP Zone of 8m and 12m respectively.

688. *Ms Carol Devine* (OS252.19), supported by Ms *Elizabeth Kerr,* FS2429.137, submitted that the rule should be amended to prevent new buildings being built higher than existing character properties in the View Street Heritage Precinct. This would protect heritage, views, sunlight and amenity.

689. The Reporting Officer advised that as View Street is located within a heritage precinct, new buildings, and additions and alterations to existing buildings, which are visible from an adjoining public space, require consent as a restricted discretionary activity. Therefore, the impact on heritage values could be considered during the consent process, and there was no need for additional restrictions within Rule 18.6.6.2 (s42A Report, section 5.7.13, p. 167). She recommended that no amendment to Rule 18.6.6.2 was required.

4.6.7.5.1 Decisions and reasons

690. We reject the submission to amend Rule 18.6.6.2.e. We agree with the Reporting Officer that the Plan provisions are such that any effects of new buildings on heritage values will be considered during the resource consent process. The assessment rules for new buildings and alterations to buildings within the precinct (rules 13.6.4.1 and 13.6.4.2) refer to Appendix 2 in the general assessment guidance. Appendix 2 states 'new buildings should be consistent in height to immediate neighbours where these are scheduled heritage or character-contributing buildings, unless these buildings are inconsistent with the typical heights in the precinct' as a preferred characteristic of the precinct.

691. We note, however, the may be an expectation that if a proposal (either for a new building or an addition or alteration) is consistent with the performance standard for height, or any other bulk and location performance standard, that this would not be reconsidered as part of the evaluation on the effect of the proposal on heritage streetscape character. To clarify that it will be considered, we have added further general assessment guidance to the assessment rules for new buildings and additions and alterations to buildings (Rules 13.6.4.1 and 13.6.4.2), as follows:

"*For new buildings and structures / additions and alterations within a heritage precinct, Council will consider, and may impose conditions on, elements of building design such as height and setbacks even where these meet performance standards for the zone, where these matters are important to meet Objective 13.2.3 and policies 13.2.3.5 and 13.2.3.7*."

The amendment is show in Appendix 1, reference CMU 252.19.

4.6.8 Rule 18.6.13 Minimum Ground Floor to Ceiling Height and Rule 18.6.16 Pedestrian Entrances

692. Rule 18.6.13 sets a minimum ground floor to ceiling height, and is intended to provide an adequate ceiling height for commercial activities on the ground floor of buildings along a primary pedestrian frontage. The rule reads:

> *"New buildings and additions and alterations to buildings adjacent to a primary pedestrian street frontage must have a minimum ground floor to ceiling height of 4m for a minimum depth of 6m from the front of the building along the primary pedestrian street frontage."*

693. *Mr Michael Ovens* (OS740.8) submitted that Rule 18.6.13 be amended to make an exception for ceiling height on steep, hilly areas, where a 4m high site height for 6m depth might be very difficult to achieve. The submitter also considered that pedestrian entrances (Rule 18.6.16) may be difficult to physically achieve on the street front, rendering the provision an unrealistic option.

694. The Reporting Officer noted that the submission appeared to relate to two properties in Filleul Street which are on a secondary pedestrian frontage. There is no requirement for a minimum ceiling height in secondary pedestrian frontage areas. She observed that the incidence of primary pedestrian sites on steep or hilly sites is very low, and considered the concerns raised will rarely be an issue. She therefore recommended that rules 18.6.13 and 18.6.16 be retained without amendment (s42A Report, section 5.7.15, p. 172).

695. *Mr Ovens* tabled evidence and gave oral evidence in support of his submission. He suggested the rule was not viable in practice, especially for existing buildings where floor to floor levels are already structurally set. *Mr Ovens* suggested that sloping frontages also made compliance with the rule difficult, especially where public access was required and the new egresses might conflict with structural foundation lines.

696. In response, the Reporting Officer recommended that the wording of the rule be clarified to note that reference to additions and alterations within the rule means additions and alterations 'that result in an increase in a building's footprint'.

4.6.8.1 Decisions and reasons

697. We respect *Mr Ovens'* views as an architect regarding the practicability of the rule in terms of alterations to existing buildings. However, in our Plan Overview decision, we amend the definition of additions and alterations to exclude the interior of buildings as it applies to this rule. This should address the issue raised by *Mr Ovens*, and no further changes are required.

4.6.9 Rule 18.6.14 Number, Location and Design of Ancillary Signs

698. Rule 18.6.14 details the number, location and design of ancillary signs permitted in the Commercial and Mixed-Use zones.

4.6.9.1 Request to allow illumination of signs

699. Rule 18.6.14.1.d states:

"*Signs must not be illuminated or digital within pedestrian street frontages, heritage precincts and the Harbourside Edge Zone."*

700. *Nichols Property Group Limited and others* (OS271.16) and *Otago Land Group Limited* (OS551.10) sought to remove Rule 18.6.14.1.d because the streets identified as pedestrian street frontages cover most of the CBD and northern CEC Zone. Illumination of signs in these locations was considered necessary and anticipated as part of the character of a central city area. Conversely, the *NZTA* (OS881.136) supported the rule.

701. Mr Christos' evidence was that illuminated signs could detract from heritage architecture and add to light spill, but nonetheless could add a level of vibrancy. Provided illuminated signage met the current light spill standards he considered that it would generally be acceptable in the primary and secondary pedestrian frontage areas (Statement of Evidence for the DCC, p. 10).

702. However, Mr Christos considered that heritage precincts were sensitive to poorly located and designed signage, and this could be exacerbated by illumination. He considered that in these areas illuminated signage should be dealt with through the resource consent process (Statement of Evidence for the DCC, p. 10).

703. The Reporting Officer was also concerned that flashing signage might be distracting for drivers and annoying for residential units and recommended that this not be permitted (s42A Report, section 5.7.16, p. 175).

704. Taking the advice of Mr Christos into account, the Reporting Officer recommended that the submissions be accepted in part, and that illuminated (but not flashing) signage be permitted in all areas apart from heritage precincts. She recommended the following amendments to Rule 18.6.14.1.d:

"*Signs must not be <u>flashing within pedestrian street frontages, heritage precincts and the Harbourside Edge Zone and must not be</u> illuminated or digital within ~~pedestrian street frontages,~~ heritage precincts ~~and the Harbourside Edge Zone~~*."

705. The *NZTA*, in the written evidence of Mr Andrew Henderson, noted that although the submitter accepted the proposed amendments, it was concerned that the rule was unclear as to what the 'current light spill standards' were. He observed that signs visible from roads are addressed by Rule 6.7.3, which sets out the Plan's expectations on signs' maximum luminance, and proposed that Rule 18.6.14 include a reference to those standards (Statement of Evidence for *NZTA*).

706. In her Opening Statement, the Reporting Officer agreed with the *NZTA's* request and recommended an addition to the notes at the end of Rule 18.6.14, to the effect that illuminated signs must comply with the standards in Rule 6.7.3.

4.6.9.1.1 Decisions and reasons

707. We accept that provided signage meets the light spill standards set out in Rule 6.7.3, illuminated signage within primary and secondary pedestrian frontage areas, but not heritage precincts, should be permitted. We agree with *NZTA* that a reference to Rule 6.7.3 is appropriate. Rule 18.6.14.1.b.ii already requires that signs must comply with Rule 6.7.3; however, this rule is incorrectly limited to 'signs on or above the footpath' as 6.7.3 applies to all signs visible from the road. We have therefore amended Rule 18.6.14.1.b.ii to refer to remove this restriction under cl. 16 as an inconsequential change).

708. We therefore accept the submissions from *Nichols Property Group Limited and others* (OS271.16), Otago *Land Group Limited* (OS551.10) and the *NZ Transport Agency* (OS881.136) in part.

4.6.9.2 Request to increase the maximum size of signs

709. Rule 18.6.14.3 limits the maximum area of walls facing the street that may be occupied by signs to 15% or 8m^2 in all areas other than heritage precincts, the Harbourside Edge Zone and pedestrian street frontages, which have more restrictive limitations.

710. Rule 18.6.14.6.b limits the size of freestanding signs, to a maximum height of 4m, 6m or 8m, depending on the location, and a maximum width of 2m.

711. *Nichols Property Group Limited and others* (OS271.17) and *Otago Land Group Limited* (OS551.16) sought to amend Rule 18.6.14.3.a to provide for a maximum area of signage of 15% or 8m², whichever is the greater, as they considered that 8m² was too small for large scale buildings.

712. *Progressive Enterprises Limited* (OS877.9 and 5) submitted that Rule 18.6.14.3 and Rule 15.6.12.5 (performance standard for signs in the Residential zones) be amended to allow supermarket wall signs up to 80m² per wall, irrespective of supermarket location, in order to recognise the size of supermarket signage that has been consented by local authorities throughout New Zealand in the last ten years. For similar reasons *Progressive* (OS877.35, 37, 39) sought to amend Rule 18.6.14.6.b, Rule 15.6.12.6 (performance standards for signs in the Residential zones) and Rule 19.6.8.3 (performance standards for signs in the Industrial zones), to allow supermarket freestanding signs to be up to 9m high and 3.5m wide.

713. Mr Christos advised that restricting wall signage to the lesser of 8m^2 or 15% of the façade was a balanced approach that was appropriate in most situations. While he agreed that large buildings are capable of absorbing more signage without additional negative effects, Mr Christos noted that as the scale of signage increases, design and location of the sign becomes more critical to avoid negative effects. As such, he considered that oversized signs should be dealt with through the resource consent process (Statement of Evidence, p. 10).

714. In respect of *Progressive* Enterprises (OS877.35) submission, Mr Christos could not see the rationale for a specific exemption for supermarkets to use freestanding signs up to 9m high and 3.5m wide (Statement of Evidence, p. 11).

715. The Reporting Officer agreed that it was appropriate that larger signs go through a consent process to ensure that amenity outcomes are still achieved, or that the benefits of the signage outweigh any adverse effects. She noted that the same comments apply to supermarket signage, where it could not be assumed that all supermarket signage up to 80m^2 per wall, or larger freestanding signs, would achieve the desired streetscape amenity outcomes. Consequently, and having regard to Mr Christos's advice, she recommended that the submissions be rejected and that the clauses be retained without amendment (Section 42A Report, section 5.7.16, pp. 178 - 179).

716. *Progressive's* counsel Ms Dewar and Mr Leckie submitted that it was an inefficient use of resources to require resource consent when it had been accepted that more signage was appropriate on large buildings, and was contrary to the enabling nature of the RMA (legal Submissions for *Progressive*, para 49). They further noted that *Progressive's* planning and urban design experts, Mr Foster and Mr Knott, were available to work with DCC officers to determine what signage quantity would be appropriate.

717. Mr Foster considered Mr Christos' view that signs exceeding the standards should go through a consent process was reasonable, provided the activity status for supermarket signs remains as a restricted discretionary activity as per Rule 18.3.2.13 (Statement of Evidence for *Progressive,* para. 29).

718. Mr Knott agreed with Mr Christos' view that larger buildings such as supermarkets are capable of absorbing more signage, but did not consider it was appropriate to leave this matter to a costly resource consent. In his view, it was more appropriate for the plan to provide for larger signs on supermarket buildings through the introduction of additional clauses to Rule 18.6.14.3 (Statement of Evidence for *Progressive*, p. 12).

4.6.9.2.1 Decisions and reasons

719. We reject the submissions of *Nichols Property Group Limited and others* (OS271.17), *Otago Land Group Limited* (OS551.16) and *Progressive Enterprises Limited* (OS877.9, OS877.5, OS877.37, OS877.39 and OS877.35), and retain Rule 18.6.14.3 and Rule 18.6.14.6.b without amendment.

720. We agree with the assessment in the s42A report and consider that the signage size limits set out in the 2GP have been set to achieve a balance between allowing ancillary signage and maintaining streetscape amenity.

721. While larger signs might be acceptable in some instances (including, but not limited to, supermarkets), it is appropriate that signs that exceed the threshold go through a consent process to ensure that amenity outcomes are still achieved, or that the benefits of the signage outweigh any adverse effects.

4.6.9.3 Request to exclude directional signs and signs related to operation of car parks

722. Rule 18.6.14.6 establishes limits on the number and dimensions of freestanding signs.

723. *Nichols Property Group Limited and others* (OS271.18) and *Otago Land Group Limited* (OS551.17) sought to amend Rule 18.6.14.6.a to exclude signs displaying information relating to the operation of a car park. The reasons given were that the rule does not take into consideration that there might be a requirement for free standing directional signs within car parks of larger premises and other informative signs such as trolley bay signs.

724. The Reporting Officer noted that the rule's intent was to limit ancillary signage, and that it was not intended to limit signage required for traffic direction, warnings or car park operation. For the same reason there is an exception in the ancillary signage rules for major facility activities, which reads (s42A Report, section 5.7.16, p. 178):

> *"… except the following signs are exempt from these standards:*
> *a. ..*
>
> *b. 'regulatory' (requiring or prohibiting specified actions), 'warning' (informing of hazards or of other features requiring a safe response), or 'directional' (identifying the location of, or direction to destinations, routes, building entrances, and vehicle accesses) signs; and ..."*

725. Mr Christos' view was that providing for directional and regulatory signs was unlikely to have adverse effects on amenity, providing they are contained within sites and corporate and commercial imagery does not feature. He considered that size should be restricted to 0.25m^2 (as in the operative Plan) (Statement of Evidence, p. 10).

726. Having regard to this, the Reporting Officer recommended that a similar exemption be included by adding a new clause to Rule 18.6.14.1, as follows:

> *"f. except that the following signs are exempt from these standards:*
>
> *i. regulatory' (requiring or prohibiting specified actions), 'warning' (informing of hazards or of other features requiring a safe response), or 'directional' (identifying the location of, or direction to destinations, routes, building entrances, and vehicle accesses) signs that do not exceed 0.25m^2."*

4.6.9.3.1 Decisions and reasons

727. We accept the submission of *Nichols Property Group Limited and others* (OS271.18) and *Otago Land Group Limited* (OS551.17) to exclude directional signs or signs displaying information relating to the operation of a car park from the rule managing the number, location and design of ancillary signs.

728. We accept that it was not intended to limit signage required for traffic direction, warnings or car park operation in the 2GP, and accept the views of Mr Christos that if these signs are limited in size, contained within sites and do not incorporate any

commercial imagery, are unlikely to have adverse effects on amenity. We note a similar recommendation was made in respect to similar submission in the major facilities zones.

729. While accepting these recommendations in principle, we have made amendments that are different to those recommended to improve the clarity and simplicity of the provisions.

730. We have also made these amendments to related provisions in all management and major facilities zones, for plan consistency[10]. We are satisfied that making these amendments in all zones is minor in nature and does not prejudice anyone.

731. To amendments required for this decision include (see Appendix 1, amendments attributed to CMU 271.18):

- Amend Rule 18.6.14.1 (Number, Location and Design of Ancillary Signs) to state that "…except that regulatory signs, directional signs and warning signs that do not exceed 0.25m² are exempt from these standards" and make similar amendments in all other management and major facility zones

- Add a new definition of Regulatory Signs that reads "Signs that give information about required or prohibited actions (for example parking signs)"

- Add a new definition of Warning Signs that reads "Signs that provide information about hazards or other health and safety matters"

- Add a new definition of Directional Signs that reads "Signs that identify the location of routes, entrances, or direction and/or distance to destinations"

- Make a consequential change to the definition of Road Signs to remove the words that duplicate the information now included in the new definitions of Regulatory Signs, Warning Signs, and Directional Signs.

4.6.9.4 Rule 18.6.14.5 Portable freestanding signs on footpaths

732. Rule 18.6.14.5 sets standards for portable freestanding signs on footpaths. The rule limits signs to premises with no ground floor frontage and requires that they are spaced at least 5m apart. Rule 6.7.2, which is referenced in Rule 18.6.14.1, states where signs may be located on the footpath.

Rule 6.7.2.2. states:

"*Public amenities, temporary signs and portable freestanding signs located on public footpaths must:*

a. be located in line with any other permanent or temporary obstruction present on the footpath at that location, otherwise at the kerb edge of the footpath; and
b. not be located within 2.0m of an intersection or pedestrian crossing location; and
c. not be located at the kerb directly adjacent to a bus top, taxi stand, mobility parking or an Authorised Vehicles Only parking space; and
d. signs must not be painted, drawn, chalked or otherwise created on the surface of any footpath."

733. The *Disabled Persons Assembly Dunedin and Districts* (OS265.3) sought to amend Rule 18.6.14.5 to add a new rule requiring freestanding signs on footpaths to be placed on

[10] Rules 16.6.8.1.b, 17.6.7.1.b, 19.6.8.1.a, 20.6.10.1.a 21.6.6.1.a, 22.6.10.1.a, 23.6.8.1.b, 24.6.9.1.a, 25.6.7.1.a, 26.6.7.1.a, 27.6.10.1.a, 28.6.9.1.a, 29.6.8.1.a, 30.6.5.1.a, 31.6.9.1.a, 32.6.7.1.a, 33.6.8.1.a, 34.6.10.1.a, 35.6.8.1.a

the inward, or store side, of the footpath and not opposite it, to ensure unobstructed access for all pedestrians including those with disabilities and those pushing children's strollers.

734. The Reporting Officer drew attention to section 5.2 of the Council's *Commercial Use of Footpaths Policy 2012*, which states that "portable signs shall be outside the premises to which they relate, in close proximity to the kerb and, where appropriate, in line with other permanent obstructions on the footpath, e.g. lamp standards, rubbish receptacles" (s42A Report, section 5.7.17, p. 180).

735. The Reporting Officer also noted that NZTA's *Pedestrian Planning and Design Guide* states that where portable signs are used for displaying advertising signs and boards "there should be no interference, obstruction or hazard for pedestrians". The NZTA's *Road Traffic Standard RTS 14 - Guidelines for facilities for blind and vision impaired pedestrians 2015* states that while advertising signs on the footpath should be avoided if possible, where they are permitted they "shall be located away from the continuous accessible path of travel, i.e. on the kerb edge".

736. The Reporting Officer noted that signs adjacent to buildings, on the opposite side of the footpath to lamp posts, traffic signs etcetera, appeared to create an even narrower through-route. As this was contrary to both NZTA's standard and the DCC's footpath policy, she reserved her recommendation until having heard the submitter.

737. The *Disabled Persons Assembly Dunedin and Districts* were represented by Mr Chris Ford, who gave evidence that the fewer sandwich board signs on the footpath the better. In response to a question about the reasoning behind the submission, Mr Ford responded that he would need to seek further information from the person who had raised the issue.

4.6.9.4.1 Decisions and reasons

738. We reject the submission from the *Disabled Persons Assembly Dunedin and Districts*. While we are sympathetic to the need to avoid signage that can impede the passage of wheelchairs, we note that the proposed amendment conflicts with the DCC bylaw and with the NZTA standard, and that no strong evidence was presented at the hearing to justify amending the rule.

4.6.10 Rule 18.6.17 Setbacks

739. The setbacks performance standard (Rule 18.6.17) details the setback requirements from road boundaries, residential and recreation zoned sites, scheduled trees, coast and water bodies, and the national grid.

4.6.10.1 Supermarkets

740. *Progressive Enterprises Ltd* (OS877.10) sought to exempt supermarkets from the setbacks from road boundaries performance standard (Rule 18.6.17.1), which details the setback requirements for buildings along primary and secondary pedestrian frontage areas. The submitter noted that supermarkets have specific operational and functional requirements and would be unable to comply with such a rule.

741. Mr Christos advised that traditionally supermarkets are of a scale where they tend to be dominant, although there is a move away from this in higher density urban environments where they are often better integrated. Mr Christos noted that central to any building integrating with the existing urban form is reducing the negative effects of car parking and blank façades along street boundaries. He considered that the proposed performance standard is appropriate to encourage a better built form with regards to the traditional supermarket model (statement of Evidence for the DCC, p. 11).

742. The Reporting Officer noted that existing supermarkets in Dunedin that are within a primary or secondary pedestrian street frontage and are built to the road boundary include Pak'n'Save South Dunedin, New World North Dunedin, Four Square Caversham,

Four Square Port Chalmers, Countdown Mosgiel, and On The Spot Waikouaiti. On this basis, she observed that the operational requirements could therefore not be insurmountable (s42A Report, section 5.7.18, p. 182).

743. The Reporting Officer recommended no change to the rule.

744. *Progressive's* legal counsel Ms Dewar and Mr Leckie submitted that the rule was one of several urban design-related rules which unnecessarily constrained *Progressive's* ability to redevelop its existing sites, or develop new sites, without creating operational and functional issues.

745. Mr Foster, called by *Progressive* to give planning evidence, refuted comments in the s42A Report, suggesting that some of the examples of supermarkets built to the road boundary were "small, relatively old stores of a very traditional style" (Statement of Evidence for *Progressive*, p. 10).

746. Mr Knott, *Progressive's* urban design expert, suggested that the setback rule would make it almost impossible for *Progressive* to redevelop some of their existing sites, and did not agree with Mr Christos' view that it is not possible to create an attractive and vibrant interface with footpaths if parking is given priority. He suggested that it was more likely that an appropriate design response which also provides for *Progressive's* operational requirements was more likely if a site is planned holistically and not artificially constrained by such rules (Statement of Evidence for *Progressive,* p.12).

747. Mr Munro tabled an additional statement of evidence for the *DCC* on supermarket design at the hearing, and referred to two examples of supermarket development with street frontage provisions, which in his opinion where superior to Mr Knott's "more basic 'box'". In Mr Munro's opinion the success of these two developments was due to their developers' willingness to engage with the specific urban design requirements. Finally, Mr Munro made the point that given the size of supermarket development a consenting process is likely to be engaged regardless of urban design rules, and therefore their imposition cannot be seen as creating a need for a consent process. Rather, they prioritise policies and assessment matters (Statement of Evidence tabled at hearing for DCC, paras. 1.9 to 1.14).

4.6.10.1.1 Decisions and reasons

748. We reject the submission from *Progressive Enterprises Ltd* (OS877.10) to exempt supermarkets from the setback from road boundaries performance standard (Rule 18.6.17.1).

749. The evidence did not persuade us that the rule would seriously impede development and redevelopment of supermarkets. We consider the standard is an appropriate mechanism to encourage better built form, including for supermarkets.

4.6.10.2 Setback from boundary of residential or recreation zone

750. *Michael Ovens* (OS740.7) sought to remove the setbacks Rule 18.6.17.2, which requires new buildings and additions and alterations to buildings to be set back 3m from the boundaries of residential or recreation zones, due to the unnecessary and onerous nature of the standard.

751. Mr Christos' evidence was that the proposed standard offers a minimum separation to deal with negative effects of shading and bulk, and that Rule 18.6.17.2 should be retained as a basic requirement (Statement of Evidence for the *DCC*, p. 11).

752. The Reporting Officer advised that the intent of the setback standard is to manage reverse sensitivity effects and effects on the residential or recreational amenity. She noted that the standard only applies when a site adjoins a residential or recreation zone, and that the majority of sites in the commercial areas will not be affected. She added that the setback is greater than that which applies within the residential zones, due to the different nature, and bulk and location, of activity likely to be occurring within the commercial areas (s42A Report, section 5.7.18, p. 183).

753. The Reporting Officer considered that it was appropriate that resource consent be required where a smaller setback is sought, in order to ensure that in order to ensure that these effects are acceptable.

754. *Mr Michael Ovens* appeared at the hearing and suggested that no consideration had been given to matters such as the topography and sun-orientation of properties, together with acoustic requirements imposed on commercial sites, and that in a number of locations the issues the rule sought to address did not exist. Examples were provided.

755. *Mr Ovens* suggested that the situation was exacerbated by the requirement for "…*each zone to take-on each other's 'height in relation to boundary' rule*", and also noted that the setback requirement clashed with the requirement to build across the entire length of the road frontage in the CBD (Rule 18.6.17.1.a). He considered the effect of the rule was a significant reduction in the development potential of some sites, and would not resolve any potential shading effects on the residential areas but would increase residential shading effects on commercial sites. He suggested this was not acceptable and the rule should be deleted.

756. We note that *Mr Ovens* raised the same concern about duplication in the Residential Hearing, and in response we have amended the residential height in relation to boundary rule (Rule 15.6.7.1.a) so that residential development on the CMU boundary is not required to comply with the CMU height in relation to boundary rule (see Residential Decision Report). In addition, we have removed the rule wording which repeats the residential and recreation zone wording and replaced it with a statement that the rules in those zones apply. This simplifies the rule and avoids unnecessary repetition (see section 4.6.6).

757. The Reporting Officer responded that the Commercial Zone was to the south or east of the Residential Zone in *Mr Ovens'* examples. She noted that the rule applies to all Commercial and Mixed-Use zones and centres, and that there will be situations where the Commercial Zone is to the north or west of the Residential Zone. She advised that the rule also manages privacy, and observed that if there were no effects, resource consent would be obtained easily.

758. With regard to *Mr Ovens'* observation that the setback rule clashed with the full width frontage requirement, the Reporting Officer noted in her Revised Recommendations that an amendment to Rule 18.6.17.1.a was required to add an exception to ensure that Rule 18.6.17.2 took precedence. Suggested wording was provided.

4.6.10.2.1 Decisions and reasons

759. We reject the submission from *Michael Ovens* (OS740.7) and retain this setbacks performance standard (Rule 18.6.17.2) without amendment. We consider that the rule is necessary to manage reverse sensitivity effects and effects on the amenity of residential properties and recreation areas, and consider it appropriate that resource consent be required where a smaller setback is sought in order to ensure that these effects are assessed. We note also that the rule will apply to a relatively small number of properties.

760. We agree with *Mr Ovens* that there is a clash between the setback rule and the requirement to build across the entire length of the road frontage, and have amended Rule 18.6.17.1.a to add an exception clause to note that Rule 18.6.17.2 applies to boundaries adjoining a residential or recreation zoned site (refer Appendix 1, submission point CMU OS740.7).

4.6.11 Rule 18.6.12 Minimum Glazing and Building Modulation

761. The minimum glazing and building modulation performance standard (Rule 18.6.12) specifies the minimum glazing and building modulation requirements for the parts of a new building, or additions and alterations to a building, that face, and are visible from street frontages. The rule does not apply to scheduled heritage buildings or within the Trade Related Zone.

762. *Progressive Enterprises* (OS877.8) sought an exemption from the rule for supermarkets, stating that, for operational and functional reasons, and in particular the protection of goods from sunlight, supermarkets are unable to comply with such a rule.

763. *Stride Property Limited* (OS205.2) and *Harvey Norman Properties Limited* (OS211.4), supported by *Progressive Enterprises* (FS2051.1 and FS2051.2) requested the removal of the 20% minimum glazing requirement for 'other street frontages' as they did not consider it necessary or appropriate for new development to be subject to glazing controls.

764. Mr Christos believed the primary pedestrian street frontage glazing requirement is reasonable considering most existing frontages within the central city and primary pedestrian frontage areas currently have at least 60% glazing at the street (Statement of Evidence for the *DCC*, p. 9).

765. Mr Ian Munro gave evidence for the DCC on the importance of the interface between quality public spaces and private development. He noted that the way in which development integrates with streets and open spaces can significantly affect the extent to which pedestrians wish to use them.

766. Mr Munro considered that the incorporation of urban design and amenity controls into commercial centres was essential to the centres-based approach in Dunedin. With regard to supermarkets and department stores, he observed that in the 2GP, the use of street frontage typologies helps focus the distribution of these activities and their layout to ensure that, in particular along main streets, large scale uses can integrate in a way that can still achieve relevant pedestrian amenity considerations (Statement of Evidence for the *DCC*, p. 8).

767. The Reporting Officer noted that there are no minimum glazing requirements for 'other' street frontages. In these areas, there is a choice between 20% glazing or building modulation elements at a maximum of 20m intervals. The outcome sought by *Harvey Norman* and *Stride* is therefore already in place (s42A Report, section 5.7.20, p. 188).

768. The Reporting Officer noted that glazing had been raised in consultation with *Progressive Enterprises* prior to notification of the 2GP. Supermarkets need a light source to best display produce that is the correct colour, intensity, brightness and constancy, and natural light does not meet these criteria. *Progressive Enterprises* had indicated that methods to increase natural light access into supermarkets were regularly re-assessed, and the internal floor layout of the supermarkets had changed significantly. In particular, locating the check-out area close to the front of the store had enabled the inclusion of extensive front glazing associated with customer entry / exit to the supermarket.

769. The Reporting Officer considered that the earlier feedback from *Progressive Enterprises* suggested it was possible to have glazing along the street frontage, and she believed that the performance standard provides a good starting point to encourage appropriate design to meet both the supermarket's needs and the amenity expectations of the centres. She observed that traditional food retailers, such as butchers and fishmongers, typically use the front window to display produce and attract customers. She recommended that Rule 18.6.12 be retained as notified.

770. Mr Richard Knott, called by *Progressive*, spoke in some detail about good practice urban design in relation to the functional and operational requirements of supermarkets. These often limit the ability for the frontage to compliment street space. He suggested the rules relating to minimum glazing and building modulation were not appropriate to a supermarket, and that it was more likely that an appropriate design response would result if a site was planned holistically, and not artificially constrained by those requirements (Statement of Evidence for *Progressive*, p. 5).

771. Mr Munro provided examples at the hearing of two recent supermarket developments in Auckland, one of which (a New World in North Shore) had glazing and a high level of design quality on three sides. The second, a Countdown in Waitakere, had a row of 'sleeving' shops in front of the supermarket facing the parking area. This demonstrated

that quality design solutions were possible (Statement of Summary given at Hearing, p. 3).

4.6.11.1 Decisions and reasons

772. We reject the submission from *Progressive Enterprises* (OS877.8) to exempt supermarkets from the minimum glazing and building modulation performance standard (Rule 18.6.12).

773. In coming to this decision, we accepted the evidence presented by Mr Ian Munro, and agreed with the Reporting Officer that the performance standard will encourage appropriate design, that meets both the supermarket's needs and the amenity expectations of the centres.

774. We note that the outcome sought by *Stride Property Limited* (OS205.2) and *Harvey Norman Properties Limited* (OS211.4) in respect of amending Rule 18.6.12 to remove the 20% minimum glazing requirement for 'other street frontages', is already in place.

4.6.12 St Clair Neighbourhood Destination Centre

775. St Clair Neighbourhood Destination Centre is the block encompassed by Esplanade, Beach Street, Bedford Street and Forbury Road. It has a primary pedestrian frontage on each street frontage.

776. *Moi Bien Investments Ltd* (OS826) made several submissions in relation to the St Clair Neighbourhood Destination Zone seeking to remove or amend various performance standards. The reasons given were that the development framework is too restrictive, does not recognise the area's mixed commercial, dwelling and visitor accommodation characteristics, and does not promote sustainable management.

777. The submissions were to delete the following rules and amend the height performance standard – Height in Centres zones (Rule 18.6.6.2.g) to provide for 4 storeys or 16m (OS826.15):

- Rule 18.5.4.1 – Location of activities within pedestrian street frontages (OS826.13)
- Rule 18.6.1 – Boundary treatments (OS826.4)
- Rule 18.6.4 – Fence height and design (OS826.6)
- Rule 18.6.12 – Minimum glazing and building modulation (OS826.8)
- Rule 18.6.17 – Setbacks (OS826.7)
- Rule 18.6.19 – Verandahs (OS826.16)

778. Mr Allan Cubitt appeared at the hearing, noting that *Moi Bien* owned 11 Bedford Street and other businesses within the block. His main concern was in relation to the setback rule. His preference was to maintain a setback along (the north facing) Bedford Street of 7 to 8m, to allow sunshine for outdoor dining.

4.6.12.1 Rule 18.5.4.1– Location of activities within pedestrian street frontages

779. This rule limits permitted activities on the ground floor of buildings facing the street within a primary pedestrian street frontage.

780. Mr Christos considered it important to retain commercial/retail activity on the ground level within centres to encourage street vibrancy and activity. Residential activity at street level, where privacy and controlled entrances shape the interface, make this difficult to achieve (Statement of Evidence for *DCC,* p. 4).

781. The Reporting Officer considered there may be circumstances when ground floor residential uses were appropriate; however, this was best considered through the resource consent process (s42A Report, section 5.7.3, p. 145). She recommended that the rule was retained.

4.6.12.2 Rule 18.6.1 – Boundary treatments

782. This rule requires landscaping along street frontages where there is no building within 1.5m.

783. Mr Christos stated in his evidence that building to front boundaries in commercial centres is encouraged, to provide a continuous building line and active street frontage. When this is not achieved, car parking and service areas negatively impact streetscape amenity. Landscaping improves amenity and can be designed to meet a site's functional requirements. Mr Christos recommended retaining the rule as notified (Statement of Evidence for *DCC*, p. 5).

784. The Reporting Officer recommended rejecting the submission point and retaining the rule (s42A Report, section 5.7.5, p. 151).

4.6.12.3 Rule 18.6.4 – Fence height and design

785. This rule sets a 2m height limit for fences on side boundaries, and within 10m of the front boundary, unless screened by buildings or landscaping.

786. The Reporting Officer noted that the rule aims to maintain streetscape amenity. Excessively high fences can remove the sense of connection between the building and the street. She recommended rejecting the submission, and retaining the rule as notified (s42A Report, section 5.7.6, p. 152).

4.6.12.4 Rule 18.6.6.2.g – Height in Centres zones

787. This rule sets a 12m (3 storeys) maximum height in Centres Zones.

788. The Reporting Officer noted that Policy 18.2.3.1.d (now 18.2.3.12.a) aims to maintain or enhance streetscape amenity by ensuring building heights reflect other building heights (s42A Report, section 18.6.6.2.g, p. 165). Existing building heights were no more than 12m in the St Clair Neighbourhood Destination Centre (with small exceedances for rooftop structures). She considered that allowing building heights of an extra four metres would significantly alter the scale and feel of the centre and could reduce sunlight. She recommended that the submission was rejected.

4.6.12.5 Rule 18.6.12 – Minimum glazing and building modulation

789. This rule sets minimum glazing and modulation for street fronting parts of buildings.

790. Mr Christos believed it was important that Neighbourhood Centres remain a focus for local commercial and social interaction, and setback and glazing standards were appropriate minimum devices to encourage this. However, he considered that in the St Clair Neighbourhood Destination Centre, the primary pedestrian frontage could be reduced to include the eastern half of the block, from 14 Esplanade to 15 Bedford Street, with an 'other' street frontage elsewhere in the centre. This would recognise the centre's existing underlying character of commercial, residential and open space (Statement of Evidence (Performance Standards) for *DCC*, p. 8).

791. The Reporting Officer accepted this advice and recommended that the primary frontage was reduced as suggested (s42A Report, section 5.7.20, p. 189).

4.6.12.6 Rule 18.6.17 – Setbacks

792. This rule requires that buildings are built within 400mm of road boundaries that are primary pedestrian frontages. In the notified plan, the all road boundaries within the centre are primary pedestrian frontages.

793. The Reporting Officer noted the recommendation to remove the primary frontage from approximately half of the St Clair Neighbourhood Destination Centre (see above in

respect of minimum glazing rule). She noted that if this was accepted, the rule would only apply to the eastern end of the block (Section 42A Report, section 5.7.18, p. 182).

794. Mr Christos considered that the east of the centre has a strong architectural cohesion, including buildings meeting street boundaries, which is a defining characteristic of the centre. He believed the benefits of this were apparent along the Forbury Road edge, where the pedestrian interface is the most vibrant and active. He considered that it was critical to build on the centre's positive characteristics and retain and encourage active edges with a strong visual connection between pedestrians and interior space (Statement of Evidence (Performance Standards) for *DCC*, p. 11).

795. Mr Allan Cubitt's evidence specifically touched upon this rule, and he noted that although his preference was for a 7 to 8m setback along the north facing side of Bedford Street to permit sunshine for outdoor dining, he stated that a minimum of 5m was sought.

796. Following the hearing, we requested additional evidence from the Reporting Officer. She considered the specifics of the area and recommended that there be no requirement that buildings are built to the street frontage on Bedford Street, as this would alter the character of the street and prevent space for outdoor dining. She also maintained her recommendation that there should be no setback requirement, allowing developers to make the best use of the space as they see fit. She did not agree with Mr Cubitt that buildings should be required to be setback a certain distance, as shading is unlikely to be an issue, given the northerly aspect of the sites along Bedford Street.

4.6.12.7 Rule 18.6.19 – Verandahs

797. This Rule requires buildings to have a verandah in a primary pedestrian frontage area.

798. The Reporting Officer noted that currently none of the buildings in the St Clair Neighbourhood Destination Centre have verandahs, the footpaths are narrow, there is restricted loading spaces and exposure to southerly winds (s42A Report, section 5.7.19, pp. 184–185).

799. Mr Christos considered that requiring verandahs was probably not a practical requirement given the street design and use of the centre; and that continuous verandahs would not be consistent with the centre's built character. His advice was that verandahs not be required (Statement of Evidence (Performance Standards) for *DCC*, p. 12).

800. Consequently, the Reporting Officer's recommendation was to accept the submission, and to exempt the St Clair Neighbourhood Destination Centre from the requirement (s42A Report, section 5.7.19, p. 185).

4.6.12.8 Decisions and reasons

801. We made a site visit to the St Clair centre so as to better understand the issues raised by Moi Bien Investments Ltd. In general, we agree with the recommendations of the Reporting Officer and the advice given by Mr Christos. We do not consider that there is any evidence that this centre should be treated differently to any other centre, except in respect of removing the requirement for verandahs, which are out of character in this area. Restricted discretionary resource consent can be sought for any deviation from the performance standards, allowing site specific factors to be considered through a proper process. Consequently, we retain the performance standards for height, setbacks, location of activities, minimum glazing, boundary treatments, and fence height and design.

802. In relation to the setback rule, our principal concern is to avoid parking in front of buildings. Requiring a resource consent for contravention of the standard will ensure a good outcome through a site-specific assessment. We consider it appropriate to add a 'potential circumstance' to the assessment rule, that allows an exception to the setback rule in neighbourhood centres where the frontage is activated in an alternative way, for example with outdoor seating.

803. We accept the advice of Mr Christos that the primary pedestrian frontage should only apply to the eastern half of the block, as the character of the western part is different and does not reflect a typical centre.

804. We therefore have made the following amendments (see Appendix 1, submission points as listed below:

- remove the primary pedestrian frontage from the western half St Clair Neighbourhood Destination Centre, that is: 16 Esplanade, 33, 35 and 37 Bedford Street, and all properties fronting Beach Street (CMU 826.8)

- amend Rule 18.6.19 to remove the requirement to provide verandas in the St Clair Neighbourhood Centre (CMU 826.16)

- in the assessment rule for setback from road boundaries in a primary pedestrian frontage (18.9.6.5), add under the heading 'Potential circumstances that may support a consent application': "In neighbourhood centres, the setback area between the road boundary and the building is used for outdoor seating for a restaurant" (CMU 826.7)

- in Rule 18.9.6.5, add under 'Conditions that may be imposed include': "A condition that prevents the setback area from being used for car parking or outdoor storage" (CMU 826.7).

4.6.13 Proposed new land-use performance standard – density restriction on View Street

805. View Street is located within the SSYP Zone and is part of the View Street commercial heritage precinct. The SSYP Zone is zoned Residential 4 in the operative Plan.

806. *Ms Carol Devine* (OS252.46) sought that the 2GP recognise that View Street is made up entirely of 'residential' accommodation and therefore special considerations should apply (for example, access to parking permits). She supported sensitive commercial development, but not at the expense of existing residential rights. She noted that many properties in View Street have no parking available on site.

807. *Ms Carol Devine* (OS252.44) and *John and Clare Pascoe* (OS444.103) sought to add a new performance standard restricting residential density in the View Street 'Commercial Precinct' (presumably the Commercial Heritage Precinct). They considered that the density of student housing in View Street is 'more than high' already, and causing 'party-related disturbances'.

808. *Ms Elizabeth Kerr* (FS2429.153, 155) supported *Ms Devine's* submissions.

809. The Reporting Officer noted that under the operative Plan, one residential unit per 200m^2 is allowed, with no limit to the number of bedrooms within a residential unit. She stated that this has led to the development of at least one very large flat in the street as a permitted activity, which has been associated with party-related disturbances (s42A Report, section 5.7.1, p. 142).

810. The Reporting Officer, while sympathetic to the submitters' concerns, noted that planning controls could not control the behaviour of individuals in flats of any size, and were best managed via noise controls and through the involvement of the Police. Matters such as parking permits were similarly outside the scope of the 2GP. The submissions were recommended for rejection (s42A Report, section 5.7.1, p. 142).

811. No additional hearing evidence was presented on this matter.

4.6.13.1 Decisions and reasons

812. We reject the submissions seeking additional density controls in the View Street area. We agree with the Reporting Officer's conclusion that concerns about large student flats are better managed through noise controls, as planning rules cannot control residents'

behaviour. We note that there are other methods to control anti-social behaviour, such as alcohol bans.

4.7 Mapping changes: Zoning

4.7.1 Request to rezone Industrial land to Commercial and Mixed-Use Zones

4.7.1.1 All industrial land

813. The *Property Council New Zealand* (OS317.62) sought to incorporate all industrial zoned land into the commercial and mixed-use zones. It considered that many of today's industries have similar needs and effects on neighbours as commercial and professional office environments. In its view, a combination of the zones will allow for more flexible and dynamic types of development and investment in Dunedin.

814. The submitter considered that:

- a number of the CMU's objectives and policies related to the provision of industrial use;
- the 2GP's proposal fragments industrial, commercial and mixed-use zones based on historical rather than forward looking patterns of use;
- the affordability of industrial land is constrained through large areas of leasehold land;
- the proposal will not enable affordable land supply as it instead restates the status quo.

815. *Calder Stewart Development Ltd* (FS2430.7) supported the *Property Council's* submission in part. It supported the rezoning of parts of the existing industrial zoned land to a Commercial and Mixed-Use Zone; however, it considered that this should be targeted and geographically confined to those areas where there is a clearly emerging commercial and industrial mixed use of activities. These areas should also be clearly regulated to avoid the potential for reverse sensitivity effects on established industry.

816. *LRS Properties* (FS2012.1) opposed the *Property Council New Zealand* (OS317.62) submission to the extent that it sought that 577 Kaikorai Valley Road remain zoned Industrial, as the activities undertaken on all surrounding properties are industrial. It considered that there is already a shortage of land for Industrial development on Kaikorai Valley Road. The property is located at the south end of Kaikorai Valley Road, where no residential properties are affected, and is therefore a perfect site for industrial activity.

817. *Waste Management NZ Ltd* (FS2444.10) opposed the proposed rezoning as it considered that industrial land should be prioritised for industrial activity and that land specifically set aside to provide for industry should be provided for in the Plan. *Ravensdown Ltd* (FS2481.1) opposed the *Property Council's* submission as the Commercial and Mixed-Use Zone provisions are not appropriate for its Ravensbourne industrial site and operations.

818. *Tony McColl* (FS2189.3) opposed that the *Property Council's* submission. He considered that the Industrial Zone provisions are incompatible with the residential activities within the SSYP Zone.

819. *Agresearch Ltd* (FS2398.49) considered the proposed change from Industrial to Commercial and Mixed Use could result in the increased potential for reverse sensitivity effects on the Invermay Agricultural Research Centre farm.

820. *Mobil Oil NZ Ltd, BP Oil NZ Ltd and Z Energy Ltd* (FS2487.63) also opposed the *Property Council's* submission. They considered that retaining a separate industrial zone reduces the occurrence of sensitive or potentially sensitive activities locating adjacent to or within close proximity to industrial activities (including bulk fuel storage facilities). Combining the Industrial Zone provisions into the Commercial and Mixed-Use Zone

provisions would prevent any reasonable control in regard to locating activities, and would undermine the concept and benefits of an industrial zone.

821. *Cadbury Limited* (FS2451.2) supported the rezoning request by *Property Council New Zealand* (OS317.62) to the extent that it applied to part of its site. We discuss this submission in Section 4.7.1.2 below.

822. The Reporting Officer noted that the industrial zones' primary purpose is to provide space for industrial activities. In her opinion, providing a separate industrial zone was important for avoiding reverse sensitivity effects from incompatible activities. She also argued that the 2GP approach of managing industrial zones to avoid the encroachment of non-industrial activities, particularly retail and residential activities, into industrial zoned land as a threat to the availability and affordability of industrial land was necessary and appropriate. She said an example of this is the development of the former industrial land adjoining Andersons Bay Road into large format retail, car yards and other commercial activities. As a result of these changes, this area has been rezoned as a Trade Related Zone as it is no longer viable for industrial activities. The use of industrially zoned land for retail and residential activities reduces the availability, and increases the value, of industrial zoned land, and consequently reduces the potential for industrial activities to successfully operate in these locations. Such encroachment also exacerbates potential reverse sensitivity issues. She noted that this view is supported by a number of the further submissions (s42A Report, section 5.9.1, pp. 207–209).

823. She also referred to the limited amount of vacant industrial land and Mr Foy's evidence on the predicted demand in the future, as set out earlier in this decision.

824. Mr Foy's opinion was that the *Property Council's* submission would likely result in a widespread dispersal of office and retail activity throughout Dunedin's industrial zones, which would have adverse effects on centres and industry. Industry would be 'squeezed out' over time due to the relative rental premium extractable from non-industrial tenants, as well as reverse sensitivity issues. Over time this would effectively reduce industrial land. In respect of centres, they would suffer from some displacement of retail activity. The recommendation from Mr Foy was to decline the *Property Council's* submission (Statement of Evidence for the *DCC*, paras 7.7 and 16.13 to 16.16).

825. The Reporting Officer noted that the change requested by the *Property Council New Zealand* (OS317.62) would be inappropriate in terms of the Industrial section's objectives, and considered that the rezoning of all industrial land as commercial and mixed-use land would be inappropriate in terms of the strategic directions of the Plan, and would not achieve the purpose of the RMA. On this basis she recommended the submission be rejected.

4.7.1.1.1 Decisions and reasons

826. We agree with the Reporting Officer's analysis of the reasons for having an Industrial Zone, and the threats to industrial activity if this is allowed to be developed by a wide range of commercial and mixed-use activities.

827. We also note our conclusions at the beginning of this decision (section 3.2.3) on whether there is sufficient zoned land for industrial uses, as required by the NPS-UDC.

828. We accept Mr Foy's evidence that there is a risk that accepting the submission would put pressure on the supply of industrial land from increased rents forcing out industrial uses, and reverse sensitivity effects eroding the stability of such uses tenure in the area.

829. We note that in our Industrial Decision Report we have rejected submissions seeking to allow Trade Related Retail as a permitted activity in Industrial Zones, as well as submissions seeking amendments to Objective 19.2.1 and Policies 19.2.1.1 to 19.2.1.10, which would have allowed additional commercial activities in the Industrial Zone. The reasons for this decision are that the 2GP provides for these activities through the creation of a new Trade Related Retail Zone, as well as by allowing Trade Related Retail in most other CMU Zones. We also relied upon Mr Foy's evidence of the

importance for industrial land to remain zoned industrial, and Mr Fisher's evidence of the negative impact on the transport network from permitting additional commercial activity in industrial areas.

830. Consequently, we generally reject the Property Council's submission to rezone all industrial land as commercial and mixed use. We also agree with the views of various further submitters, and the Reporting Officer, that if land is to be re-zoned as a mixed industrial / commercial zone, such areas must be targeted to pockets where traditional industries are not located. The merits of any rezoning must outweigh the loss of industrial land, given that there is relatively little surplus land available, and are likely to be sites where industrial uses are no longer occurring. However, despite rejecting this broad change we have considered other requests to rezone land on a case by case basis, based on which zoning is most appropriate for the site considering the plans objectives, the characteristics of the site, and the overall need for different types of land as discussed at the start of this report.

4.7.1.2 Cadbury Site

831. *Cadbury Limited* (FS2451.2) supported the rezoning request by *Property Council New Zealand* (OS317.62) to the extent that it relates to existing industrial zoned areas that could support a mixed-use zoning. In this regard, *Cadbury* requested that the Cadbury World and Cadbury Office part of the Cadbury plant is rezoned CBD. It considered that the location and physical characteristics of the site lend it to being more comfortably classified as CBD Zone rather than Industrial Zone.

832. In addition, under this further submission, *Cadbury* sought to rezone the area of industrially zoned land bounded by Castle Street, Bow Lane, and Anzac Avenue to CBD Zone. The block includes Cadbury's car park (31 Anzac Avenue and 81 Castle Street). *Cadbury* submitted that reclassifying the car park as CBD zone would facilitate future development in this area.

833. The Reporting Officer agreed that *Cadbury's* further submission to rezone Cadbury World and the adjacent office building as CBD had merit, adjacent to the notified CBD Zone and in an area frequented by tourists. She noted that the area was not used for industrial purposes (s42A Report, section 5.9.1, p. 208).

834. She noted that its façade is to Castle Street, opposite the Railway Station, and extending the CBD Zone to include this site would be logical, being. Including this in the CBD Zone would allow it to be used for office activity. Its location means that it would add to foot traffic in the CBD, rather than draw workers away from this area (s42A Report, section 5.9.1, p. 208).

835. The Reporting Officer also discussed an alternative solution of zoning the site CEC Zone, as it was recommended that office is permitted within the CEC - North Zone; however, she preferred CBD zoning (s42A Report, section 5.9.1, pp. 208-209).

836. In relation to Cadbury's car park and properties between Bow Lane and Anzac Avenue, the Reporting Officer noted that this area has a mix of uses, including industrial, car parking and residential. It is more remote from the CBD than the previous site, although it was acknowledged that the railway station car park is zoned CBD. The block does not have the pedestrian foot traffic expected in the CBD, with the exception of Saturday mornings, when the Otago Farmers' Market is operational. CBD zoning may adversely impact on existing industrial activities in the area. On this basis the Reporting Officer's opinion was that CBD zoning was inappropriate in this instance (s42A Report, section 5.9.1, p. 209).

837. *Cadbury* provided legal submissions, and evidence from Nigel Bryce and Judith Mair. These were directed towards supporting the Reporting Officer's recommendation in respect of Cadbury World, Cadbury Café and the adjoining office; and seeking to extend CBD zoning to the carpark area. The main point made was that the carpark location suited such a zoning, and would enable better future regulation of the site (Legal Submissions, para. 27).

838. After the hearing we became aware of *Cadbury*'s intention to "end manufacturing operations in Dunedin in 2018" at the facility (Press Release by Mondelez International, dated 16 February 2017). Following this, we invited *Cadbury* to update its evidence based on the current situation. *Cadbury* responded that it would now prefer the extent of any rezoning to CBD to cover the part of the site recently consented to become Cadbury World, which includes the former Dairy Building and associated service yard. It is intended to subdivide the area off from the remainder of the site (Response to Minute, 16 April 2017).

839. Following this, the Minister of Health announced this site as the location of the new Dunedin Hospital, and shortly afterwards Cadburys indicated that it would close Cadbury World.

840. Given these events, and as discussed earlier (section 4.1.9.4), we gave the Southern District Health Board (SDHB) an opportunity to make further submissions on its relief sought. The SDHB responded (Memo from counsel, Ms Lauren Semple, of 14 May 2018) seeking the following outcomes in order to provide for hospital redevelopment:

    a. that hospital activities are permitted in the part of the new hospital site that is zoned CEC ('the Wilsons block'), as requested by submitter *Otago Land Group*, with this area being zoned CEC - North, as recommended in the s42A Report;

    b. that the part of the new hospital site zoned Industrial ('the Cadbury's block') is also zoned CEC - North, with hospital activities permitted, under the Property Council's submission to convert industrially zoned land to a Commercial and Mixed Use zoning; and

    c. that the heritage protection afforded to the façades of the Cadbury factory is reconsidered, in light of the Property Council's submission to review the level of protection afforded by the 2GP to buildings that 'were not significant when constructed but may which simply reflect their era'.

841. The Reporting Officer provided a memorandum in response, recommending that the part of the Cadburys facility that has been identified as new hospital site (which includes Cadbury World) are zoned CEC - North. She agreed that as the site will be used for the hospital on a long-term basis, and would not be used for industrial purposes, an industrial zoning is no longer appropriate.

842. In relation to the request to remove the Cadburys factory from the heritage schedule, she questioned whether there was scope under the Property Council submission to remove the scheduling, and argued that the correct process would be for SDHB to seek resource consent if demolition or alteration of the façades was required (Response to additional information provided by SDHB and Cadburys, May 2018).

4.7.1.2.1 Decision and reasons

843. We consider that retaining the Cadbury block as Industrial Zone is inefficient, given that it is required for the new Dunedin Hospital. The CEC - North Zone, which we have decided will provide for Hospital activity (see section 4.1.9.4), is the most appropriate zoning in the circumstances. There is clear scope to make this change under the *Property Council's* submission (OS317.62). As a consequential change, we have removed the Cadbury height mapped area from the site. The Industry s32 Report clearly indicated that the height mapped area reflects the scale of buildings within the existing factory and was intended to enable continued operation and expansion of industrial activities on the site. This mapped area is therefore no longer relevant, and the CEC – North height limit (amended to 20m - see Section 4.6.7.2) will apply.

844. The SDHB did not request that the zoning of the Cadbury carpark site is changed to CEC - North Zone so we have retained Industrial zoning. This provides for car parking as a permitted activity.

845. We therefore accept the *Property Council's* submission (OS317.62) in part, to the extent that we rezone the Cadbury's site.

4.7.1.3 Chinese Gardens

846. Although not raised by submitters, we note what appears to be a mapping error, in that part of the Chinese Gardens site at 39 Queens Gardens is zoned Industrial, with the remainder CBD. Given the use of the site, we consider it appropriate that the entire site is zoned CBD.

847. There is scope to do this under the *Property Council* submission (OS317.62) to rezone industrial land to CMU, as outlined above (Section 4.7.1.1).

4.7.1.4 Andersons Bay and South Dunedin Industrial areas

848. A number of similar submissions were received specifically in relation to the Andersons Bay and the wider South Dunedin industrial areas. The focus of these submissions was to rezone this area as Trade Related Zone, or allow trade related activity in this industrial area, through creation of a new mixed-use zone.

849. *The Property Council* (OS317.59) and *Chalmers Properties* (OS749.1, OS749.17, OS749.29, OS749.36 and FS2321.3) both sought to combine the Andersons Bay Industrial Zone with the Trade Related Zone to make a new Commercial and Mixed-Use Zone. The zone would provide for industrial activities and either all activities permitted within the Trade Related Zone (in effect an expansion of the Trade Related Zone - *Property Council* submission), or just trade related retail (*Chalmers Properties* submission).

850. Alternatively, the *Property Council* also sought to combine the Trade Related Zone with all industrially zoned land in South Dunedin to form a new Commercial and Mixed-Use Zone (OS317.63).

851. *Chalmers Properties* submitted that it had observed demand for mixed use commercial / industrial land, as business needs have changed from heavy to light industry, trade supplies and technology-based industry.

852. Similarly, the *Property Council* considered the requested changes would allow flexibility and enable more land to be developed for a variety of commercial uses, alongside industrial activities.

853. *Foodstuffs South Island Properties Ltd* (OS713.10, OS713.9) sought to retain the Trade Related Zone and extend it to include the blocks between Turakina Road, Portsmouth Drive and a block south of Midland Street. This area currently has a range of land uses, including a Trent's cash and carry wholesaler (owned and operated by *Foodstuffs*), a vacant site for which *Foodstuffs* has resource consent to build and operate a Raeward Fresh store, Turners car auction, Placemakers and a mix of smaller primarily industrial and commercial operations.

854. *Foodstuffs* submitted that the historical industrial zoning bears little relationship to the activities that exist there now, and insufficient consideration has been given as to whether this remains an appropriate zoning.

855. Following the initial part of the hearing, expert caucusing was undertaken between Mr Colegrave (for *Foodstuffs*) and Mr Foy for the Council. In the agreed statement resulting from this process, *Foodstuffs* outlined some alternative proposals on a no prejudice basis, where a smaller area of land would be rezoned, the smallest area comprising 2.4 ha of land along Midland Street. This is discussed below as part of the evidence (Joint Witness Statement of Mr Fraser Colegrave for *Foodstuffs* and Mr Derek Foy for *DCC*).

856. *Otago Land Group* (OS551.1) and *Nichols Property Group and others* (OS271.2) sought to rename the Trade Related Zone the 'Andersons Bay Mixed Use Commercial Zone'. The zone would provide for "appropriate retail, commercial and service activity including trade related retail, large format and bulky goods retail, yard based retail and large supermarkets". *Nichols* (OS271.2) sought to expand this new zone to include 51 Teviot Street, the site of Nichols Garden Centre. Both submitters considered that the area was now a mixed use commercial centre, with appropriate characteristics for

activities that are not a good fit in a CBD area. *Foodstuffs* submitted that the historical industrial zoning bears little relationship to the activities that exist there now, and insufficient consideration has been given as to whether this remains an appropriate zoning.

857. These submissions were variously supported by *Minaret Properties Ltd* (FS2036), *Progressive Enterprises Ltd* (FS2051), *Oakwood Properties Ltd* (FS2067), *Otago Land Group* (FS2149), *MM Group One Ltd* (FS2405), *Calder Stewart Development Ltd* (FS2430), and *Kenton Investments Ltd* (FS2445), for similar reasons to the primary submitters.

858. The submissions were opposed by *Z Energy Ltd* (FS2336.1) and *BP Oil NZ Ltd* (FS2488.1) on the basis of uncertainty, as no plan provisions (objectives, policies, rules) had been identified.

859. *McKeown Group* (OS895.1) wished to retain the industrial zoning over 36 Orari Street.

4.7.1.4.1 Evidence heard

860. We heard evidence from the *DCC*, *Chalmers Properties* and *Foodstuffs* on planning, economic effects and transport issues. Legal submissions were also given by *Foodstuffs* and *Chalmers Property*, but these were in the nature of summarising the issues, rather than dealing with any legal questions. We note that we have previously considered evidence in relation to the quantum of industrial land, and the effects of loss of industrial land and encroachment of other activities (section 3.2.3). The evidence below relates specifically to the Andersons Bay situation.

4.7.1.4.2 Planning evidence

861. The Reporting Officer noted the main difference between the Industrial and the Trade Related zones is the ability to undertake trade related retail and large-scale supermarket *activity*. In addition, drive-through restaurants are a restricted discretionary rather than non-complying (s42A Report, section 5.9.13, p. 284).

862. She drew our attention to a survey of current land uses in the Andersons Bay Industrial Zone (an updated version of which was presented in the Officer's opening statement). This showed that approximately 60% of the area is used for industrial activities. This included technology-based activities referred to by *Chalmers*, and many of the businesses highlighted in the *Foodstuffs'* submission. An additional 16% of the land area is used for other permitted activities or is vacant land. Trade related retail makes up 15% of the land area, and consists of large sites occupied by Bunnings, Placemakers and Carters, along with a handful of small retail outlets. General retail makes up only 0.26% of the area. In the Reporting Officer's opinion this shows that while there is a mix of uses, the area is not the commercial centre the submitters suggest (Opening Statement / Supplementary Evidence for CMU Hearing, para 45 and appendix 2).

863. Ms O'Callahan, called by *Chalmers Properties*, also presented a land use survey of the area, which showed that "approximately 50% of the area is used for mixed use or non-industrial activities." Retail ancillary to industrial uses was identified as contributing to the mixed-use character of the area, and that this lead to similar traffic effects *with* Trade Related Retail. While acknowledging that there was no commercial centre, her evidence was that the range of activities, including retail, meant that the area had a mixed-use character, rather than an industrial character.

864. The Reporting Officer, in her opening statement, noted that the differences in the assessment appeared to be due to Ms O Callahan classifying activities "with an obvious trade retail component" entirely into the trade related retail category, as she considered that trade related retail activities have the same effects as industrial activities with ancillary retail (Opening Statement / Supplementary Evidence for CMU Hearing, para 45).

865. Conversely, the *Reporting* Officer had classified most of these activities as industrial on the basis that they are industrial activities with a small retail component. She had assumed the retail component fell below the 10% permitted ancillary retail provision

as no resource consents have been granted for these sites. That is, 90% of the areas of these sites have an industrial use.

866. The Reporting Officer referred to recent resource consents for commercial activities in the area, noting that a number have been granted non-notified in recent years, with the effects considered to be minor. These included consents for Nichols' redevelopment of a pet shop and café, Bunnings Warehouse, and a variety of smaller trade related retail and other commercial developments. In relation to cumulative effects, the decision-maker's conclusion had typically been:

> "The cumulative effects of the existing activity in the area are presently not significant. The effects from this proposal are not expected to add to the existing effects such that the cumulative effects are more than minor. Future applications for activity in the area, beyond that permitted 'as-of-right' by the District Plan, will be assessed as and when they arise and the potential for cumulative effects considered again at that time." (e.g. LUC- 2012-210, 2014-368, 2008-228).

867. In the Reporting Officer's view, this demonstrated the difficulty of assessing applications on a case-by-case basis and the need for strong policies and rules to prevent further erosion of this area. The Industrial section of the 2GP contains a number of strong policies seeking to retain industrial land for industry given its overall strategic importance (s42A Report, section 5.9.13, p. 286).

868. Her recommendation was to reject the submissions seeking to broaden the uses in the Andersons Bay Industrial Zone.

869. Conversely, Ms O'Callahan concluded that those decisions indicated the Council was not significantly concerned with increasing the variety of use in the area. She made a further point that this indicated the industrial zoning was outdated, and requiring mixed use development to obtain a resource consent process was inefficient (Statement of Evidence for *Chalmers Properties Limited and Port Otago Limited*, paras 27 & 28).

870. Additionally, the Reporting Officer was of the opinion that the strategic objectives did not support increasing the flexibility of the zoning in Andersons Bay.

871. The Reporting Officer reiterated the importance of the Andersons Bay industrial land. Although there may be an overall surplus of industrial land across the city, this ignored the qualities of the Andersons Bay area which make it particularly attractive to industry. Taking data from a Colliers International report, she noted that rents for industrial land are highest in the inner-city area (this includes Anderson Bay), followed by Kaikorai, then Mosgiel (Opening Statement/Supplementary Evidence for CMU Hearing, pars 39.a., 42 and 43).

872. Finally, with regard to the appropriateness of the Trade Related Retail Zone's name, the Reporting Officer had no problem with changing it to the 'Andersons Bay Mixed Use Zone' or similar.

873. Mr Allan, an expert planner called by *Foodstuffs*, considered that the limited range of additional activities permitted under a trade related zoning would be complementary to existing businesses in the area. Mr Allan was of the opinion that reverse sensitivity issues were unlikely to arise, as evidenced by the Raeward Fresh decision, where reverse sensitivity effects were discounted (Statement of Evidence for *Foodstuffs*, para 34 - 35).

874. Mr Allan also considered that the type of development the relief would enable would not detract from the centres approach. He concluded by highlighting the benefits of the relief sought (providing for otherwise incompatible development and reduced consenting costs), and its concordance with the various statutory considerations (Statement of Evidence for *Foodstuffs*, para 91).

875. In response to our questions about the proposed rezoning in effect 'breaking up' the industrial land, Mr Allan responded that the Turners and Placemakers retail operations were compatible; however, he accepted there were a number of iterations of the subject

land available. He believed that the risk of disconnection was more imaginary than real given the compatibility and interplay between the zones.

876. Ms Devlin, representing *Nichols and others*, argued in submissions tabled at the hearing that the Trade Related Zone name does not reflect the activity mix in the Andersons Bay area. She also noted that the reason the Nichols garden centre was included within the Trade Related Zone was that garden centres are becoming more mixed use as retailing trends change. While a traditional garden centre is permitted within the Industrial Zone, the zoning needs to be more enabling to allow future growth and development as retailing trends change.

877. In response to questions from the Panel, Ms Devlin advised of difficulties in attracting industrial use tenants to the area given the volume of industrial land in Dunedin.

4.7.1.4.3 Economic

878. Mr Foy's primary evidence noted that as the Andersons Bay area was around 52 ha gross, this would provide a large redevelopment capacity, estimated to be 150-200,000m^2 of floorspace, assuming single level 35% site coverage. While not all of this space would be redeveloped into commercial uses, especially in the life of the 2GP, this would be a significant increase in development capacity for activities such as trade related retail (Statement of Evidence for *DCC*, para. 7.4).

879. In his opinion, simply increasing the range of activities in the area would not necessarily lead to growth, and could potentially result in industrial activities being 'squeezed out' as land prices increase, given non-industrial activity can usually afford to pay more, and also due to reverse sensitivity issues. Over time, the increase in other uses would effectively result in the loss of industrial land. Given the limited amount of vacant industrial land in urban Dunedin, this could result in industrial activities having to compromise on location with associated adverse productivity effects.

880. Secondly, permitting non-industrial activities would have adverse effects on other parts of Dunedin, by attracting some of those activities away from other locations. Mr Foy did accept, however, that given trade related retail is most commonly found outside centres, in practice this effect is likely to be minor (Statement of Evidence for *DCC*, para. 7.4).

881. Mr Foy's evidence was that *Nichol's* site is approximately 0.9ha, and consequently the impact on centres of activities on that site will be negligible, purely by virtue of its size. However, that is not, a sound reason to support the requested rezoning of the site, as the potential for cumulative effects of many such *ad hoc* developments should also be considered (Statement of Evidence for *DCC*, para. 12.7).

882. Mr Foy also noted that some of the activities on the site (e.g. garden centre and landscaping yard) are yard-based retail activities under the 2GP, and permitted in the Industrial Zone. There is therefore no need to rezone the site to provide for these activities. The only effect would be to recognise the pet store and café, which were established via a resource consent (Statement of Evidence for *DCC*, para. 12.8).

883. In response to *Foodstuffs'* submission, Mr Foy's opinion was that rezoning this area would potentially result in a significant change to the type of activities located there, and a gradual reduction in the industrial focus of the area. The potential result of that would be that over time the area would become more like Andersons Bay Road, with adverse effects on the supply of industrial land (Statement of Evidence for *DCC*, para. 12.7).

884. Mr Colegrave was called by *Foodstuffs*. His evidence was that a more enabling approach was required to address what he described as an oversupply of industrial land. His opinion was that the level of retail activity sought by *Foodstuffs* would not have a significant impact on any centre, due to the relatively low level of floorspace enabled by the proposal, and the nature of retail activity likely to be attracted would not directly compete with existing centres (Statement of Evidence for *Foodstuffs*, para. 21).

885. As referred to earlier, Mr Foy and Mr Colegrave undertook expert caucusing in respect of *Foodstuffs'* submission. They agreed that the requested rezoning would not have significant retail distribution effects. They did not agree on the significance of the loss of industrial land, with Mr Foy concerned about the strategically important location of the land in the middle of the industrial area, and potential severance of the industrial zone into two smaller discontiguous parts. The key effects arising from that severance, in Mr Foy's opinion, would be to change (to varying degrees) how people and goods move within the area, how businesses in the area transact with each other, and likely ongoing pressure for conversion of neighbouring land to non-industrial uses. All of those effects would be contrary to the 2GP's objectives for industrial land, such as the protection of industrial zoned land for industrial activities, and providing industrial areas near the central city to take advantage of economies of scale and connectivity (Joint Witness Statement of Mr Fraser Colegrave for *Foodstuffs* and Mr Derek Foy for *DCC*).

886. Mr Colegrave considered that Mr Foy significantly overstated the magnitude and relevance of this effect, particularly given that the 2GP itself creates separate areas of industrial land that are significantly smaller than would result from the relief sought (Joint Witness Statement of Mr Fraser Colegrave for *Foodstuffs* and Mr Derek Foy for *DCC*).

887. The evidence of Mr Butcher, called by *Chalmers Properties Limited*, was that any possible loss of industry from a reduction in industrial land would not be significant, given the reasonable supply of vacant industrial land, Dunedin's steady decline in manufacturing activity, that the area already has 40% non-industrial use (based on their methodology for analysis), and that if industrial use is outbid by a different use then this tends to indicate that the different use has greater economic benefits for Dunedin. Hence the loss of land to industry does not necessarily reduce the total level of employment in Dunedin because it may permit expansion of non-industrial uses (Statement of Evidence for *Chalmers Properties*, para 9.5).

888. In respect of reverse sensitivity effects, Mr Butcher opined that this is unlikely to be a problem and can be dealt with through rules or covenants on titles.

889. Mr Butcher's final point was that regulation is only justified where the benefits exceed the costs. Given the area has a 15% coverage of trade related retail, which would have had to undergo a resource consent process, and that no consents have been refused in the past 10 years, regulation is arguably disproportionate and trade related retail should be permitted (Statement of Evidence for *Chalmers Properties*, para 12).

4.7.1.4.4 Transport

890. Mr Fisher, DCC Transport Planner / Engineer, provided evidence on the transport implications of increasing commercial development within the Anderson's Bay industrial area.

891. Mr Fisher noted that the DCC currently receives complaints about congestion in the area, and this is predicted to increase. The area's poor safety for pedestrians was noted, especially the wide roads, which although appropriate for freight movement, make crossing difficult for pedestrians. In his opinion, additional commercial development would likely add to network pressure, and additional Trade Related Retail activity would likely increase pedestrian numbers who would need supporting with signalised intersections and refuges. This would impact on freight movements and network efficiency (Statement of Evidence for *DCC*, p. 10).

892. Mr Fisher's recommendation was that the submissions could not be supported from a transport perspective.

893. Mr Durdin, a transport engineer called by *Foodstuffs*, agreed that *Foodstuffs'* proposal would increase traffic over the current Industrial Zone; however, this did not mean that there would be adverse effects on the network. For example, Mr Durdin's modelling showed that developing the entire area as trade related retail would result in an increase in average delay at the Andersons Bay / Midland Street intersection of 5 secs (from 31 to 36 seconds) (Statement of Evidence for *Foodstuffs*, p. 4).

894. Mr Durdin also considered that providing for some high traffic generating activities outside centres is preferable given the difficulty of integrating these activities successfully into some centres. He therefore considered that the proposal supported the 2GP's centres policy.

895. He considered rezoning the area Trade Related would not materially affect the ability of industrial development to access the Port or southern motorway (Statement of Evidence for *Foodstuffs*, p. 9).

896. Mr Durdin did not agree with Mr Fisher's safety concerns, and was of the opinion that there were no current or future road safety related reasons to suggest the relief sought could not be supported. Additionally, there was the potential to enhance pedestrian safety through curb extensions, median strips and the like (Statement of Evidence for *Foodstuffs*, p. 11).

4.7.1.4.5 Decisions and reasons

897. We reject the submissions to rezone the Andersons Bay industrial area as either Trade Related Zone, or a mixed-use zone where trade related retail is provided for.

898. It is not a commercial area, although it is correct that the Council has approved a number of resource consents permitting alternative uses for the area. Having considered those however, it does seem that oversight through a consent process has ensured that the impact of these changes has been proportionate and appropriate. Development has largely been warehouse type development, which is easily convertible to industry use

899. As discussed in our Industrial decision report, we accept the Council witnesses' opinion that the loss of industrial land is a significant issue. Relatively central locations like this have advantages for many of the activities included in the broad definition of industrial activities. The land use activities in this particular area are changing with market forces so there is pressure to push the boundaries of what is permitted. This makes it important to have clear distinctions about is permitted, and in particular to manage retail activities carefully because they have a tendency to intensify to something more than what is permitted.

900. We are not persuaded that potential for reverse sensitivity can be dismissed. Although most of the nearby industrial activities do not appear to be generating significant adverse effects on amenity, the Industrial Zones do set lower standards for noise and other impacts.

901. The area has excellent transport options for industry. We accept that the area has a heavy traffic bypass, wide roads, low pedestrian counts, as well as being close to the port and rail which make the location attractive for industrial activities. The evidence on the likely effect of rezoning on transport safety and efficiency was conflicting; this appears to depend on what assumptions are made about the nature of likely activities

902. We do not accept that the spot zoning proposed by the *Foodstuffs* is good planning practice.

4.7.2 Central Business District Zone

4.7.2.1 21 Frederick Street

903. *Niblick Trust* (OS929.5) sought to change the zoning of the northern part of 21 Frederick Street from Campus Zone to CBD Zone. This site fronts both George Street (an alleyway next to Capers café) and Frederick Street (Tokyo Express / The Fix). The parts of the site fronting the street are zoned CBD, while the central (northern) part is zoned Campus. The zoning is the same as in the operative District Plan.

904. The submission stated that the land zoned Campus is not needed by the University, having been offered to them as part of the Dental School redevelopment. As a consequence, the site is now effectively an 'island', as it will not be developed for

campus purposes but cannot be developed in accordance with the planning provisions that control development on the balance of the site. This was reiterated by Mr Cubitt in oral evidence.

905. The Reporting Officer agreed with the submitter, noting that CBD zoning allows a wider range of activities than Campus zoning, in particular office and retail activities, which are appropriate on this site (s42A Report, section 5.9.2, p. 211).

4.7.2.1.1 Decisions and reasons

906. We accept *Niblick* Trust's submission (OS929.5) to zone the site CBD for the reasons discussed above.

4.7.2.2 Lower High Street

907. *Cavendish Chambers Ltd* (OS86.1) and *Bruce Chisholm* (OS38.1) sought to rezone a number of properties on lower High Street from Inner City Residential to Central Business District (1 and 3 Clark Street, 201, 205, 211, 219, 218 and 226 High Street). They noted that the properties are mainly business and commercial properties, and have been used in this way for many years, authorised by resource consents or existing use provisions. Only two properties (201 and 218 High Street) are used for residential purposes, and one of those properties has part commercial use (car parking).

908. The submitters *considered* that the request is required to reverse an historic anomaly.

909. *Mr Chisholm's* submission was supported by the *Bowen Family Trust* (FS2246.1), which stated that *the* submission makes planning sense, and protects the ongoing operation of the existing professional offices that dominate this part of the city.

910. The change of zoning on the north side of High Street was opposed by *Patricia McKibbin* (FS2362.1 and FS2362.2), owner of 226 High Street. She noted that 218 High Street and 1 Clark Street are used for residential purposes, and 3 Clark Street is used for community and leisure/recreation purposes (The Otago Motorcycle Club Inc.). Any change in zoning would further encroach on what is primarily a residential *area* and allow intensive development that would have a detrimental impact on the heritage precinct, especially given the greater bulk, height and site coverage allowable under commercial rules. She considered that there is no need for extra commercial zoning in the area, as there are "literally acres" of office space vacant in Dunedin at present.

911. The Reporting Officer noted that the area is zoned Inner City Residential, and is bounded by the CBD Zone to the south (Stafford Street), Industrial Zone to the north, and the CEC *Zone* to the east (recommended to be re-zoned CBD). The area is part of the High Street Heritage Precinct, with a number of scheduled heritage buildings and character-contributing buildings (s42A Report, section 5.9.4, p. 229).

912. She further noted that of the properties in the area, three are used for residential purposes, four for office activity, and one for community and leisure. Rezoning this area would allow an increased area in which retail and office activities could develop, potentially *diluting* the existing CBD. However, a number of these properties are already used for office activity and the area involved is very small.

913. The Reporting Officer considered that there is no need for additional CBD zoned land, or office space, *within* the city. Offices tended to develop around the fringes of the CBD by obtaining resource consents, potentially result in the CBD 'creeping' further into residential areas.

914. She further noted that the south side of High Street is the most commercially developed area, and if we wished to consider re-zoning, she suggested that it is limited to the south side, up to and including 211 High Street, where there is a car park which forms a physical buffer.

915. Mr Michael Nidd appeared for *Cavendish Chambers Ltd*, which owns 211 High Street. He explained his concern was primarily in relation to this site. Mr Nidd explained the commercial history of the building (originally a medical practitioners, then professional

offices). He reiterated that the area is predominantly commercial. He also stated that discussions with *Ms McKibben* indicated that she does not oppose rezoning on the southern side of the street, only on the northern side, where her property is located.

916. In her revised recommendations, the Reporting Officer noted that businesses appeared to be *operating* successfully under existing use rights, and questioned the need to re-zone the area.

4.7.2.2.1 Decisions and reasons

917. We reject the submissions of *Cavendish Chambers Ltd* (OS86.1) and *Bruce Chisholm* (OS38.1). For reasons discussed earlier in this report (section 4.1.1), one of the strategic objectives in the Plan is to ensure there is not a significant oversupply of office and retail space that may lead to increased vacancy levels in the CBD and centres, noting that we did receive evidence related to increasing vacancy in some areas. We have, therefore, taken a cautious approach to considering requests to increase the area of the CBD or other zones that provide for office and retail activities.

918. In this case, we did not receive any evidence that rezoning this area is required to either provide for existing activities, or that it was the most appropriate zoning for area, which still clearly has residential activities and characteristics.

919. While it may be appropriate for some further commercial activities to develop in the area, particularly where they support retention and adaptive re-use of heritage buildings, in our view these are best considered through a consent process. We note, Policy 15.2.1.5 provides for the expansion on centres in specific circumstances. *Furthermore*, while there are no rules that provide for commercial activities in scheduled heritage buildings as permitted activities (as there are in the WP and SSYP zones), there is still some policy support for this through the strategic directions.

4.7.3 Principal Centre Zone

4.7.3.1 Macandrew Road

920. *Harborough Properties Ltd* (OS866.2) sought that the part of the Trade Related Zone located between Macandrew Road, Glasgow Street and Reid Road is rezoned Principal Centre, as it connects the existing South Dunedin Principal Centre Zone, and is a natural extension of it. The submission noted that the Trade Related Zone was established to cater for large format food and beverage retail, trade related and yard based retail, which is generally inconsistent with the current use of this site. Conversely, the activities established on the site are highly compatible with the Principal Centre Zone characteristics.

921. The Reporting Officer noted that is area is an isolated part of the Trade Related Zone, with the remainder being on Andersons Bay Road, some 300m away. The existing land uses in the block are a medical centre, St John's second hand good shop, Plumbing World, a gym, Access home help and a vacant unit (Section 42A Report, section 5.9.5, p. 236).

922. Mr Foy considered that the rezoning request has merit as it would help to provide a small amount of additional centre-type activity in the central and southern parts of King Edward Street, and balance (albeit to a small degree) the large northern retail mass (The Warehouse and Pak'n'Save). Secondly, the area is relatively small, so any additional retail development that might occur in the future would be unlikely to have any material adverse effects on businesses in the centre, and would be more likely to have a positive effect. Furthermore, the businesses currently in the block are more consistent with Principal Centre activities than with TRZ (Statement of Evidence for *DCC*, para 10.2).

923. Mr Christos, on the other hand, considered in his written evidence that the area has been developed as a standalone destination separate from the historic centre, with buildings at the rear of the sites and car parking to the street. He considered that the

area makes no architectural reference to the existing centre, and is separated from it by the road network. From an urban design perspective, there is no justification for including this area in the Principal Centre Zone (Statement of Evidence (Street Frontages) for *DCC*, p. 8).

924. The Reporting Officer favoured Mr Foy's evidence and considered that the area is more appropriately zoned Principal Centre. She did not consider that this would be inconsistent with the 2GP policies which aim to protect the vibrancy and viability of the CBD and centres (s42A Report, section 5.9.5, p. 237).

925. Further, she considered whether it is appropriate to apply a pedestrian streetscape typology. However, as there is no pedestrian street frontage (mapped area) along Macandrew Road between this block and King Edward Street, she concluded this was not appropriate or necessary (s42A Report, section 5.9.5, p. 237).

4.7.3.1.1 Decisions and reasons

926. We note Mr Christos' concern that this area was allowed to be developed for commercial activities via consent with poor urban design outcomes, which would not meet the standards if the area had the area been zoned as a centre. However, we disagree that this is a reason not to zone the area as part of the centre. We agree with the reasons put forward by the Reporting Officer that the area is almost fully developed with mostly centre type activities, and there is a clear separation with nearby residential activity. Therefore, we accept *Harborough Properties Ltd* 's request (OS866.2) to rezone this area as part of the neighbouring Principal Centre.

927. A consequential amendment is made to Policy 2.3.2.4 to reflect the amended zoning.

4.7.3.2 Kensington Avenue, Andersons Bay Rd and Hillside Rd

928. *Calder Stewart Development Ltd* (OS930.1), *Kenton Investments Ltd* (OS1019.1) and *MM One Group Ltd* (OS1013.1), supported by a number of further submitters, sought that the block bound by Kensington Avenue, Andersons Bay Road and Hillside Road is rezoned from Trade Related Zone to Principal Centre. This area is currently occupied by The Warehouse, the Caledonian gym, Warehouse Stationery, and the adjoining car park area and a car sales showroom. We note that the Caledonian Bowling Club has recently been demolished and the site is vacant.

929. The reasons given were that the area is no longer industrial in nature and such activity would conflict with the established retail activities. The Trade Related Zone does not adequately acknowledge the existing land uses within the block, and the rule framework is not adequately tailored for retail activities.

930. As an alternative (and preferred) option to rezoning, *Calder Stewart* also proposed an amended rule framework, whereby the area remained TRZ, but with more permissive activity statuses for bulky goods retail, food and beverage less than 1,500m^2 GFA and general retail. We discussed this option in section 4.1.8.2. However, for completeness, since the original submission sought Principal Centre zoning, we will discuss this option here.

931. Mr Foy noted that if re-zoned, the site could accommodate a wide range of retail stores of all sizes, as bulky goods retail, general retail, and food and beverage retail less than 1,500m^2 would then be permitted. He estimated that half of the 3.4ha area might be available for redevelopment for retail activities, which could yield around 4-6,000m^2 of floorspace. That is a significant quantum of retail space compared to the total amount of space in the King Edward Street part of the South Dunedin Centre and would significantly increase the amount of retail activity that could establish in the northern part of the Principal Centre, shifting the retail gravity even further away from King Edward Street. In his opinion that would be detrimental to the existing Principal Centre, with the northern part of the larger centre likely to be more attractive to shoppers than the southern part (Statement of Evidence for the *DCC,* para 6.4).

932. Mr Foy noted that the submitter identified demand from existing large format retail stores to move into larger premises, and considered that the site would be an attractive location for such premises given the proximity to other large format retail stores in the area. He considered that while any redevelopment of the site would be likely to include large format retail, the likely inclusion of smaller specialty retail that could compete directly with the southern part of the Principal Centre would have the potential for adverse effects on the vitality and vibrancy of that southern part (Statement of Evidence for the *DCC,* para 6.6).

933. Mr Foy further noted that the 2GP makes provision for large format retail to establish in other areas, including the CBD, centres, the CEC Zone and the Warehouse Precinct Zone. The M.E (2015) report showed there is significant capacity in those zones to accommodate what is likely to be relatively modest future demand for additional large format retail premises (Statement of Evidence*,* para 6.8).

934. Mr Colegrave also considered the impacts on particular store types in South Dunedin, and predicted impacts of up to 6.8% on recreational goods retailers, and 4.7% on clothing and furniture retailers, but with an overall impact of less than 1% on the centre as a whole. Impacts on the CBD were of a similar scale, with an overall effect of up to 1.2%. He did not consider that such effects were significant enough to have flow on adverse social or economic effects on centres, for example a significant overall decline in a centre (retail distribution effects).

935. Mr Colegrave's economic evidence has been discussed earlier (section 3.2), and focussed on the view that the uses permitted in the Trade Related Zone were an inefficient use of the site, and that enabling a wider range of activities would not significantly impact on other centres.

936. Mr Foy, in his supplementary statement of evidence, considered that even if development potential was limited to 3,250m^2, this would still represent an additional shift in the retail gravity away from King Edward Street, with adverse effects on the patronage of that centre. He also noted that since, in Mr Colegrave's words, 'South Dunedin has fallen on rough times in recent years', some conservatism was warranted in terms of rezoning additional nearby retail land.

937. The Reporting Officer noted in her response that vacancy in the South Dunedin Principal Centre is currently low, at 4%. The effect on the existing centre of an expanded zone presumably depends on the type of retail that would eventuate. Retail in King Edward Street comprises a large number of takeaway food outlets and cafes, second hand shops, several banks and a post office, and limited retail of other types. The small effect predicted by Mr Colegrave may reflect the narrow range of existing retail (Economic evidence analysis, p. 10).

938. She continued, noting that the relatively limited retail range may partly be due to the poor state of many buildings and the difficulties of attracting a wider range of tenants. However, investment in this area by building owners may occur over the life of the 2GP. Increasing the size of the Principal Centre is likely to reduce the potential for re-development of the area, as possible tenants locate in the new area.

4.7.3.2.1 Decisions and reasons

939. We reject the submissions by *Calder Stewart* to rezone this area as Principal Centre, for the reasons outlined by the Reporting Officer and based on the evidence of the economic experts. This includes that the South Dunedin centre is currently underperforming and occupied to a large extent by low value tenants (such as second-hand shops), and any expansion of the zone that shifts the focus northwards is likely to exacerbate the decline in viability and vibrancy in the centre. We note that we have supported an expansion at the southern end of the centre where this is likely to have fewer adverse and more potential positive effects on the centre. We also note that if trends change in this area and the centre reverses its current trend that the zoning of the site in question can be revisited.

4.7.4 Suburban Centre Zone

4.7.4.1 47-49 Gordon Road, Mosgiel (Countdown Supermarket)

940. *Progressive Enterprises Ltd* (OS877.20) sought to rezone 47-49 Gordon Road, which has recently been developed for a new Countdown Supermarket, from General Residential 2 to Suburban Centre.

941. The Reporting Officer noted that this option was considered prior to the notification of the 2GP; however, there was insufficient time to undertake appropriate consultation to progress it. She considered that the idea has merit but requires further consideration about the zoning of sites between the Countdown supermarket and the Principal Centre further north. Given that the supermarket has a resource consent, there is no urgency to resolve the zoning. It would be more appropriate to consider the zoning of Gordon Road holistically following full consultation. She recommended that the submission be declined, but that the DCC undertakes to look at the zoning of this area in the near future (s42A Report, section 5.9.6, p. 240).

942. *Progressive Enterprises* called Michael Foster, an expert planner, to give evidence. He stated that the rezoning of the Countdown site to suburban centre zone is entirely appropriate. He noted that Gordon Road does not service a quiet and purely residential environment, and that the relief sought was site specific and would not annul the conditions of the submitter's resource consent (Statement of Evidence for *Progressive*, paras 24, 37).

943. *Progressive Enterprises'* tabled legal submissions which submitted that the 2GP process is an appropriate time for the rezoning to be undertaken, and that the site could be rezoned without compromising the potential for rezoning other neighbouring properties in the long term (Legal Submissions for Progressive, p. 13).

4.7.4.1.1 Decisions and reasons

944. We reject *Progressive's* submission to rezone 47-49 Gordon Road Principal Centre, for the reasons outlined by the Reporting Officer. While we are not disputing that the requested zoning for the site may be appropriate, we do not, in general, support the use of 'spot zoning' to recognise site specific consented activities, and do not believe this is an effective or efficient way to apply zoning. We agree with the Reporting Officer that a preferable method for zoning, and determining effective rules to apply in different zones, is to undertake a thorough analysis of the area, including consultation with the community, to determine a logical extension to the Mosgiel principal centre if required. We note that the consented supermarket is able to operate under existing use rights.

4.7.4.2 314 Highgate

945. *Almatoka Ltd* (OS980.1) sought to rezone 314 Highgate from General Residential 1 to the adjacent Suburban Centre Zone, submitting that the property would be better aligned with activities within the Suburban Centre Zone, that the proposed Suburban Centre boundaries have been established on an *ad hoc* basis, and have been set based on the relevant titles with no particular account taken of size and depth. The subject property, when combined with the property immediately adjoining, is no greater than other properties located within the block.

946. *Almatoka* counsel, Mr Sam Guest, tabled concept drawings for residential development of the site. Mr Guest highlighted the vacant site's uniqueness and that it could accommodate commercial or multi-unit residential development. He also noted that the submitter now sought General Residential 2 zoning rather than Suburban Centre.

947. The Reporting Officer had recommended rejecting the submission to rezone to Suburban Centre, on the basis of lack of frontage to Highgate (Section 42A Report, section 5.9.6, p. 240). In light of the amended request, she recommended rezoning to GR2 Zone. She considered this was within scope, as there would be no one prejudiced by this alternative, as all activities permitted within the GR2 Zone are also permitted in the Suburban Centre Zone and the applicable performance standards are more restrictive in the GR2 Zone (Revised Recommendations, p. 1).

948. The Reporting Officer also recommended that the mapping was 'tidied up' to remove the Suburban Centre zoning from the adjacent part of the Stuart Street road reserve.

4.7.4.2.1 Decisions and reasons

949. We accept the amended submission of *Almatoka Ltd* (OS980.1) to rezone 314 Highgate to General Residential 2 Zone, for the reasons outlined by Mr Guest and the Reporting Officer. We note that in general the 2GP supports the location of medium density housing close to centres, and this zoning is therefore appropriate in terms of the objectives of the plan. While a small area, we note that Stuart Street forms a natural boundary for the zone. It is unusual to change a zoning to something that was not sought by the submission, but we are satisfied that in this case we have scope to do that because, as the Reporting Officer stated, higher density residential is permitted under the Suburban Centre zoning sought.

4.7.5 Neighbourhood Centre Zone

4.7.5.1 14 -32 Albany Street (south side of street)

950. *Orari Street Property Investments Ltd* (OS984.1) sought to change the proposed zoning of a number of properties on Albany and Great King Street from Neighbourhood Centre to CBD. The reasons given were that these sites have always been zoned CBD and are the interface of the city's CBD with the University campus. The submitter noted that the s32 report does not contain any justification for rezoning the area Neighbourhood Centre and no consultation occurred with the owners of the building. Significant investment has been made in the buildings and the activities within them, in accordance with the current CBD zoning.

951. The Reporting Officer noted that the properties are on the south side of Albany Street between George Street and Great King Street, and include the Captain Cook tavern and retail outlets on Albany Street, excluding the Rob Roy dairy on the corner of Albany and George Streets. These sites are zoned Central Activity (equivalent to CBD) in the operative plan (s42A Report, section 5.9.7, p. 245).

952. The proposed Neighbourhood Centre Zone includes Albany Street between George Street and Ethel Benjamin Place, and the block surrounded by Albany Street, George Street, Union Street and Cumberland Street. The centres zones are new in the 2GP and aim to include all commercial activities in the area into one cohesive zone, with the same management rules. Across the road from the subject sites, the area is zoned either Residential 3 or Campus. Neither of these zones fits the current land use.

953. Mr Christos' considered that Albany Street, and the section of George Street between 472 and 490 George Street, has a fundamentally different character from the rest of George Street (s42A Report, section 5.9.7, p. 245). These areas transition from the high-volume pedestrian based retail of the 'main street' to a mix of uses, with a varied façade design and more open spaces, resulting in a less intense retail environment. Albany Street departs from the George Street character even further, simply because of its alignment, which enables it to connect with the inner city residential zones adjacent to the Campus Zone and north George Street. It is well located to serve these communities as a vibrant and varied centre. Mr Christos concluded that it is important to maintain the proposed centre boundaries to best encourage a consistent and appropriate use for the proposed centre, but to also to define and concentrate CBD activity on George Street.

954. The Reporting Officer agreed with Mr Christos' comments; however, she noted that the Neighbourhood Centre zones, together with the Neighbourhood Convenience Centre zones, are intended to capture the smaller centres which have a more limited range of land uses than the larger destination, suburban and principal centres. The types of land use activity permitted within them is consequently smaller, as some activities are neither anticipated, or encouraged, to locate in these smaller centres. Given its size and existing land uses, this centre more closely reflects a Suburban Centre than a

Neighbourhood Centre. She recommended that the entire centre is rezoned to Suburban Centre. This zoning is one of the most enabling, and would allow all the activities permitted in the CBD (s42A Report, section 5.9.7, p. 245).

4.7.5.1.1 Decisions and reasons

955. We reject the submission to rezone this area CBD, for the reasons outlined by the Reporting Officer, and having regard to Mr Christos' evidence.

956. We accept the alternative recommendation of the Reporting Officer to rezone the entire Neighbourhood Centres Zone to Suburban Centre. We note that the difference between a suburban centre and a neighbourhood centre is that conference, meeting and function, entertainment and exhibition and visitor accommodation are provided for. The area under consideration already has some examples of this a broader range of activities, and we accept that it is appropriate to provide for more of them. The "Suburban Centre" name of the zone is anomalous, but so is "Neighbourhood Centre" in this situation. Suburban Centre is the "best fit" zone available.

4.7.5.2 27 – 41 Albany Street (north side of street) and 362 – 386 Great King Street

957. The *University of Otago* (OS308.287) sought to rezone 27-41 Albany Street (the north side of the street), and 362 to 378 Great King Street, from Neighbourhood Centre Zone to Campus Zone. This is a small part of the notified Albany Street Neighbourhood Centre Zone.

958. Mr Brass, on behalf of the *University* clarified in his written evidence that the submission does not include 380, 384 and part of 386 (the frontage to Great King Street), which are owned by Kirkland Development Company Ltd. The *University* has no objection to those properties being zoned Neighbourhood Centre.

959. The *University* submitted that the Neighbourhood Centre Zone would significantly reduce the University's options in this area. Although the properties are currently in private ownership, they have potential for campus uses in the future. The different provisions between the two zones (Neighbourhood Centre and Campus) would also create significant inconsistencies with the operation of the University campus on either side of the Centre.

960. Alternatively (and less preferred), it sought that Objectives 18.2.1-18.2.4 are revised to provide for Training and Education or Campus activities within the Centres zones.

961. The Reporting Officer advised that the area includes a pharmacy, the Playhouse Theatre, Klone hairdressers, a post office, and the University Bookshop. This area is zoned Campus in the operative plan, however provides retail activities to the local community. Neighbourhood centre zoning for this area aims to include all commercial activities in this area into one cohesive zone, with the same management rules. Rezoning this area Campus would remove the permitted activity status for some of these activities, including cafes and retail activities. Consequently, the Reporting Officer's recommendation was to reject the submission and retain the Centre zoning (s42A Report, section 5.9.7, p. 246).

962. Mr Brass, resource planner for the *University,* in his written evidence, showed that the area proposed to be zoned Campus currently includes similar services to the area proposed to be zoned Centre (Statement of Evidence for the *University*, para 21).

963. The Reporting Officer in her Right of Reply noted that the Campus Zone rules would not currently allow cafes, or retail shops and that a decision on this would need to wait for the resolution of the activity status in the Campus hearing.

4.7.5.2.1 Decisions and reasons

964. We note that in response to separate submissions by the *University*, we have amended the definition of 'training and education activity' to include all campus activities outside the Campus zone (see Major Facilities hearing decision). This will allow the University

to undertake the same range of campus activities within the centre zones as within the Campus Zone and reduce inconsistencies between the centres zones and Campus Zone provisions. Development performance standards will differ between the two zones; however, these reflect the desired built form of the areas and it is appropriate that this is the case.

965. We therefore see no benefit in changing the zoning of this area to Campus; in fact, to do so would limit the potential range of activities that may take place, and make many existing activities non-complying. We therefore reject the *University of Otago's* submission (OS308.287). We note that as discussed above (section 4.7.5.1)we have rezoned the Neighbourhood Centre Zone in this area to Suburban Centre.

966. We also reject the alternative relief sought of amendments to Objectives 18.2.1–18.2.4.

4.7.5.3 Block between George, Union, Great King and Albany streets

967. The 2GP zones this area as Neighbourhood Centre. It includes, amongst other buildings, the Holy Name Catholic Church at 420 Great King Street. The zoning of this area was supported by the *University of Otago* (OS308.285). The *Roman Catholic Bishop of the Diocese of Dunedin* (FS2475.3) opposed the *University's* submission, as it considered the zone does not adequately recognise the strategic importance of the site to the Dunedin catholic community. By way of background to this further submission, the submitter also sought to rezone this site to more accurately reflect its wider community significance (OS199.11). At the *Bishop's* request, this point was heard in the Major Facilities hearing and our decision is outlined in that decision report.

968. The Reporting Officer noted that her recommendation remained that this centre is rezoned as a Suburban Centre (s42A Report, section 5.9.5, p. 237). This would provide for a wide range of activities, including those proposed by the *Bishop*.

4.7.5.3.1 Decisions and reasons

969. As discussed above (section 4.7.5.1), we have amended this zone to be Suburban Centre. This appears to be the "best fit" zoning and will provide for the activities generally undertaken at the Church.

970. We, therefore, reject the *University's* submission (OS308.285) to retain the notified zoning, and accept the *Bishop of the Diocese of Dunedin's* further submission (FS2475.3).

4.7.5.4 Great King Street to Ethel Benjamin Place

971. Between Great King Street and Ethel Benjamin Place the Neighbourhood Centre Zone is confined to the south side of Albany Street, and includes Walsh Street and a small portion of Gowland Street (Figure 5). The north side of Albany Street is zoned Campus.

Figure 5: Neighbourhood Centre Zone between Ether Benjamin Place and Walsh Street

972. *Niblick Trust* (OS929.1) sought an amendment to the zoning of 3, 5, 7, 8, 10 and 12 Emily Seideberg Place, 10 and 10a Malcolm St and 19 Gowland Street from Campus to Neighbourhood Centre.

973. *Niblick Trust* considered that this location is one of the more important and visually prominent sites within Dunedin City, as it is the gateway to Dunedin's commercial heart and development in the area must recognise and provide for that. Emily Siedeberg Place has a wide, open *streetscape* that enables appropriate development while maintaining and enhancing the amenity values of the location and its contribution to the wider amenity values of Dunedin's commercial heart.

974. The submission stated that the best zone to provide for this is the Neighbourhood Centre Zone, as it will better facilitate gateway enhancing development, whereas Campus style development has the *potential* to compromise such an outcome. In any event, the *Niblick Trust* understands that the *University* does not have any particular plans for this site in their wider strategic plan.

975. The *University of Otago* (OS308.286) sought to rezone the Neighbourhood Centre between Great King Street and Ethel Benjamin Place to Campus. It considered that the Centre zoning will significantly reduce the University's options for the Student Health property at 3 Walsh Street, and would work against the strategic aim of improving connections between the main campus and the health sciences precinct (centred on Great King Street and the Dunedin Hospital).

976. The Reporting Officer had no strong views on *Niblick's* proposal but noted that it would leave 6 Emily Seideberg Place *and* 18 and 20 Gowland Street as Campus 'islands' (s42A Report, section 5.9.7, p. 248).

977. In respect of the *University's* requested rezoning of the Neighbourhood Centre to Campus, the Reporting Officer noted that the recommended amendment to the Training and Education activity definition would allow Campus activity within the centre. This would remove the *barrier* to the *University* undertaking campus activity, and assist in connecting these two areas of the campus. Physical connections, for example improved pedestrian and cycleways, can still be made, regardless of the zoning. The Reporting Officer recommended that the *University of Otago's* (OS308.286) submission is rejected (s42A Report, section 5.9.7, p. 248).

978. Mr Allan Cubitt, consultant planner, appeared on behalf of *Niblick Trust*, noting that the submitter sought to be able to develop retail and restaurants in this area and any underlying zoning which allowed this would be acceptable.

979. Mr Murray Brass, planner, appeared for the *University of Otago* and gave evidence that the submitter preferred retaining Campus zoning for the areas proposed to be zoned CMU. A map was tabled. In respect of the south side of Albany Street between Great King Street and Ethel Benjamin Place, the rezoning from Campus to Neighbourhood Centre was *'strongly'* opposed, specifically in respect of the Walsh Street properties (Student Health building). The potential narrowing of permitted activities was highlighted, particularly the non-complying nature of 'other major facilities' and 'entertainment and exhibition'. The height limit (from 40m under Campus zoning, to 12m) was also noted (Statement of Evidence for the *University*, para 35).

980. Additionally, the *University* expressed concern about the proposed rezoning of the remainder of Albany Street "*exacerbat*[ing] the disjunct between the main campus and the health sciences precinct". The needs of food and service business locating on Albany Street were acknowledged; however, the submitter expressed a preference for this to be undertaken under a more flexible Campus Zoning, rather than "creating an artificial delineation" (Statement of Evidence for the *University*, para 38).

4.7.5.4.1 Decisions and reasons

981. We note that the provision of Campus activity outside the Campus Zone was considered at the Major Facilities hearing, and our decision on that matter was to include Campus activity in all zones that Training and Education activity is provided in, with the same activity status and performance standards. This enables Campus activity to be established in all locations that Training and Education activity can, and we consider this to be an appropriate approach as the effects are likely to be similar regardless of whether it is a private training entity or a campus-affiliated education organisation carrying out training or education in the various zones.

982. We therefore see no reason to rezone the area to Campus, as requested by the *University*, and reject its submission (OS308.286).

983. In respect of *Niblick Trust's* submission (OS929.1), we reject their request to rezone 3, 5, 7, 8, 10 and 12 Emily Seideberg Place, 10 and 10a Malcolm St and 19 Gowland Street from Campus to Neighbourhood Centre. The situation is complicated by our decision above to rezone the *adjoining* Neighbourhood Centre zoning to Suburban Centre. One approach would be treat *Niblick Trust's* submission as a general request to expand the commercial zoning, which is what Mr Cubitt implied when he indicated that any commercial zoning providing for retail and restaurants would be acceptable to his clients. The submission specified Neighbourhood Centre zoning however so it is doubtful that there is scope to grant relief with a "higher" (more permissive) zoning than that. It is different from our decision to accept in part the request for CBD zoning in this area, by providing Suburban Centre zoning.

984. Our main concern is that providing any kind of commercial centre zoning to the Niblick Trust properties would lead to two "islands" of Campus zoning surrounded by commercial centre zoning. We also see the request as seeking further ribbon development along a busy road.

985. This is an unusual situation in that Campus zoning is being applied to land not owned by the University. We have considered whether this imposes restrictions that would more properly be imposed *by* a Designation for a public work. A Designation gives property owners the ability to initiate a process to force the "requiring authority" to uplift the Designation or buy their property. The Campus zoning provides for a wide range of activities, including residential use, that can be owned and operated by anyone, not just the University, so in our assessment this is not a situation where Designation for a public work is more appropriate.

4.7.6 Neighbourhood Convenience Centre Zone

4.7.6.1 94/96 Taieri Road

986. *Roslyn Gardens Ltd* (OS852.1) sought that the property at 94/96 Taieri Road be rezoned from General Residential to the adjoining Kaikorai North Neighbourhood Convenience Centre Zone, as the property would be better aligned with activities found within the NECC zone.

987. The submission was opposed by Ms *Martene Robertson* (FS2257.1) who lives at 11 Walton Street, two houses away from 94 Taieri Road. *Ms Robertson* noted that she enjoys living in a quiet residential cul-de-sac and considers that the proposed re-zoning would result in a greater level and range of activities, with associated issues of noise, parking, and traffic movements. This would have a negative effect on the quiet street and neighbourhood. She also pointed out that Walton Street was closed off for safety reasons and to stop traffic exiting onto Taieri Rd. The activities associated with a NECC Zone will generate a much higher volume of traffic than would arise with residential activities. She considered there would also be parking issues as Walton Street is already at capacity for parking.

988. The Reporting Officer noted that the site is adjacent to the Little Wonders Early Childcare Centre, and appeared to be vacant (s42A Report, section 5.9.8, pp. 250 – 251).

989. Mr Fisher, DCC Transport Planner/Engineer, noted that there are wide ranging concerns about access to the site for vehicles and pedestrians. This rezoning request would expand the NECC Zone across a Strategic Road with high traffic volumes at a location where there are known safety risks for both motorists and pedestrians. He expected that the pedestrian safety risk would worsen as a consequence. Motor vehicle access on and off the site is problematic due to the location of the site on an uphill slope, and there are limited opportunities to formalise safe, easy to use on-street parking. As a result, he could not support the proposal (Statement of Evidence for *DCC*, p. 8).

990. The Reporting Officer noted that allowing a wider range of activities to establish without resource consent would be inconsistent with Policy 6.2.3.9 (to only allow land use, development… where there are no significant effects on the safety and efficiency of the transport network). It would be more appropriate to seek consent for any commercial activity on the site (s42A Report, section 5.9.8, p. 251).

991. Counsel for *Roslyn Gardens Ltd,* Mr Sam Guest, submitted that 94/96 Taieri Road was suitable for a multi-unit development, and that General Residential 2 zoning would be acceptable. The site was large, unique, close to the CBD and had good transportation access. Further, it was noted that the site would be a buffer between the neighbouring Residential 1 Zone and the main road. Development was forecast within the next 15 years, and although it could be done under General Residential 1 zoning, the performance standards under Residential 2 were more appropriate.

992. The Reporting Officer noted in her revised recommendation GR2 zoning was generally within scope, as all activities permitted in GR2 zone are also permitted in NEC zone, and the rules and performance standards are more restrictive.

4.7.6.2 Decisions and reasons

993. We accept *Roslyn Gardens Ltd's* (OS852.1) amended submission to rezone 94/96 Taieri Road General Residential 2 for the same reasons as for 314 Highgate. That is, the 2GP generally encourages more medium density housing near centres, and while this is adjacent to a neighbourhood centre it is also close to schools, a recreation area, the larger Roslyn centre and on a bus route, thereby meeting a number of the criteria in Policy 2.2.1.4. While we note it is a small area, Taieri Road presents a natural zone boundary and there is the potential for the expansion of the zone through a future plan change to other sites adjacent to this centre, if supported by landowners.

4.7.7 Rural Centre Zone

994. *Dunedin City Council* (OS360.190) sought to change the zoning of 2 Waikouaiti-Waitati Road from Rural Coastal Zone to Rural Centre Zone. This was identified as being appropriate prior to notification, after consideration of transport and hazards issues, but was inadvertently missed off the mapping.

995. The Reporting Officer noted that the land is unused and the original rezoning request indicated it may be used for landscaping supply or as a café. No submissions were received in opposition. DCC's Water and Waste Services noted that there is insufficient capacity in the drinking water network and there are poor fire flows. However, there is no expectation that this area would be serviced by the DCC water networks (s42A Report, section 5.9.9, pp. 252 – 253).

4.7.7.1 Decisions and reasons

996. We accept *Dunedin City Council's* submission (OS360.190) and change the zoning of 2 Waikouaiti-Waitati Road from Rural Coastal Zone to Rural Centre Zone, for the reasons given by the Reporting Officer.

4.7.8 Harbourside Edge Zone

4.7.8.1 Fryatt Street

997. *Port Otago Limited* (OS737.40) and *Chalmers Properties Ltd* (OS749.18) sought to include the southern side of Fryatt Street adjoining Steamer Basin (part of 50 Fryatt Street) within the Harbourside Edge Zone. The area is currently zoned Industrial Port.

998. *Ms Elizabeth Kerr* (OS743.49) questioned the appropriateness of Industrial Port zoning for encouraging adaptive re-use and redevelopment of the heritage properties at 31-33 Thomas Burns Street (B106), 21 Fryatt Street (B754), 25-27 Fryatt Street (B755) and 5 Willis Street. *Chalmers Properties Limited* (FS2321.7) supported this submission.

999. *Ms Kerr* (OS743.48) also sought to amend the boundary of the Harbourside Edge Public Walkway to include the above properties, the two heritage wharf sheds on Fryatt Wharf, and the associated wharf.

1000. The southern side of Fryatt Street is not included in the operative Harbourside Zone or the 2GP Harbourside Edge Zone. The s42A Report noted that it was originally included in the Harbourside plan change, along with a larger area of land to the north of Steamer Basin, but was removed during the plan change process, following opposition from nearby land owners and users (s42A Report, section 5.6.2, p. 123).

1001. The Reporting Officer recognised the suitability of the locations identified by the submitters for Harbourside Edge development, but had concerns regarding potential reverse sensitivity effects on adjoining industrial users, and impacts on the CBD. She expressed concern that surrounding landowners were unaware of the proposal and recommended that a subsequent plan change was appropriate to address this, both to enable consultation as well as to determine appropriate rules to apply the area (s42A Report, section 5.6.2, p. 123).

1002. Ms O'Callahan, planning consultant called by *Chalmers Properties*, considered that the issues raised by the Reporting Officer could be addressed through planning controls, including limiting the range of activities in the area to address concerns on the effects on the CBD (para 46). She did not elaborate on which activities might be appropriate or inappropriate. Ms O'Callahan suggested reverse sensitivity effects could be addressed through the noise insulation requirements, and 'no complaints' covenants. An integrated transportation assessment was recommended as a consent requirement to address transport issues.

1003. Mr Butcher, economics consultant called by *Chalmers Properties*, considered that the area's small size meant it is likely that commercial development would result in only

minor effects on the CBD, but would be positive for visitors. Retaining the area for industrial use was in his view inefficient (Statement of Evidence, para 45).

1004. In response, Mr Foy expressed the view that although the area is small, cumulatively it would contribute to a general weakening of the CBD by creating another alternative destination for commercial businesses. Additionally, if the available land in the Harbourside Edge Zone is too large, development may be too fragmented to generate a critical mass of development. Mr Foy recommended an incremental release of land rather than the larger area proposed (First Supplementary Brief of Evidence, para 3.5).

1005. At the hearing, Mr Plunket, Chief Executive of *Port Otago*, noted that the existing wharf buildings are inappropriate for industrial use, and redevelopment for industrial use is not commercially viable. If redevelopment was not permitted, the sheds would likely fall into disrepair, given the difficulties in obtaining consent for a non-complying use (Evidence, para 6.3).

1006. Mr Plunket also commented that *Port Otago* is satisfied that the 2GP's acoustic requirements (which apply to noise sensitive activities within 40m of an Industrial Zone) would be sufficient to prevent reverse sensitivity in the area, and that residential development in the "inner part of the north side of the Harbour Basin" (which we infer to mean the wharf shed area that is the subject of the submission) was unlikely, as it is colder and has a less attractive outlook (Evidence, para 5.4).

1007. The Reporting Officer maintained her recommendation, adding that development would put further demands on, as yet, unfunded amenity infrastructure.

1008. Following the hearing, we sought additional information from *Chalmers Properties* on the state of the wharf and wharf sheds, and the feasibility of replacement or repair. In response, a property inspection report from Hadley and Robinson Ltd was provided, which assessed the structural condition of the wharf. This concluded that from a structural point of view, the wharf may not be feasible to refurbish, due to factors including:

- significant damage requiring replacement of a significant part of the deck, and a major proportion of the substructure
- the future life, if refurbished, being 20–30 years, compared to the life of a new structure being 50 years plus
- the cost of refurbishment of the wharf being likely to be more than the cost of replacement.

1009. It also concluded that if the existing buildings were to change use, significant upgrades would be required, which would not be economically feasible

4.7.8.1.1 Decisions and reasons

1010. We accept *Ms Kerr's* submission to include the heritage properties at 31-33 Thomas Burns Street (B106), 21 Fryatt Street (B754), 25-27 Fryatt Street (B755) and 5 Willis Street within the Harbourside Edge Zone (CMU OS743.49). We understand that resource consent has been issued to allow residential use in 31 – 33 Thomas Burns Street (the Loan and Mercantile building), which is an activity anticipated in the Harbourside Edge Zone.

1011. We reject the submission of *Chalmers Properties* to extend the zone along the southern side of Fryatt Street, to include the wharf sheds. As discussed above in relation to the request that all of the Harbourside Edge Zone is made available for commercial activities immediately, we consider a staged approach is best in this area, and rezoning additional land should be a possible further stage following completion of the zoned redevelopment area. As there are significant issues about sensitive activities establishing adjacent to existing industrial activities this should be implemented through a plan change allowing full public participation.

1012. Consequently, we reject Ms Kerr's submission to extend the Harbourside Edge walkway along Fryatt Street.

4.7.8.2 Rezone area covered by Transitional Overlay Zone

1013. *Chalmers Properties* (OS749.14), supported by the *Otago Regional Council* (FS2381.512) sought to remove the Transitional Overlay Zone and immediately rezone the area covered by this overlay as Harbourside Edge Zone. The submitter considered that the overlay zone significantly reduced development rights.

1014. Mr Foy (consultant economist called by DCC) considered that immediately rezoning this area would provide development capacity in excess of what is required to leverage off the Harbourside location. Such an approach could adversely affect the vitality of the CBD in his view (Statement of Evidence, para 7.21).

1015. Based on this advice, the Reporting Officer recommended rejecting the submission (s42A Report, section 5.6.2, p. 121).

1016. *Chalmers Properties* called Ms O'Callahan to give planning evidence. She noted that the site was already identified for mixed use development and that the site's attractiveness would bring new investment to the city, rather than draw investment away from the CBD (Statement of Evidence, para 39).

1017. Mr Butcher*,* economics consultant for *Chalmers Properties,* believed that the most efficient use of the land resource would be achieved by allowing developers to decide on the order of development, rather than being constrained by the overlay zone (Statement of Evidence, p. 8).

1018. Ms Justice, planning consultant, gave evidence for *ORC*. She criticised the overlay zone as being 'ambiguous' and uncertain for developers (Primary Evidence, para 4.43). She further observed that the overlay may discourage development within the HE Zone given that development across Birch and Kitchener Streets will not be required to achieve the higher amenity requirements applicable in the HE Zone.

1019. Mr Foy responded to this evidence by noting that without a controlled release of development land there was the potential for development to be undertaken sparsely and haphazardly. Without a concentration of development in the area, there was a risk that it would take longer for a 'critical mass' to be reached (Supplementary Evidence, para 3.4-3.5).

1020. The Reporting Officer also questioned whether it was realistic to assume that developers were deterred from the area simply due to the overlay zone. She recommended that the Transitional Overlay Zone be retained (Right of Reply, p.4).

1021. *Chalmers Properties'* counsel Mr Len Andersen submitted that Rule 12.3.2, which allows the release of the overlay zone land, to be *ultra vires*, as it allows the Council to effect a plan change (to convert the land to Harbourside Edge Zone) by way of Council resolution, rather than through the proper RMA processes (Legal submissions, para 2.5(a)).

1022. We note that the legality of the rule's wording has been addressed in the Urban Land Supply topic decision, with the result that we amended the wording of Policy 12.2.2.1 which enables the 'release' of land for Harbourside Edge development, so that the 'trigger' is certification by the Chief Executive Officer once there is agreement with the developer on any infrastructure issues, and at least 70% of the zone is being used for residential or commercial activities. A Council resolution is no longer required. This change addresses the point made by Mr Andersen, because no discretion has to be exercised. The Council's CEO simply has the role of certifying when the circumstances defined in the rule exist

4.7.8.2.1 Decisions and reasons

1023. We have visited the area concerned several times so as to better understand the evidence. We reject *Chalmers Properties'* submission to remove the overlay zone and

immediately rezone the land Harbourside Edge for the reasons outlined by the Reporting Officer and Mr Foy. In making this decision we considered both the evidence on this area as well as the overall evidence on commercial land supply and demand, which we discuss in Section 3 of this decision.

1024. We have no doubt that the Harbourside Edge Zone area is an underutilised resource and has great potential. Mr Andersen and his witnesses made a good case for this, but in our view they did not explain why opening up the whole area immediately would lead to early redevelopment, when nothing has eventuated in recent years under the present zoning.

1025. As discussed earlier in this decision, we have confirmed that a 'centres' approach to commercial zoning is appropriate for Dunedin. We accept Mr Foy's advice that development in the Harbourside Edge Zone could be at the expense of intensification in the nearby CBD. The most effective and efficient way to reconcile the need to better utilise the Harbourside Edge Zone and protect the CBD appears to be a staged approach. Our conclusion might have been different if Chalmers Properties Ltd had produced some evidence of planning for comprehensive development, taking into account the potentials and constraints of this area.

4.7.9 Princes, Parry and Harrow Street Zone

4.7.9.1 Princes Street

1026. *The Property Council New Zealand* (OS317.56) sought to remove Princes Street from the Princes, Parry and Harrow Zone because it is too small and isolated from Parry and Harrow Streets. It supported rezoning the Princes Street area to CBD, with added flexibility for industrial, trade and yard based retail activities, should they wish to locate there.

1027. The Reporting Officer noted that this area is zoned Industrial in the operative plan, however has a mix of uses, including industrial and residential. The existing range of activities and built form is not a good fit with the CBD Zone, which has high amenity expectations. The PPH zoning allows a wider range of permitted uses (than industrial), including residential, training and education and visitor accommodation, as well as industrial, trade related and yard based retail (Section 42A Report, section 5.9.10, p. 256).

1028. Mr Foy's evidence was that if the area was rezoned to CBD, a small amount of office and retail activity might eventuate in the area, but that it would be unlikely to have any noticeable effect on the CBD or other centres. However, in his opinion, there is little merit in extending the CBD zoning to this area, as this would be unnecessary both from a capacity perspective or to recognise existing uses (Statement of Evidence for *DCC*, para 16.2–16.3).

1029. Having regard to this evidence, the Reporting Officer recommended rejecting the submission and retaining the area's zoning as PPH Zone.

4.7.9.1.1 Decisions and reasons

1030. We reject the submission to rezone the Princes Street part of the PPH zone as CBD for the reason given by the Reporting Officer, that PPH zoning is more appropriate than CBD zoning for the area in terms of the activities provided for, due to both the built form and existing mix of uses in the area.

4.7.9.2 PPH zoning in Parry and Harrow Street area

1031. *Bindon Holdings Ltd* supported the PPH zoning (OS916.24) of the Parry and Harrow Street area, as it recognises the potential of the area to support the nearby Forsyth Barr Stadium and campus activities, by allowing a mixed-use character to emerge. It considered that the zoning would introduce vibrancy and vitality to the area and create

a higher quality connection between the CBD and the Forsyth Barr Stadium than that which currently exists.

1032. *Beven O'Callaghan* (OS1036.1) also supported the PPH zone provisions, and the inclusion of 57 Anzac Avenue within the PPH zone. The submitter noted that the zoning allows for sensible ongoing use of the land and improved land management opportunities, and provides as appropriate level of flexibility in land use activities at this location.

4.7.9.3 Request to zone Parry and Harrow Street area to CEC

1033. The *Property Council New Zealand* (OS317.57) considered that the Parry and Harrow Street area should be amalgamated with the CEC Zone, with a more permissive activity table reflecting its location adjacent to the University, Dunedin Hospital and CBD. It considered that this is an important strategic location, where a high density of working and residential population will enhance the sustainability of the CBD and the University's Campus Master Plan.

1034. The *University of Otago* (FS2142.6) opposed the submission to the extent it affected their property at 90 and 96 Anzac Avenue (the Hocken Library and adjacent site). The *University* separately submitted on rezone 90 and 96 Anzac Avenue to Campus Zone (OS308.284). We note that this was heard at the Major Facilities Hearing and we have agreed to that request.

1035. *Bindon Holdings Ltd* (FS2471.1) supported the *Property Council's* submission insofar as it ensured that the area zoned PPH is less restrictive in terms of activity status, and does not revert to an industrial or port zoning. That would be an inefficient use of well-located urban land, particularly given the large extent of industrial/port zoned land in the vicinity.

1036. The Reporting Officer noted that the PPH Zone provides for a different range of activities than the CEC Zone, reflecting the current land uses that have developed under the operative Industrial 2 zoning (s42A Report, section 5.9.10, p. 258).

1037. Changes were recommended (and have been agreed to by us, see sections 4.9.1.4 and 4.9.1.5) to the activities permitted in what we have now called the CEC – North Zone, reflecting its location close to the Hospital and CBD. The Reporting Officer considered that extending the more permissive provisions of the CEC – North Zone across the PPH Zone would not be appropriate due to its distance from the CBD.

1038. Mr Foy, in his written evidence, noted that the effect of re-zoning the area to CEC would significantly increase the amount of retail activity (bulky goods retail and large-scale retail) that could establish in the area. Retail in this location is not required to provide for increasing market demand, and would have the effect of diluting retail activity throughout the City. This has been discussed earlier in this decision in relation to submissions to amend the status of various activities within the PPH Zone (Statement of Evidence for *DCC*, para 16.5 to 16.7).

1039. The *University of Otago* provided written submissions outlining their preference for Campus zoning for the full block between Anzac Avenue and Parry Street. The reason given was the relative narrowness of the 'training and education activities' definition as opposed to that provided for under the Campus zoning. The Hocken library is likely to become more 'public-facing', with possible conference, meeting and function activity, entertainment and exhibition, office and other major facilities activities, which would be problematic under the proposed zoning (Statement of Evidence for the *University of Otago*, p. 7–8).

1040. Additional impacts on future development were also identified, including the height rules and building modulation and glazing requirements. The proposed zoning did not reflect the current or intended use of the land, and simply expanding the definition of 'training and education' was not considered sufficient to address these issues (Statement of Evidence for the *University of Otago*, p. 7–8).

1041. Mr Peter Jackson appeared for *Bindon Holdings* and broadly supported the development of the area. Specifically, the submitter sought greater flexibility in land uses (bulky goods retail, conference, meeting and function, and entertainment and exhibition as well as restaurants) and performance standards so as to encourage new development. These concerns have been discussed earlier in Section 4.1.6.

4.7.9.3.1 Decisions and reasons

1042. We reject the Property *Council*'s submission to rezone this area CEC Zone because it would be contrary to the policies promoting concentration of retail activities.

1043. We note that in the Major Facilities Decision, we have decided to zone 90 and 96 Anzac Avenue as Campus, for reasons given in that decision. We have also addressed the *University's* broad concern about enabling campus activities outside the Campus Zone by amending the definition of training and education to cover all campus activities located outside the Campus zone (see Major Facilities decision).

4.7.9.4 Request to change to Industrial Zone

1044. *BP Oil, Mobil Oil NZ Ltd and Z Energy Ltd* (OS634.90) (the '*Oil Companies*'), supported by *Liquigas Limited* (FS2327.26), sought to change the zoning of the land between Ravensbourne Road and Parry Street West from PPH Zone to Industrial Zone. The PPH zoning is of concern to the submitters as the provisions allow sensitive land *uses* to establish in close proximity to the Z bulk fuel terminal, raising issues of risk and reverse sensitivity / encroachment. The submitters noted that the oil facilities are regionally significant strategic infrastructure and provide a vitally important role in the region's fuel supply. The economy of the region, to a greater or lesser extent, is reliant on the efficient and effective operation of the facilities at Port Dunedin, including those of the *Oil Companies*.

1045. The O*il Companies* also noted that as well as sensitive activities, industrial activities are permitted in the zone, which is likely to lead to ongoing land use compatibility issues in terms of both constraints on industrial activities and unrealistic expectations around residential amenity levels.

1046. *Bindon Holdings* (*FS2471*.26) opposed the *Oil Companies*' submission, considering that the range of other methods sought by these submitters to control development in the vicinity of their facilities provides sufficient scope to manage risk.

1047. *Liquigas Ltd* (OS906.20) sought to rezone the portion of the PPH Zone that is within 200m of *Liquigas's* terminal to Industrial Zone, or otherwise amend the zoning so that it does not give rise to issues of reverse sensitivity and/or the location of sensitive activities within a distance of 200m from major hazard facilities. It was of significant concern to *Liquigas* that sensitive activities could establish with minimal oversight or measures to manage their vulnerability to hazards and their potential to generate reverse sensitivity effects. The submission was opposed by the *Oil Companies (FS2487.61)* in line with its submission to rezone all PPH land to Industrial Zone.

1048. The Reporting Officer noted that a 200m radius from *Liquigas'* terminal includes the eastern part of the Parry Street West / Ravensbourne Road block within the PPH Zone (s42A Report, section 5.9.10, pp. 259 – 260).

1049. We also note that both *Liquigas* and the *Oil Companies* proposed additional provisions aimed at reducing or preventing the encroachment of sensitive activities that would compromise the ability of the fuel terminals to operate. *Liquigas* proposed a 'Major *Hazard* Facility Overlay' to manage land uses within 200m of the boundaries of the *Liquigas* site. The *Oil Companies* proposed an 'Emergency Management Area Overlay' encompassing most of the block between Ravensbourne Road and Parry Street West. The overlays would apply a non-complying activity status to sensitive activities seeking to locate within them. The requested rezoning of the PPH Zone by the *Oil Companies* was an additional request, and sought to provide appropriate buffers between the different land uses.

1050. These submissions were heard at the Public Health and Safety Hearing, and our decision was to accept *Liquigas's* request, but reject that of the *Oil Companies*.

4.7.9.4.1 Decisions and reasons

1051. Having considered the above submissions, we consider it appropriate that the PPH zoning remains in place and the area is not rezoned Industrial. Zoning the area Industrial would significantly limit the activities that could develop there. There is the potential for a range of commercial activities in the area.

1052. The only justifications for an industrial zoning are reverse sensitivity effects and public safety issues arising from activities in the adjacent Industrial Zone. These are addressed by our decision to apply a Major Hazard Overlay within 200m of the *Liquigas* site.

4.7.9.5 Zoning of Hanover Street

1053. *Technology Holding Products* (OS157.1) and *Mr Anthony Guy* (OS173.1) sought to change the zoning of sites on the south side of Hanover Street between Castle Street and Harrow Street (one site deep) from Industrial Zone to PPH Zone. The reasons given were that this would better reflect the existing use of this area, it would provide an inviting environment / corridor for vehicles, pedestrians and cyclists between the Harrow Street area and the CEC Zone (and therefore the CBD), and that the existing uses fit better with the PPH zone than the Industrial Zone.

1054. Existing uses include Frames Footwear, Bullings Furniture and Dulux. The submitters noted that industrial activity is permitted in the PPH Zone, so a change of zoning would still allow existing and future industrial activity. The submitter anticipated that the area is likely to provide 'business support activities' (photocopiers, business equipment etc.) and retail not suited to the CBD. Offices in this area support both industry and 'business to business' organisations.

1055. The Reporting Officer noted the north side of Hanover Street in this area is zoned PPH and agreed that the land use in this area is no longer industrial in nature, and would be better supported by being rezoned to PPH (s42A Report, section 5.9.10, p. 261).

1056. *Mr Guy* attended the hearing to speak in support of both submissions. A statement was tabled and a video of the area was played. He advised that the submission referred only to sites adjoining Hanover Street; however, he sought the rezoning of the entire building on the corner of Hanover Street and Castle Street, part of which is on a separate site that does not front Hanover Street.

1057. We were advised by the Reporting Officer in her Right of Reply that scope is available to include the entire building in any rezoning under the *Property Council's* submission (OS317.62). This sought to zone all Industrial land to Commercial and Mixed Use. Such an outcome will mean that the rear site is split zoned industrial and PPH; however, this does not raise any issues in terms of the way the 2GP rules are implemented.

4.7.9.5.1 Decisions and reasons

1058. We accept the submissions by *Technology Holding Products* (OS157.1) and *Anthony Guy* (OS173.1). We agree that it makes sense that the south side of Hanover Street, including the whole of *Mr Guy's* building, is zoned as PPH for the reasons outlined in the s42A Report (CMU 157.1, see Figure 5 below). We agree that there is scope to include the whole of *Mr Guy's* building within the zone under submission OS317.62.

Figure 5: Extent of PPH Zone on Hanover Street between Castle Street and Harrow Street

4.7.10 Smith Street and York Place Zone

1059. The *Property Council of New Zealand* (OS317.58) considered that due to its size and isolated location, the Smith Street York Place Zone should be merged into the CBD Zone.

1060. *Roy Kenny* (OS230.1) supported the SSYP zoning, noting that for many years half the properties in the Residential 4 Zone of the operative District Plan bounded by Smith Street, Stuart Street and York Place have been used for business activities. He considered the proposed change to a mixed-use zone is long overdue.

1061. *Tony MacColl* (FS2189.2) opposed the *Property Council's* submission as he considered that the CBD Zone is inappropriate in this location and would adversely affect residential amenity.

1062. The Reporting Officer recommended rejecting the submission, noting that the Smith Street York Place Zone recognises the transition of a residential area into a Mixed Use Commercial Zone which, given its proximity to the CBD, is well placed for visitor accommodation, training and education and some limited office activity (s42A Report, section 5.9.11, pp. 263 – 264).

1063. The Reporting Officer further noted that the area has a residential character that distinguishes it from the CBD. This distinction is accentuated by the physical separation of the zone as it is on the slopes above the CBD. There is little retail in the zone. The concerns of Mr McColl were also noted (s42A Report, section 5.9.11, pp. 263 – 264).

1064. Mr Foy's evidence was that the SSYP Zone is 5.2ha of gross land area. Although relatively small, the inclusion of the SSYP Zone in the CBD Zone would potentially introduce retail and office activities to an area where there is currently little such activity, although it would be unlikely to have any noticeable effect on the CBD or other centres. However, he considered that there is little benefit in extending the CBD zoning into the SSYP area, and enabling retail and office activities there is unnecessary from a capacity perspective or to recognise existing uses (Statement of Evidence for *DCC,* p. 44–45).

4.7.10.1 Decisions and reasons

1065. We reject the *Property Council's* submission to rezone the area CBD for the reasons given by the Reporting Officer, and also due to the economic evidence we heard that there is no need for more office and retail space (see Section 3.2). In our view, allowing the area to transition to have more small scale commercial activity in the form of visitor accommodation, as well as office activity in scheduled buildings will support the adaptive re-use of heritage buildings and be complementary to the activities in the CBD.

4.7.11 Wal's Plant and Fun Land

1066. *Daisy Link Garden Centres Ltd* (OS1047.2) sought to rezone part of 58 Ayr Street from Rural to a 'Special Zone: Wal's Plant and Fun Land'.

1067. The rezoning was advanced on the basis that one third of the site is already developed, containing a café, retail activities, mini-golf and a miniature railway operating under resource consents. Further development is being considered, including an animal park, model aircraft area, a maze, visitor accommodation and conference facilities. The submission is that the activities listed should be permitted subject to development standards that manage off-site adverse effects on the neighbouring rural amenity.

1068. *Daisy Link* also noted that the properties to be rezoned 'Special Zone' are not greenfield sites, and the existing development is a resource deserving recognition in the 2GP. As the Special Zone will sit between the General Residential 1 and Rural zones, it is ideally suited to avoid reverse sensitivity effects between these zones, as well as providing a rational transition between two different land uses and providing a long-term defensible urban boundary for the western boundary of Mosgiel.

1069. Several submissions were received opposing the requested re-zoning. *Mr Phillip Lyall* (FS2038.2), *Mr Raymond Cook* (FS2104.2), *Allan and Gay Brown* (FS2115.2), *Alec & Nicky Cassie* (FS2124.1), *Chris & Frances McInnes* (FS2211.1), *Mr Ian Stephenson* (FS2388.2) and *Mr Wilhelmus Rosloot* (FS2341.3) raised concerns, including that such zoning could detract from rural amenity and reduce property values, the existing land layout provides a sound and visual buffer, the lack of clarity around permitted activities, and noise, traffic and infrastructure effects.

1070. *Mr Brian Miller* (FS2386.2) opposed the rezoning for reasons including a loss of high class soils, and that the area is in a groundwater protection zone. He queried the existing access arrangements *Daisy Link* has for the Riccarton Road site, and also questioned the arrangements for domestic water supply for current and future Wals' activities.

1071. *Richard & Jan Muir* (FS2193.1) objected to the rezoning for the northwest corner of the area ('Area C' in their submission). They did not oppose the Special Zone for the remainder of the site. They noted that *Daisy Link* lists many potential activities but does not specify where they will occur in the Special Zone, and as the impact of those activities will relate to their specific geographical location, the submission is inadequate. They considered that 'Area C' provided a sound and visual barrier for Wals' existing activities. They also considered that after-hours traffic, noise from conference facilities and visitor accommodation would be intolerable. Model aircraft noise would also be intolerable and there already is a model aircraft area approved in School Road. Use of 'Area C' for new activities would detract significantly from the value of the lifestyle blocks across the road.

1072. Mr Fisher, DCC Transport Planner/Engineer, advised of potential impacts on the safety and efficiency of the transport network. There was also concern regarding the suitability of existing transport infrastructure to cater for the proposed activities, especially for pedestrians (for example a lack of formed footpaths on Bush Road). A detailed Integrated Transport Assessment had not been undertaken for this particular site; therefore, the proposed zone could not be supported from a transport perspective at this time (Statement of Evidence for *DCC*, pp. 11-12).

1073. Ms Louisa Sinclair, DCC's Hydraulic Modeller, DCC Water and Waste Services, highlighted concerns in relation to the wastewater, water and stormwater infrastructure networks. She noted that the wastewater system currently has no additional capacity for the rezoning. Any additional discharge could exacerbate known wastewater surcharge and flooding issues in the catchment downstream, regardless of whether a new wastewater pipeline was installed directly to the wastewater treatment plant, or a connection made to the existing network. The development has the potential to produce a significant amount of stormwater. There is no/limited capacity available within the drainage networks. The proposal would reduce available capacity in the watercourse. If the Council stormwater network is unable to efficiently discharge to the watercourse, existing properties upstream could potentially flood (s42A Report, section 5.9.14, p. 294 - 295, and Appendix 8 Eight).

1074. With regard to water supply, Ms Sinclair noted that the proposal has the potential to use a significant amount of water. Depending on the water requirements, adjacent existing customers could notice a pressure reduction during peak demand. Furthermore, conference facilities and visitor accommodation require a higher level of fire protection than residential zoning. This level of water flows would likely require a ring main design which is not currently available. Ms Sinclair also noted that the effects of a separate submission to re-zone part of the property as Residential should be considered in association with this proposal. We note that this proposal was addressed in the Urban Land Supply Decision Report, and our decision was to decline the rezoning.

1075. The Reporting Officer considered that the issues raised by the further submitters, DCC Transportation Group and the DCC Water and Waste Group indicate that a resource consent process is appropriate to consider the specific activities proposed, their location and their effects. The Reporting Officer noted that visitor accommodation and sport and recreation activity (model aircraft area) are discretionary in the Rural Zone of the 2GP. The remaining activities are non-complying (s42A Report, section 5.9.14, p. 295).

1076. *Daisy Link's* counsel Mr Philip Page filed written submissions and made oral submissions in support of the rezoning. The current zoning was submitted as being a poor fit for the activities currently undertaken on the site, and that CMU objectives and policies were more appropriate. This would align currently consented activities with the planning regime.

1077. It was further submitted that the site has its own water supply bore, and there is no difficulty obtaining necessary water. In respect of wastewater, the submitter had previously sought permission (under the DCC's bylaws) to attach to the DCC's wastewater system, but had been refused. The submitter's technical advice is that such a connection can be achieved without adversely affecting the network. In response to transportation issues, it was submitted that there is sufficient land for these issues to be addressed on site.

4.7.11.1 Decisions and reasons

1078. We reject *Daisy Link's* submission to rezone this area a CMU Special Zone. There is insufficient information to convince us that providing for the type of activities sought is appropriate and that the adverse effects on neighbouring properties would be acceptable. We think it is more appropriate that these matters be canvassed in more depth through a resource consent or plan change process. Furthermore, as discussed in relation to the Countdown Supermarket in Mosgiel, we generally do not favour the creation of spot zones merely to provide for activities that are already and appropriately operating under resource consents. We also have significant concerns in relation to wastewater and stormwater management, consistent with our findings in the Urban Land Supply decision in relation to increased residential development in this area.

4.8 Pedestrian frontages

4.8.1 Objective 18.2.3 and associated policies (streetscape amenity)

1079. *Z Energy Ltd* (OS313.3, OS313.4 and OS313.5) sought a number of changes to Objective 18.2.3 and its associated policies, if their submission to remove the secondary pedestrian frontage from their service station in Green Island was refused (OS313.2).

1080. The submission to remove the pedestrian frontage (OS313.2) is discussed below in Section 4.8.2.3, where our decision is to remove the frontage. However, for completeness, we consider the requested policy changes.

1081. *Z Energy* sought to:

- Amend Objective 18.2.3 to read (OS313.3):

  "*Land use and development maintains or enhances the amenity of the streetscape, including the visual and environmental amenity for pedestrians along identified pedestrian street frontages <u>wherever practical, having regard to factors such as the location and nature of the proposed activity and of adjoining development</u>*"

- Amend Policy 18.2.3.3 to specifically exempt activities that have a functional need for an alternative building form from clauses (a) and (b) (OS313.4). To achieve this, the submitter proposed a new clause (e):

  "Require buildings in a secondary pedestrian street frontage to provide a good level of pedestrian amenity by:

  a. providing a regular frontage of buildings along the street, with limited interruptions for vehicle accesses;

  b. providing a clear and direct visual connection between the street and the building interior;

  c. providing an architecturally interesting façade and human scale design, through building modulation and consistent alignment of windows; and

  d. providing shelter for pedestrians at pedestrian entrances.

  e. <u>provided that activities that have a functional need for an alternative building form are exempt from clauses a and b</u>.

- Amend Policy 18.2.3.11 to specifically recognise the contribution activities such as service stations and drive-through restaurants bring to the function, role and viability of business areas, as follows (OS313.5):

  "Only allow restaurant - drive through and service stations alongside a primary pedestrian street frontage ~~or secondary pedestrian street frontage~~, where the drive-through component will not be visible or accessed from these pedestrian street frontages. <u>Allow restaurant-drive through and service stations alongside secondary pedestrian street frontages where a pedestrian access path into the site has been clearly defined., there is a visual distinction between the vehicle access crossings and the public footpath and where the site is located outside of or on the periphery of the main concentration of retail shops.</u>"

1082. The *Property Council* (OS317.60) sought a review of Objective 18.2.3 and its related policies to ensure they are balanced and allow for flexibility to meet site specific circumstances and the practicalities associated with development. It stated that rules and requirements should also encourage innovation and lateral thinking.

1083. The *Otago Chamber of Commerce* (OS1028.4) supported the objective of maintaining or enhancing streetscape amenity.

1084. The Reporting Officer recommended retaining Objective 18.2.3 given the importance of maintaining amenity in commercial areas, noting that good urban design was critical

to the vibrancy of urban areas, particularly the CBD and centres. However, she recommended accepting *Z Energy's* submission in part, and amending Policy 18.2.3.11 to align it with the 2GP's policy drafting and to make it more flexible in respect of drive-through activities (s42A Report, section 5.8.1, p. 193).

1085. She proposed the following wording:

> "*Only allow restaurant - drive through and service stations alongside a primary pedestrian street frontage or secondary pedestrian street frontage, where ~~the drive-through component will not be visible or accessed from these pedestrian street frontages~~ any adverse effects on pedestrian amenity will be avoided or, where avoidance is not possible, adequately mitigated*."

4.8.1.1 Decisions and reasons

1086. We reject *Z Energy's* submissions to amend Objective 18.2.3 and associated policies. We note that we have earlier deleted Policy 18.2.3.11 as it effectively duplicates Policy 18.2.1.15 (see Section 4.5.7). Based on the evidence provided, we do not accept that drive through restaurants are appropriate along a primary pedestrian frontage where high levels of amenity are expected as outlined by the Plan's objectives and policies. Furthermore, in terms of the drafting protocol, our view is that the Reporting Officer's suggested use of the phrasing 'adequately mitigated' is not an appropriate level of strictness for the importance of the issue in relation to the Plan's objectives. We note in the case of this submitter, our decision to remove the pedestrian frontage will address their site-specific concerns.

1087. While we note the broad concerns raised by the *Property Council*, but are not convinced that a broader review is necessary, and note the submitter presented no evidence to support this request. We, therefore, reject that submission.

4.8.2 Pedestrian Street Frontage mapped areas

4.8.2.1 DCC Corrections

1088. The Dunedin *City Council* sought to correct several errors in the pedestrian street frontage mapped areas. These were:

- remove the primary pedestrian street frontage from the railway tunnel entrance on Beach Street, Port Chalmers (area of designation D422) (OS360.223)
- extend the primary pedestrian street frontage along 17 Mailer Street, Mornington (OS360.224)
- extend the secondary pedestrian frontage mapped area along 2 Manse Street (OS360.222).

4.8.2.1.1 Decision and reasons

1089. We accept the submissions by *DCC* to correct errors noting that there was no opposition to these changes and the Council's evidence that this was a mapping error.

4.8.2.2 Rattray/MacLaggan Street

1090. *Stride Property Ltd* (OS205.3, 4) and *Harvey Norman Properties NZ Ltd* (OS211.8) and (OS211.9) sought to ensure the sites at 35 Maclaggan Street, and the corner of Rattray and Maclaggan streets, are excluded from the pedestrian overlay mapped areas. No specific reasons were given.

1091. Mr Christos' evidence was that if the area was rezoned to CBD as requested, a secondary pedestrian street frontage would be appropriate (including on 180 Rattray

Street), to ensure minimal reduction of existing amenity in the future (Statement of Evidence, pedestrian street frontages, for *DCC*, p. 7).

1092. The Reporting Officer accepted that a secondary pedestrian street frontage was appropriate at (s42A Report, section 5.8.3, p. 200).

4.8.2.2.1 Decision and reasons

1093. We note our decision to rezone these sites CBD (see Section 4.1.9.1). As a consequence of that we must consider whether it is appropriate to apply a pedestrian frontage to the site, as most of the CBD Zone has either a primary or secondary pedestrian frontage. Based on Mr Christos' evidence, we consider that a secondary pedestrian frontage on 180 Rattray Street, part of 20 Maclaggan Street and part of 35 Maclaggan Street is appropriate. We therefore reject the submissions of *Stride* and *Harvey Norman* to not have pedestrian frontages on 35 Maclaggan Street and the corner of Rattray and Maclaggan streets.

4.8.2.3 Green Island

1094. *Z Energy Ltd* (OS313.2) opposed the secondary pedestrian frontage over their property at 185 Main South Road, Green Island, and the sites to the east occupied by the Green Island Bowling Club and Tennis Club (183 and 183a Main South Road). The submitter also sought that a Primary Pedestrian Street Frontage mapped area was not applied to the area (OS313.10).

1095. Mr Christos gave evidence that the sites are unlikely to be incorporated into the centre due to the lack of intensity of activity and built form, and the curvature of the road. He therefore considered that a secondary pedestrian frontage was not warranted on either side of the road, and in addition, the primary pedestrian frontage should be removed up to Jenkins Street on the south side of the road, and up to and including 187A Main South Road on the north side of the road (Statement of Evidence, pedestrian street frontages, for *DCC*, p. 5).

1096. The Reporting Officer recommended accepting the submission, but questioned whether there is scope to remove the primary pedestrian frontage from adjoining properties (Section 42A Report, section 5.8.2, p. 196).

4.8.2.3.1 Decision and reasons

1097. We accept the submission by *Z Energy* to remove the frontage from the Green Island service station (185 Main South Road).

1098. We further remove the primary and secondary pedestrian frontages from Main South Road, Green Island, east of Jenkins Street on the south side of the road, and east of and including 187A Main South Road on the north side of the road, as there is no prejudice against those property owners as a result of the removal (CMU 313.2).

4.8.2.4 Mornington

1099. *Progressive Enterprises* (OS877.17) opposed the primary pedestrian street frontage mapped area around 43 Mailer Street (the site of the Mornington Countdown), on the grounds that the existing Suburban Centre is overdue for development and it is premature to decide where or if a pedestrian frontage is appropriate.

1100. Mr Christos noted the proposed General Residential 2 zoning for the surrounding area, and the anticipated increase in residential density, which will support the vibrancy of the centre. He considered that a secondary pedestrian frontage is warranted, to ensure a suitable pedestrian environment and built form (Statement of Evidence, pedestrian street frontages, p. 4-5).

1101. The Reporting Officer recommended accepting the submission in part and replacing the area's primary pedestrian frontage with a secondary frontage (s42A Report, section 5.8.2, p. 197).

4.8.2.4.1 Decision and reasons

1102. We accept in part the submission by *Progressive* to remove the pedestrian frontage from 43 Mailer Street, by replacing the primary frontage with a secondary frontage, as recommended by the Council's urban designer.

4.8.2.5 Roslyn

1103. *Progressive Enterprises Ltd* (OS877.16) requested the removal of the Secondary Pedestrian Street Frontage from 279 Highgate, Roslyn (site of the Roslyn Fresh Choice supermarket), as the Suburban Centre is well established and there is no apparent planning logic for having a secondary frontage requirement.

1104. Mr Christos considered the area had a unique character and recommended rejecting the submission as it is possible that development will occur at the site. The frontage ensures future changes are carried out in a way that enhances amenity (Statement of Evidence, pedestrian street frontages, p. 6).

1105. The Reporting Officer recommended retaining the pedestrian frontage (s42A Report, section 5.8.3, p. 201).

4.8.2.5.1 Decision and reasons

1106. We reject *Progressive's* submission in relation to removing the pedestrian frontage from 279 Highgate in Roslyn, for the reasons given by Mr Christos.

4.8.2.6 Cumberland Street

1107. *Progressive Enterprises Ltd* (OS877.18) requested the removal of the secondary pedestrian street frontage from 309 Cumberland Street (site of the Countdown Central supermarket). The submitter considered there is no apparent planning logic for having a secondary frontage requirement on an established supermarket site.

1108. *Progressive Enterprises* clarified in evidence that their concern was only with the Cumberland Street part of the frontage. The Reporting Officer noted in her Revised Recommendations that the Cumberland St mapping only covers the access to an alleyway at the rear of the supermarket, and that this appeared to be in error and could be removed (s42A Report, section 5.8.3, p. 202).

4.8.2.6.1 Decision and reasons

1109. We accept in part the submission by *Progressive's* submission to remove the pedestrian frontage from 309 Cumberland Street, for the reasons outlined above.

4.9 Definitions

4.9.1 Retail activity

1110. The *New Zealand Racing Board* (OS66.5), sought to amend reference to TAB venues in the definition of 'retail services' and 'retail', to 'Totalisator Agency Board (TAB)' venues or alternatively, 'authorised sports betting agencies', to ensure clarity in how this activity may be managed.

1111. The Reporting Officer considered that betting outlets were known as TABs and therefore it was appropriate to retain the term (s42A Report, section 5.1.1, p. 25).

1112. The New Zealand Racing Board did not appear.

4.9.1.1 Decisions and reasons

1113. We reject the submission by *New Zealand Racing Board* (OS66.5), and retain the definition as notified, for the reasons outlined by the Reporting Officer.

4.9.2 Bulky goods retail

1114. The 2GP defines "bulky goods retail" as:

> "*Retail where the predominant items sold or hired are bulky goods. Bulky goods are limited to furniture, whiteware, and large electronic goods. To be included in this definition, at least 90% of product display floor area must be bulky goods.*
>
> *This definition excludes retail activity in the form of department stores, which are defined as general retail.*
>
> *Bulky goods retail is a sub-activity of retail*."

1115. *Harvey Norman Properties NZ Ltd* (OS211.2) ("*Harvey Norman")* opposed the definition of bulky goods retail. In its view, the 90% threshold was arbitrary and unsubstantiated. It noted that while a significant portion of their business' overall floor area was devoted to furniture, bedding and whiteware, the amount of floor area dedicated to smaller electronic goods usually exceeded 10%. Therefore, the proposed definition would classify *Harvey Norman* as 'general retail', rather than 'bulky goods retail'. The stated intent of the activity classification to distinguish between different types of retail had not been achieved, and the definition would be more robust if the 90% threshold was removed and qualitative descriptors were used instead.

1116. *Capri Enterprises Ltd* (FS2383.1) supported *Harvey Norman's* submission, noting that the "quantitative component of the definition" might result in genuine bulky goods retail activities being classified as general retail activities, resulting in a non-complying status in the CEC Zone.

1117. The Reporting Officer acknowledged the difficulties with determining the amount of floor area given to "bulky goods" quantitatively against the 90% threshold. She recommended that the definition of bulky goods retail be amended to remove the 90% threshold as follows (s42A Report, section 5.1.2, p. 27):

> "*Retail where the predominant items sold or hired are bulky goods. Bulky goods are limited to furniture, whiteware, and large electronic goods. ~~To be included in this definition, at least 90% of product display floor area must be bulky goods~~.*"

1118. Mr Foy agreed that the 90% threshold was arbitrary and considered that the quantitative threshold should be removed, and the qualitative description retained (Statement of evidence, para 9.6).

1119. *Harvey Norman's* called planning evidence from Mr David Haines. Mr Haines agreed with removal of the 90% threshold, but considered that it would be appropriate to include 'kitchen appliances, home entertainment and other electrical electronic goods' within the definition to ensure it is sufficiently inclusive, rather than having the limiting effect that the Reporting Officer's recommended definition may have (Statement of Evidence for *Harvey Norman*, p. 9).

1120. In response, the Reporting Officer provided a revised recommendation that included kitchen appliances. She did not agree that the definition should also include 'other electrical and electronic goods', as this could be extended to mobile phone shops (which in her view should be classed as general retail). An acceptable alternative would be as part of a broader mix of whiteware or electronic goods, or alternatively the definition could be amended to "other <u>bulky</u> electrical and electronic goods" (Revised Recommendations, p. 5).

4.9.2.1 Decision and reasons

1121. There was agreement between Mr Foy, Mr Haines and the Reporting Officer that the 90% rule presents difficulties. While most numerical standards in rules have the advantage of being clear and enforceable, in this case we can appreciate that it is difficult to measure exactly what floor area is being used for displaying bulky goods because some smaller related items may be interspersed with bulky goods.

1122. The intention is to provide for retailing of bulky goods in localities where general retailing would not support the policy framework of consolidation of retail. In our assessment that necessitates a clear distinction between bulky goods and other goods, but we accept that bulky goods retailers should also be able to supply some smaller items associated with bulky goods, such as accessories for them. It is difficult to define limits for this, so we see it as appropriate that the rule only requires bulky goods retailers to sell "predominantly" bulky goods. We reject the suggestion that kitchen appliances, or any other categories of goods that are permitted should be specified. We have amended the definition of 'bulky goods retail' by deleting the floorspace requirement as shown in Appendix 1 (CMU211.2).

4.9.3 Trade related retail

1123. The 2GP defines 'trade related retail' as:

> "*Retail where the predominant goods or services sold are:*
>
> - *goods and materials used for the construction, repair, alteration and renovation of buildings (including building materials, painting, lighting, electrical and plumbing supplies);*
> - *motorised-vehicle repairs;*
> - *landscaping; marine equipment;*
> - *motorised vehicles;*
> - *farm equipment or supplies*."

1124. To be included in this definition, at least 90% of product display floor area must be in these categories. Trade related retail where more than 70% of the areas devoted to the sales or display of good is an open or semi-covered yard, as distinct from a secure and weatherproof building is defined as yard based retail.

1125. *Bunnings Ltd* (OS489.1) sought two amendments to the definition of 'trade related retail'. Firstly, the deletion of the '*90% of product display floor area'* threshold because it is difficult to demonstrate compliance in practice, given that products on display change. A simple requirement that the listed products are the 'predominant products sold' was suggested. Secondly, given the reference to 'trade' in the title, confusion may arise as it suggests trade customers, rather than general public. In this regard, *Bunnings* sought the addition of the following wording: "the goods or services may be sold to trade professionals, the general public or a combination".

1126. The submission was supported by *Otago Land Group* (FS2149.1) and *Capri Enterprises Ltd* (FS2383.5).

1127. The Reporting Officer noted that there were advantages and disadvantages to including a quantitative threshold, as discussed in relation to the bulky goods retail definition above. For the same reasons, as given above in relation to bulky goods, she recommended its deletion. In her opinion the reference to 'trade' in 'trade-related' was not confusing, but she did not object to the proposed addition (s42A Report, 5.1.3, p. 29).

1128. Ms Megan Justice was called by *Capri Enterprises* (FS2383.1). In addition to the points made in the submission, Ms Justice considered the following sentence in the definition

to be confusing, and sought its deletion. She considered that the definition of 'yard based retail' is adequate on its own:

> "*Trade related retail where more than 70% of the areas devoted to the sales or display of good is an open or semi-covered yard, as distinct from a secure and weatherproof building is defined as yard based retail*."

1129. The Reporting Officer recommended retaining the additional sentence as it provides useful clarity (Reporting Officer's Opening statement, para 4.3.1).

4.9.3.1 Decisions and reasons

1130. Our decision is to accept the submission of *Bunnings Ltd* (OS489.1) to remove the numerical threshold for the reasons outlined by the submitter and the Reporting Officer. However, we reject their request to add words to clarify who goods can be sold to, as we do not think this addition is necessary.

1131. We note that the request by Ms Justice appears out of the scope of *Bunnings'* original submission, which *Capri's* further submission related to. We agree with the Reporting Officer that it is useful, although it requires some minor amendments to be consistent with the drafting protocol. We have made these under cl. 16.

4.9.4 Restaurants

1132. The *New Zealand Racing Board* (OS66.4) sought to rename the activity 'Restaurants', to 'Restaurants, cafés, bar/taverns' to improve plan clarity. The main concern of the submitter appears to be clarify how bars and taverns are managed when reading the Plan.

1133. The Reporting Officer noted that cafés, bars and taverns were currently identified as examples of restaurant activity within the definition. One option would be to amend the wording to 'Restaurants and bars'. However, in some zones 'restaurants activity' is permitted, but consent must still be obtained for 'ancillary licensed premises'. Listing the activity 'restaurants and bars' as permitted could give a mixed message. The Reporting Officer therefore considered that no amendment should be made to the definition (s42A Report, section 5.1.5, p. 32).

4.9.4.1 Decisions and reasons

1134. We reject the submission seeking to rename 'Restaurants' and agree with the recommendation of the Reporting Officer in the s42A Report for the reasons outlined in that report.

5.0 Minor and inconsequential changes

1135. Clause 16(2) of Schedule 1 of the RMA allows a local authority to make an amendment where the alteration "is of minor effect", and to correct any minor errors, without needing to go through the submission and hearing process.

1136. This Decision includes minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to "cl.16". These amendments generally include:

- correction of typographical, grammatical and punctuation errors
- removing provisions that are duplicated
- clarification of provisions (for example adding 'gross floor area' or 'footprint' after building sizes)
- standardising repeated phrases and provisions, such as matters of discretion, assessment guidance, policy wording and performance standard headings
- adding missing hyper-linked references to relevant provisions (e.g. performance standard headings in the activity status tables)
- correctly paraphrasing policy wording in assessment rules
- changes to improve plan usability, such as adding numbering to appendices and reformatting rules
- moving provisions from one part of the plan to another
- rephrasing plan content for clarity, with no change to the meaning

1137. Minor changes such as typographical errors have not been marked up with underline and strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes in the marked-up version of the Plan.

Appendix 1 – Eplan Amendments

Please see www.2gp.dunedin.govt.nz/decisions for the marked up version of the notified 2GP (2015). This shows changes to the notified 2GP with strike through and underline formatting and includes related submission point references for the changes.

Appendix 2 – Relevant provisions of the National Policy Statement on Urban Development Capacity

Business land means land that is zoned for business uses in urban environments, including but not limited to land in the following examples of zones:

- *industrial*
- *commercial*
- *retail*
- *business and business parks*
- *centres (to the extent that this zone allows business uses)*
- *mixed use (to the extent that this zone allows business uses).*

Demand means:

In relation to business land, the demand for floor area and lot size in an urban environment in the short, medium and long-term, including:

a) the quantum of floor area to meet forecast growth of different business activities;

b) the demands of both land extensive and intensive activities; and

c) the demands of different types of business activities for different locations within the urban environment.

Development ***capacity*** *means in relation to housing and business land, the capacity of land intended for urban development based on:*

a) the zoning, objectives, policies, rules and overlays that apply to the land, in the relevant proposed and operative regional policy statements, regional plans and district plans; and

b) the provision of adequate development infrastructure to support the development of the land.

Development infrastructure *means network infrastructure for water supply,* wastewater*, stormwater, and land transport as defined in the Land Transport Management Act 2003, to the extent that it is controlled by local authorities.*

Feasible *means that development is commercially viable, taking into account the* current *likely costs, revenue and yield of developing; and* ***feasibility*** *has a corresponding meaning.*

Sufficient *means the provision of enough development capacity to meet housing and business demand, and which reflects the demands for different types and locations of development capacity; and* ***sufficiency*** *has a corresponding meaning.*

Objective Group A – Outcomes for planning decisions

OA1: Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing.

OA2: Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses.

Policies PA1 – PA4 - Outcomes for planning decisions

Policies *PA1 to PA4 apply to any urban environment that is expected to experience growth.*

PA1: Local authorities shall ensure that at any one time there is sufficient housing and business land development capacity according to the table below:

***Short term** [next 3 years]*	*Development capacity must be feasible, zoned and serviced with development infrastructure*
***Medium term** [3 – 10 years]*	*Development capacity must be feasible, zoned and either:* *• serviced with development infrastructure, or* *• the funding for the development infrastructure required to service that development capacity must be identified in a Long Term Plan required under the Local Government Act 2002.*
***Long-term** [10 – 30 years]*	*Development capacity must be feasible, identified in relevant plans and strategies, and the development infrastructure required to service it must be identified in the relevant Infrastructure Strategy required under the Local Government Act 2002.*

PA2: Local authorities shall satisfy themselves that other infrastructure required to support urban development are likely to be available.

PA3: When making planning decisions that affect the way and the rate at which development capacity is provided, decision-makers shall provide for the social, economic, cultural and environmental wellbeing of people and communities and future generations, whilst having particular regard to:

a) Providing for choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses;

b) Promoting the efficient use of urban land and development infrastructure and other infrastructure; and

c) Limiting as much as possible adverse impacts on the competitive operation of land and development markets.

PA4: When considering the effects of urban development, decision-makers shall take into account:

a) The benefits that urban development will provide with respect to the ability for people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing; and

b) The benefits and costs of urban development at a national, inter-regional, regional and district scale, as well as the local effects.

Responsive planning

Policies PC1 to PC4 apply to all local authorities that have part, or all, of either a medium-growth urban area or high-growth urban area within their district or region.

The application of these policies is not restricted to the boundaries of the urban area.

PC1: To factor in the proportion of feasible development capacity that may not be developed, in addition to the requirement to ensure sufficient, feasible development capacity as outlined in policy PA1, local authorities shall also provide an additional margin of feasible development capacity over and above projected demand of at least:

- *20% in the short and medium term, and*
- *15% in the long term.*

PC2: If evidence from the assessment under policy PB1, including information about the rate of take-up of development capacity, indicates a higher margin is more appropriate, this higher margin should be used.

Coordinated planning evidence and decision-making

Policies PD1 and PD2 apply to all local authorities that have part, or all, of either a medium growth urban area or high-growth urban area within their district or region.

The application of these policies is not restricted to the boundaries of the urban area.

PD2: To achieve integrated land use and infrastructure planning, local authorities shall work with providers of development infrastructure, and other infrastructure, to implement policies PA1 to PA3, PC1 and PC2.

Appendix 3 – Summary of Decisions

1. A summary of decisions on provisions discussed in this decision report (based on the submissions covered in this report) is below.

2. This summary table includes the following information:

    - Plan Section Number and Name (the section of the 2GP the provision is in)
    - Provision Type (the type of plan provision e.g. definition)
    - Provision number from notified and new number (decisions version)
    - Provision name (for definitions, activity status table rows, and performance standards)
    - Decision Report section
    - Section 42A Report section
    - Decision
    - Submission point number reference for amendment

Summary of Decisions

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
1. Plan Overview and Introduction	Definition	1.5		Bulky Goods Retail	Amend definition by removing "To be included in this definition, at least 90% of product display floor area must be bulky goods."	CMU 211.2	4.9.2	5.1.2
1. Plan Overview and Introduction	Definition	1.5		Regulatory Signs	Add new definition	CMU 271.18	4.6.9	5.7.16
1. Plan Overview and Introduction	Definition	1.5		Warning Signs	Add new definition	CMU 271.18	4.6.9	5.7.16
1. Plan Overview and Introduction	Definition	1.5		Directional signs	Add new definition	CMU 271.18	4.6.9	5.7.16
1. Plan Overview and Introduction	Definition	1.5		Road Signs	Amend definition to reflect addition of new definitions of warning, directional and regulatory signs	CMU 271.18	4.6.9	5.7.16
1. Plan Overview and Introduction	Definition	1.5		Trade Related Retail	Amend definition	CMU 489.1	4.9.3	5.1.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
1. Plan Overview and Introduction	Definition	1.5		Abbreviation of CEC	Amend abbreviations to reflect new zone names	CMU 551.13, CMU 652.8	4.1.9.4	5.5.13
18. Plan Overview and Introduction	Definition	1.5		Commercial activities	Amend definition to clarify that all normal parts of the activity are included in the definition	CMU 713.3	4.3.6	5.5.17
1. Plan Overview and Introduction	Definition	1.5		Food and Beverage retail	Amend definition to add lottery sales	CMU 877.38	4.3.2	5.5.16
1. Plan Overview and Introduction	Definition	1.5		Dairies	Amend definition to add lottery sales	CMU 877.38	4.3.2	5.5.16
1. Plan Overview and Introduction	Definition	1.5		Retail services	Do not amend definition		4.9.1	5.1.1
1. Plan Overview and Introduction	Definition	1.5		Retail	Do not amend definition		4.9.1	5.1.1
1. Plan Overview and Introduction	Definition	1.5		Supermarket (requested)	Do not add new definition of supermarket		4.3.2	5.5.16
1. Plan Overview and Introduction	Definition	1.5		Restaurants	Retain definition		4.9.4	5.1.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
2. Strategic Directions	Policy	2.2.2.4			Amend policy wording to encourage new community facilities and restrict the location of other activities to where several travel modes are available	CMU 634.51	4.5.1	5.4.1
2. Strategic Directions	Policy	2.3.2.1			Retain policy as notified		4.4	5.3.1
2. Plan Overview and Introduction	Policy	2.3.2.2			Amend policy wording in relation to out of centre development	CMU 877.2	4.3.3, 4.4	5.5.16
18. Strategic Directions	Policy	2.3.2.3			Amend policy to reflect change in activity status of office	CMU 908.102	4.2.1.2	5.6.3
2. Strategic Directions	Policy	2.3.2.4			Amend policy wording to reflect change to extent of TR Zone	CMU 866.2	4.7.3.1	5.9.5
2. Plan Overview and Introduction	Policy	2.3.2.X (requested)			Do not add new policy	CMU 877.2	4.3.3	5.5.16
2. Strategic Directions	Objective	2.3.2			Retain policy as notified		4.4	5.3.1 and 5.3.2
2. Strategic Directions	Policy	2.4.3.4			Retain policy as notified		4.5.4	5.3.4
2. Strategic Directions	Objective	2.4.3			Amend policy wording to emphasise the importance of the CBD	CMU 452.1	4.5.5	5.4.6

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
2. Plan Overview and Introduction	Policy	2.6.3.5 (new)	2.6.2.4		Add new policy in relation to out of centre development	CMU 877.2	4.3.3	5.5.16
2. Plan Overview and Introduction	Policy	2.6.3.6 (new)	2.6.2.5		Add new policy in relation to out of centre development	CMU 877.2	4.3.3	5.5.16
9. Public Health and Safety	Land Use Performance Standard	9.3.1		Acoustic insulation	Amend performance standard to add CEC-North to zones in which it applies, linked to activity status change	CMU 551.13	4.1.9.4	5.5.13
13. Heritage	Assessment of Restricted Discretionary Activities	13.6.4.1			Add new guidance with respect to how building design will be considered	CMU 252.19	4.6.7	5.7.12
4.6.7. Heritage	Assessment of Restricted Discretionary Activities	13.6.4.2			Add new guidance with respect to how building design will be considered	CMU 252.19	4.6.7	5.7.12
15. Residential Zones	Development Performance Standard	15.6.12	15.6.11.1	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.2	5.7.16
15. Commercial and Mixed Use Zones	Assessment of Non-complying Activities	15.12.3.3	15.13.3.3		Add additional assessment guidance in relation to out of centre development	CMU 877.2	4.3.3	5.5.16
16. Rural Zones	Development Performance Standard	16.6.8	16.6.7	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and	CMU 271.18	4.6.9.3	5.7.16

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					warning signs			
16. Rural Zones	Development Performance Standard	16.6.8	16.6.7	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
17. Rural Residential Zones	Development Performance Standard	17.6.8	17.6.7	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
18. Commercial and Mixed Use Zones	Introduction	18.1.1.6		Description of HE zone	Amend description of HE zone to reflect activity status change to office	CMU 908.102	4.2.1.2	5.6.3
18. Commercial and Mixed Use Zones	Introduction	18.1.1		Introduction	Amend wording to reflect split of CEC into CEC-North and CEC-South zones and change to activity statuses	CMU 551.13, CMU 652.8	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Policy	18.2.1.1			Amend policy wording to add 'economically and socially' vibrant centres	CMU 317.25	4.5.6	5.3.6
18. Commercial and Mixed Use Zones	Policy	18.2.1.2			Amend policy to reflect change in activity status of office	CMU 908.102	4.2.1.2	5.6.3
18. Commercial and Mixed Use Zones	Policy	18.2.1.3			Amend policy wording for clarity	CMU 308.294	4.4	5.3.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Policy	18.2.1.3			Amend policy wording to reflect changes to the activity status of office	CMU 652.8	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Policy	18.2.1.11	18.2.1.10		Amend policy to refer to new CEC-North Zone, linked to activity status change for hospital	CMU 551.13	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Policy	18.2.1.15	18.2.1.14		Amend policy to remove reference to Policy 18.2.3.11 (deleted)	CMU 634.35	4.5.7	5.5.3
18. Commercial and Mixed Use Zones	Policy	18.2.1.16	18.2.1.15		Amend policy to reflect change in activity status of office	CMU 652.8	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Policy	18.2.1.19 (new)	18.2.1.18		Add new policy linked to new performance standards: Maximum gross floor area of restaurants in the Trade Related Zone and Location of ancillary restaurants in the Trade Related Zone and new standard for signs for ancillary restaurants	CMU 713.6	4.1.8	5.5.15
18. Commercial and Mixed Use Zones	Objective	18.2.1			Amend objective to include reference to training and education in the HE Zone	CMU 308.292	4.2.3	5.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Objective	18.2.1			Amend objective wording to reflect split of CEC into CEC-North and CEC-South zones and change to activity statuses	CMU 551.13, CMU 652.8	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Policy	18.2.2.3			Retain policy as notified		4.6.3	5.7.4
18. Commercial and Mixed Use Zones	Policy	18.2.2.4			Amend policy wording to change test applying to restaurant drive-through and service stations in relation to residential activity	CMU 634.36	4.5.8	5.5.6
18. Commercial and Mixed Use Zones	Policy	18.2.2.6			Amend policy to reflect change in activity status of ECE and residential activities	CMU 997.68, CMU 997.69	4.1.9.5, 4.5.8	5.5.14
18. Commercial and Mixed Use Zones	Policy	18.2.2.8			Amend policy to reflect change in activity status of ECE and residential in CEC-N	CMU 997.69	4.1.9.5	5.5.14
18. Commercial and Mixed Use Zones	Policy	18.2.2.10 (new)			Add new policy to reflect change in activity status of visitor accommodation from P to D in CEC-S	CMU 899.10	4.1.9.5	5.5.14

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Policy	18.2.2.11 (new)			Add new policy to provide guidance on contravention of new performance standard Location of residential activities	CMU 1024.4	4.1.9.1	5.9.3
18. Commercial and Mixed Use Zones	Objective	18.2.2			Amend objective wording to address reverse sensitivity issues between CMU and industrial zones	CMU 1024.4	4.1.9.1	5.9.3
18. Commercial and Mixed Use Zones	Policy	18.2.3.1			Amend policy by moving part of policy to a new Policy 18.2.3.12	CMU 417.10	4.6.7.1	Res s42A, section 5.4.1
18. Commercial and Mixed Use Zones	Policy	18.2.3.3			Retain policy as notified		4.8.1	5.8.1
18. Commercial and Mixed Use Zones	Policy	18.2.3.4			Amend policy wording to reflect change to requirement to build to the street frontage in the HE zone	CMU 908.101	4.2.3.1	5.6.1
18. Commercial and Mixed Use Zones	Policy	18.2.3.5			Amend policy wording to require maintenance of viewshafts across Steamer Basin	CMU 908.101	4.2.3.1	5.6.1
18. Commercial and Mixed Use Zones	Policy	18.2.3.11	Deleted		Delete policy as it duplicates 18.2.1.15	CMU 634.35	4.5.7	5.5.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Policy	18.2.3.12 (new)	18.2.3.11		Add new policy on height, including consideration of effects of height on views across Harbour	CMU 417.10	4.6.7.1	Res s42A, section 5.4.1
18. Commercial and Mixed Use Zones	Policy	18.2.3.X (new)	18.2.3.13		Add policy to guide development of new Hospital buildings, linked to change in activity status of Hospital activity	CMU 551.13	4.6.7.1	5.5.13
18. Commercial and Mixed Use Zones	Objective	18.2.3			Retain objective as notified		4.8.1	5.8.1
18. Commercial and Mixed Use Zones	Activity Status	18.3.3.3.c		Conference, meeting and function	Do not amend activity status		4.1.2, 4.1.4	5.5.7
18. Commercial and Mixed Use Zones	Activity Status	18.3.3.5.c		Entertainment and exhibition	Do not amend activity status		4.1.2, 4.1.4	5.5.8
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.3.c		Bulky goods retail	Do not amend activity status		4.1.2	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.3.d		Bulky goods retail	Do not amend activity status		4.1.2	5.6.3
18. Commercial and Mixed	Activity Status	18.3.4.3.b		Bulky goods retail	Do not amend activity status		4.1.2, 4.1.6	5.5.10

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
Use Zones								
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.4.c		Conference, meeting and function	Do not amend activity status		4.1.2, 4.1.3	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.4.b		Conference, meeting and function	Do not amend activity status		4.1.2, 4.1.6	5.5.10
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.4.a		Conference, meeting and function	Do not amend activity status		4.1.3	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.4.d		Conference, Meeting and function	Do not amend activity status		4.1.3	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.7.c		Entertainment and exhibition	Do not amend activity status		4.1.2	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.7 .b		Entertainment and exhibition	Do not amend activity status		4.1.2, 4.1.6	5.5.10
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.7.d		Entertainment and exhibition	Do not amend activity status		4.1.3	5.6.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.7.a		Entertainment and exhibition	Do not amend activity status		4.1.3	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.8.c		Food and beverage retail	Do not amend activity status.		4.1.2, 4.3.5	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.8.d		Food and beverage retail	Do not amend activity status		4.1.2, 4.3.5	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.9.a		General retail in a scheduled heritage building	Do not amend activity status		4.1.3	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.9.c		General retail in a scheduled heritage building	Do not amend activity status		4.1.2	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.9.d		General retail in a scheduled heritage building	Do not amend activity status		4.1.2	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.9.b		General retail in a scheduled heritage building	Do not amend activity status		4.1.2	5.5.10
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.10.a		Retail not in a scheduled heritage building	Do not amend activity status		4.1.2	5.5.9

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.10.b		General retail not in a scheduled building and less than 1500m² in gross floor area	Do not amend activity status		4.1.2	5.5.10
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.10.c		General retail less than 1,500 m2	Do not amend activity status.		4.1.2	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.10.d		General retail < 1,500 m2	Do not amend activity status		4.1.2	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.11.b		General retail not in a scheduled building and 1500m² or more in gross floor area	Do not amend activity status		4.1.2	5.5.10
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.11.c		General retail more than 1,500 m2	Do not amend activity status.		4.1.2	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.11.a		General retail not in a scheduled building and 1500m² or more in gross floor area	Do not amend activity status		4.1.3	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.13.d		Office in a scheduled heritage building (HE)	Amend activity status of office from NC to P subject to new Maximum gross floor area of office activity	CMU 908.102	4.2.1.2, 4.1.2	5.6.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					in HE Zone performance standard			
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.13.a		Office in a scheduled heritage building	Do not amend activity status		4.1.3, 4.1.5	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.13. c		Office in a scheduled heritage building	Do not amend activity status		4.1.3	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.13.b		Office in a scheduled heritage building	Do not amend activity status		4.1.2	5.5.10
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.14.d		Office not in a scheduled heritage building (HE)	Amend activity status of office from NC to P subject to new Maximum gross floor area of office activity in HE Zone performance standard	CMU 908.102	4.2.1.2, 4.1.2	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.14.a		Office not in a scheduled heritage building	Do not amend activity status		4.1.2	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.14.b		Office not in a scheduled heritage building	Do not amend activity status		4.1.2	5.5.10

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.14.c		Office not in a scheduled heritage building	Do not amend activity status		4.1.2, 4.1.7	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.15.a		Restaurant	Do not amend activity status		4.1.3	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.15.b		Restaurants	Do not amend activity status		4.1.6	5.5.10
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.15.d		Restaurants	Do not amend activity status		4.1.3	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.16.a		Restaurant drive-through	Do not amend activity status		4.1.2, 4.1.5	5.5.9
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.16.d		Restaurant drive through	Do not amend activity status		4.1.2	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.16.c		Restaurants drive-through	Do not amend activity status		4.1.2	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.20.d		Trade related retail	Do not amend activity status		4.1.2	5.6.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.20.c		Trade related retail	Do not amend activity status		4.1.2	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.21.c		Visitor accommodation	Do not amend activity status		4.1.7	5.5.11
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.23.d		Yard based retail	Do not amend activity status		4.1.2	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.4.30.d		Industry	Do not amend activity status		4.2.1.3	5.6.3
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.3.b		Bulky goods retail	Do not amend activity status		4.1.2, 4.1.8.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.3.a and X		Bulky Goods Retail	Do not amend activity status		4.1.3	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.4.a and X		Conference, meeting and function	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.4.b		Conference, Meeting and function	Do not amend activity status		4.1.2	

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.7.a and X		Entertainment and exhibition	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.7.b		Entertainment and exhibition	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.7		Restaurant drive-through	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.8.a and X		Food and beverage retail	Do not amend activity status		4.1.2, 4.3.5, 4.1.9.4	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.8.b		Food and beverage retail	Do not amend activity status		4.1.8.2, 4.3.5, 4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.10.a		Office	Amend activity status from NC to P in CEC-North	CMU 652.8	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.10.b		Office	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.11		General retail less than 750m2 in gross floor areas (was 1500m2)	Amend scale threshold from 1,500 to 750m2	CMU 211.6	4.1.9.6, 4.1.2, 4.1.8.2, 4.1.9.4, 4.1.9.6	5.5.14

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.12		General retail 750m2 or more in gross floor areas (was 1500m2)	Amend scale threshold from 1,500 to 750m2	CMU 211.6	4.1.9.6, 4.1.2, 4.1.3, 4.1.8.2, 4.1.9.6	5.5.14
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.13.b		Restaurants ancillary to trade related retail in TR zone	Amend activity status from D to P	CMU 713.6	4.1.8	5.5.15
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.19.X		Visitor accommodation	Amend activity status from P to D in CEC-S, Retain activity status as P in CEC-North	CMU 899.10	4.1.9.5	5.5.14
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.19.b		Visitor accommodation	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.20.a		Yard based retail	Do not amend activity status		4.1.9.4	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.21.a		Early childhood education	Amend activity status from NC to D in CEC-N Zone. Retain NC status in CEC-S.	CMU 997.68	4.1.2, 4.1.9.5	5.5.14
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.21.b		Early childhood education	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.26.a and X		All activities in the residential activities category	Amend activity status from NC to D in CEC-N. Retain NC status in CEC-S.	CMU 997.69	4.1.2, 4.1.9.5, 4.1.9.4	5.5.14

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.26.b		Residential	Do not amend activity status		4.1.2	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.27.a		Industrial activities	Do not amend activity status		4.1.9.4	
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.Y. a		Hospital	Amend activity status from NC to RD in CEC-North Retain activity status in CEC-South	CMU 551.13	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Activity Status	18.3.5.Z.b (new)		Restaurants ancillary to food and beverage retail > 1,500m2 in TR zone	Amend activity status from D to P	CMU 713.6	4.1.8	5.5.15
18. Commercial and Mixed Use Zones	Activity Status	18.3.5		Activity status table - land use activities (Trade Related Zone and CBD Edge Commercial Zones)	Add an extra column to table to reflect split of CEC into CEC-North and CEC-South zones	CMU 551.13, CMU 652.8	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Activity Status	18.3.6.X (new)	18.3.6.6	New buildings and additions and alterations to buildings as part of the Dunedin Hospital redevelopment	Split off a new activity status line for 'New buildings and additions and alterations to buildings as part of the Dunedin Hospital redevelopment' and make activity status RD, linked to change	CMU 551.13	4.1.9.4	5.5.13

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					to activity status of Hospital activity			
18. Commercial and Mixed Use Zones	Notification Rule	18.4.3		Notification of contravention of HE performance standard	Amend rule to remove mandatory notification of contravention of some of the Harbourside Edge performance standards	CMU 908.101	4.2.3.1	5.6.1
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.1		Acoustic insulation	Amend performance standard to add CEC-North to zones in which it applies, linked to activity status change	CMU 551.13	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.4.1		Location of activities within pedestrian street frontages	Retain performance standard		4.6.1, 4.6.12	5.7.3
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.4.4 (new)		Location of ancillary restaurants in the Trade Related Zone	Add new performance standard to ensure customer access for ancillary restaurants is internal, linked to change in activity status from D to P	CMU 713.6	4.1.8	5.5.15

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.4.5 (new)		Location - Location of residential activities	Add new performance standard to require that residential activities are not located within the Speights buffer area	CMU 1024.4	4.1.9.1	5.9.3
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.5.3		Maximum gross floor area of retail ancillary to industry	Retain performance standard as notified		4.6.2	5.5.14
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.5.4 (new)		Maximum gross floor area - Maximum gross floor area of office activity in the Harbourside Edge Zone	Add new performance standard to limit area of office activity, linked to change in activity status from NC to P, which defaults to NC where contravened	CMU 908.102	4.2.1.2	5.6.3
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.5.5 (new)		Maximum gross floor area of restaurants in the Trade Related Zone	Add new performance standard to limit maximum GFA of ancillary restaurants, linked to change in activity status from D to P	CMU 713.6	4.1.8	5.5.15
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.6		Minimum car parking	Amend performance standard to reflect change to size threshold for retail activities	CMU 211.6	4.1.9.6	5.5.14
18. Commercial and Mixed Use Zones	Land Use Performance Standard	18.5.7		Minimum vehicle loading	Amend performance standard to reflect change to size threshold for retail	CMU 211.6	4.1.9.6	5.5.14

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					activities			
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.1		Boundary treatments and other landscaping	Do not amend rule as requested		4.6.3, 4.6.4, 4.6.12	5.7.5
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.4			Retain performance standard as notified		4.6.12	5.7.6
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.6.1	18.6.5.1	Height in relation to boundary	Do not amend rule as requested		4.6.3, 4.6.6	5.7.8
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.6.2	18.6.5.2	Height - Maximum and minimum height	Amend performance standard to increase height limit in CEC-North from 16 to 20m	CMU 551.15	4.6.7.1, 4.6.7.2	5.7.9
18. Commercial and Mixed Use Zones	Note to Plan User	18.6.6.2A (new)	18.6.5.2 A	Other relevant District Plan provisions	Add new note to advise that the height rule for the HE zone is 18.6.18.	CMU 308.297	4.2.5	5.6.4
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.9	18.6.8	Location and screening of car parking	Do not amend rule as requested		4.6.4	5.7.14
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.12	18.6.11		Retain performance standard as notified		4.6.11, 4.6.12	5.7.20

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.13	18.6.12		Retain performance standard as notified		4.6.8	5.7.13
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.14	18.6.13	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.14	18.6.13	Number, location and design of ancillary signs	Amend performance standard to add standard for signs related to ancillary restaurants linked to change in activity status for these activities	CMU 713.6	4.1.8, 4.6.9	5.5.15
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.16	18.6.15		Retain performance standard as notified		4.6.8	5.7.15
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.17.1	18.6.16.1	Setback from road boundaries	Amend performance standard to clarify that rule does not apply where Rule 18.6.7.2 applies	CMU 740.7	4.6.10.2	5.7.18
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.17.2	18.6.16.2	Setbacks from boundaries of residential or recreation zoned sites	Do not amend rule as requested		4.6.3, 4.6.10.2	5.7.18

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.18.6	18.6.17.4		Change activity status of contravention of height, access and walkway design to restricted discretionary	CMU 908.101	4.2.3.1	5.6.1, 5.6.4
18. Commercial and Mixed Use Zones		18.6.18.B	18.6.17.B	Harbourside edge public walkway and Access mapped area and location of accessways figure	Amend figure to reflect changes to Harbourside Edge performance standards	CMU 908.100	4.2.3.1	5.6.4
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.18	18.6.17		Amend multiple aspects of performance standard	CMU 908.101, CMU 908.100,	4.2.3.1	5.6.1, 5.6.4
18. Commercial and Mixed Use Zones	Development Performance Standard	18.6.19	18.6.18	Verandahs	Amend performance standard to provide an exception in the St Clair Neighbourhood Destination Centre	CMU 826.16	4.6.12	5.7.14
18. Commercial and Mixed Use Zones	Note to Plan User	18.6.14A (notified as 18.6B)		Other relevant District Plan provisions	Amend note to highlight signs must comply with Rule 6.7.3	CMU 271.16	4.6.9.1	5.7.16
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.3.7 (new)			Add new assessment rule for contravention of new Location performance standard	CMU 1024.4	4.1.9.1	5.9.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.4.10	18.9.4.6		Amend assessment guidance to reflect move of part of content of Policy 18.2.3.1 to new Policy 18.2.3.12.	CMU 417.10	4.6.7.1	5.5.13 and Res s42A, section 5.4.1
.	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.4.10	18.9.4.6		Amend guidance on contravention of maximum and minimum height performance standard by adding link to new Policy 18.2.3.X.b (policy on Dunedin Hospital redevelopment)	CMU 551.13	4.6.7.1	5.5.13
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.4.13	18.9.4.9		Amend assessment guidance to reflect change to Number, location and design of ancillary signs performance standard	CMU 713.6	4.1.8	5.5.15
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.4.17 (new)	18.9.4.13		Amend assessment guidance to add guidance for contravention of Harbourside Edge Zone Standards for height, access and walkway design linked to changed activity status from D to RD	CMU 908.101	4.2.3.1	5.6.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.4.18 (new)	18.9.4.14		Amend assessment guidance to add guidance for contravention of Harbourside Edge Zone Standards for height, access and walkway design linked to changed activity status from D to RD	CMU 908.101	4.2.3.1	5.6.1
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.4.19 (new)	18.9.4.15		Amend assessment guidance to add guidance for contravention of Harbourside Edge Zone Standards for height, access and walkway design linked to changed activity status from D to RD	CMU 908.101	4.2.3.1	5.6.1
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.6.5			Amend guidance to provide additional 'potential circumstance that may support a consent application' related to setbacks from road boundaries rule in neighbourhood centres	CMU 826.7	4.6.12	5.7.18
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.2.2	18.10.2.3		Amend assessment guidance to reflect changes to Policy 18.2.2.8	CMU 997.69	4.1.9.5	5.5.14

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.2.5 (new)	18.10.2.6		Add new assessment rule to reflect change in activity status of Hospital activity to RD	CMU 551.13	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.2.X	18.10.2.2		Add new assessment rule for restaurant drive-through and service stations to add consideration of effects on residential amenity	CMU 634.36	4.5.8	5.5.6
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.3.1			Amend assessment guidance to reflect change to Policy 18.2.3.4 and add additional guidance reflecting Policy 18.2.3.5.	CMU 908.101	4.2.3.1	5.6.1
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.3.X (new)	18.10.3.2		Add new assessment guidance for 'new buildings and structures, and additions and alterations, as part of the Dunedin Hospital redevelopment' linked to RD status for this new activity	CMU 551.13	4.1.9.4	5.5.13
18. Commercial and Mixed Use Zones	Assessment of Discretionary Activities	18.11.2.1			Amend assessment rule to include consideration of traffic effects as a consequence of change in activity	CMU 899.10	4.1.9.5	5.5.14

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
					status of visitor accommodation from P to D in CEC-S			
18. Commercial and Mixed Use Zones	Assessment of Discretionary Activities	18.11.3.4			Amend guidance wording to reflect changes to Policy 18.2.2.4, and to refer to Policy 18.2.1.15 rather than 18.2.3.11	CMU 634.35, CMU 634.36	4.5.7, 4.5.8	5.5.3 and 5.5.6
18. Commercial and Mixed Use Zones	Assessment of Discretionary Activities	18.11.3.6 (new)			Add assessment rule to reflect change in activity status of visitor accommodation from P to D in CEC-S	CMU 899.10	4.1.9.5	5.5.14
18. Commercial and Mixed Use Zones	Assessment of Discretionary Activities	18.11.3.7 (new)			Add assessment rule to reflect change in activity status of ECE and residential activities in CEC-N	CMU 997.68, CMU 997.69	4.1.9.5	5.5.14
18. Commercial and Mixed Use Zones	Assessment of Discretionary Performance Standard Contraventions	18.11.4.3	Deleted		Amend assessment guidance to remove guidance for contravention of Harbourside Edge Zone Standards for height, access and walkway design linked to changed activity status from D to RD	CMU 908.101	4.2.3.1	5.6.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
18. Commercial and Mixed Use Zones	Assessment of Discretionary Performance Standard Contraventions	18.11.4.5 (new)	18.11.4.4		Add new assessment rule for contravention of new maximum GFA and Location performance standard	CMU 713.6	4.1.8	5.5.15
18. Commercial and Mixed Use Zones	Assessment of Non-complying Activities	18.12.3.5			Amend guidance to correct policy reference	CMU 634.35	4.5.7	5.5.3
18. Commercial and Mixed Use Zones	Assessment of Non-complying Activities	18.12.3.7			Amend assessment rule to reflect change in activity status of ECE and Residential in CEC-N	CMU 997.68, CMU 997.69	4.1.9.5	5.5.14
18. Commercial and Mixed Use Zones	Assessment of Non-complying Performance Standard Contraventions	18.12.5.4			Amend assessment guidance to reflect changes to status of contravention of Harbourside Edge performance standards	CMU 908.101	4.2.3.1	5.6.1
18. Commercial and Mixed Use Zones	Assessment of Non-complying Performance Standard Contraventions	18.12.5.8 (new)	18.12.5.7		Add new assessment rule for contravention of new performance standard 'Maximum gross floor area of office activity in the Harbourside Edge Zone'	CMU 908.102	4.2.1.2	5.6.3
19. Industrial Zones	Activity Status	19.3.3.16	19.3.3.16	Food and beverage retail	Retain rule as notified		4.3.4	5.5.16

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
19. Industrial zones	Land Use Performance Standard	19.5.5		Maximum gross floor area	Retain performance standard as notified		4.6.2	5.5.14
19. Industrial Zones	Land Use Performance Standard	19.5.6		Minimum car parking	Retain rule as notified		4.3.4	5.5.16
19. Industrial Zones	Land Use Performance Standard	19.5.7		Minimum vehicle loading	Retain rule as notified		4.3.4	5.5.16
19. Industrial Zones	Development Performance Standard	19.6.1.1		Boundary treatments	Retain rule as notified		4.3.4	5.5.16
19. Commercial and Mixed Use Zones	Development Performance Standard	19.6.6.2	19.6.4.2		Amend performance standard to remove reference to Cadbury height mapped area	CMU 317.62	4.7.1.2	5.9.1
19. Industrial Zones	Development Performance Standard	19.6.8	19.6.6	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
19. Industrial Zones	Development Performance Standard	19.6.8	19.6.6	Number, location and design of ancillary signage	Retain rule as notified		4.3.4	5.5.16
20. Recreation Zone	Development Performance Standard	20.6.8	20.6.6	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
21. Ashburn Clinic	Development Performance Standard	21.6.6		Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
22. Dunedin Botanic Gardens	Development Performance Standard	22.6.10	22.6.7	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
23. Dunedin Hospital	Development Performance Standard	23.6.8	23.6.6	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
24. Dunedin International Airport	Development Performance Standard	24.6.9	24.6.6	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
25. Edgar Centre	Development Performance Standard	25.6.7	25.6.5	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
26. Invermay and Hercus	Development Performance Standard	26.6.7	26.6.5	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
27. Mercy Hospital	Development Performance Standard	27.6.10	27.6.8	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
28. Moana Pool	Development Performance Standard	28.6.9		Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
29. Otago Museum	Development Performance Standard	29.6.8	29.6.6	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	S42A Report Section Number
30. Port	Development Performance Standard	30.6.5	30.6.3	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
31. Schools	Development Performance Standard	31.6.9	31.6.8	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
32. Stadium	Development Performance Standard	32.6.7	32.6.5	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
33. Taieri Aerodrome	Development Performance Standard	33.6.8	33.6.5	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
34. Campus	Development Performance Standard	34.6.10	34.6.9	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
35. Wakari Hospital	Development Performance Standard	35.6.8	35.6.7	Number, location and design of ancillary signs	Amend rule to provide for small directional, regulatory and warning signs	CMU 271.18	4.6.9.3	5.7.16
18. Commercial and Mixed Use Zones	Land Use Performance Standard	new			Do not add new performance standard restricting residential density in View Street		4.6.13	5.7.1