
TO: Commissioner Gary Rae

FROM: Karen Bain, Planner

DATE: 9 October 2020

SUBJECT: **RESOURCE CONSENT APPLICATION LUC-2020-263**
280 AND 336 CUMBERLAND STREET, DUNEDIN
MINISTRY OF HEALTH

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 9 October 2020. The purpose of the report is to provide a framework for the Commissioner's consideration of the application and the Commissioner is not bound by any comments made within the report. The Commissioner is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

SUMMARY OF RECOMMENDATION

- [2] Within the application, there is significant emphasis on the benefits that will arise in the event a new hospital is developed on the site. However, the proposed hospital is not part of the application, which solely seeks to demolish the Cadbury factory buildings, including the façades that are scheduled heritage items.
- [3] In determining terms of what, if any, weight to give to the potential benefits associated with the new hospital when considering the proposed loss of building heritage, I have assumed that the new hospital is the entire rationale for the demolition of the heritage façades, i.e. that the *only* reason the application has been made is to facilitate the establishment of a new hospital on the sites. I have also assumed that the new hospital will eventuate. These assumptions are based on the substantial investment the applicant has made in progressing the hospital proposal, including the acquisition of land (including the subject sites), developing a preliminary site master plan, obtaining consents and commencing demolition of other buildings not included in the current application. Furthermore, subsequent to lodgement of the application, Cabinet has approved the detailed business case for the new hospital in principle (in August 2020), and released \$127 million to progress design, project management and delivery of early works associated with the hospital project.
- [4] It is also accepted that the nature and scale of the hospital project requires that planning and development proceed in stages; and that the proposed demolition of the Cadbury Factory buildings addresses one phase in the development of the hospital.
- [5] Therefore, the following report has been prepared on the basis that demolition of the existing Cadbury factory buildings and protected façades is sought to facilitate the establishment of a new hospital.

- [6] In the assessment that follows, I have concluded that the environmental effects of the proposed demolition will be major; but that the proposal is consistent with the relevant district plan objectives and policies, and with those of the Partially Operative Otago Regional Policy Statement. The proposal is also deemed to achieve the overall purpose of the Act, and to accord with the principles of Part 2.
- [7] Overall, I have concluded that, in the exceptional circumstances of providing for a new hospital to be established on the subject sites, adverse effects on heritage values cannot realistically be avoided. In weighing up public benefit against the loss of the Cadbury buildings and scheduled façades (and associated heritage values), I have concluded that the costs involved and compromises to the efficacy of the hospital, should retention of the façades be required, would outweigh the benefits gained from retaining the heritage façades. Consequently, it is my recommendation that the application be granted.

DESCRIPTION OF PROPOSAL

- [8] Resource consent is sought for the aboveground demolition of all of the existing Cadbury factory buildings within the application site, including the façades that are scheduled heritage items, but excepting the former Dairy and Machine House building on the Castle Street frontage.¹

The proposed demolition will be undertaken in accordance with a Demolition Management Plan (which is to be prepared and submitted to the Council for approval prior to work commencing), and will occur in three stages, as shown in the following image (Figure 7 in the application):



¹ The application is for above ground works only - resource consent for the below ground removal of the building slabs and foundations (and associated earthworks and disturbance of contaminated soils) will be sought at a future date.

- [9] The three stages of demolition comprise:
- Stage 1 - The upper two stories of the buildings will be deconstructed by crane, and the remainder of the buildings will be demolished.
 - Stage 2 – The buildings will be demolished. The silos adjacent to Castle Street will be deconstructed by crane.
 - Stage 3 – The buildings will be deconstructed under the recommendations of a specialist structural engineer, to ensure stability of the adjacent heritage scheduled Allied Press building, and the Dairy and Machine House building.
- [10] The proposed demolition work will occur over an 80 week period, from soft strip-out to completion of above ground demolition. Hard demolition is anticipated to commence in March 2021 and be completed in February 2022.
- [11] Demolition works will be limited to Monday to Saturday, between 7:30am and 6:00pm each day. No works will occur at night, on Sundays or public holidays, unless emergency works are required; or to accommodate the requests of specific stakeholders (such as undertaking high-impact works while an adjacent property is unoccupied).
- [12] The application includes a number of technical assessments to support the applicant's view that retention of the buildings or façades for incorporation into the hospital development is not practicable. A noise and vibration assessment report prepared by Marshall Day Acoustics is also provided.
- [13] A link to the application, including its appendices, is included in Appendix 1 of this report.
- [14] In an email dated 24 September 2020, Ms Rachel Murdoch of Greenwood Roche provided additional information in response to a further information request from the Council. The information included in Ms Murdoch's email details the anticipated chronology of the new hospital build; and comments on the perceived tension between the Proposed 2GP and the Partially Operative Otago Regional Policy Statement 2019.
- [15] This additional information is attached in Appendix 2.

DESCRIPTION OF SITE AND LOCATION

- [16] The application site comprises approximately 2.23ha of flat land, bounded by Cumberland Street to the west, St Andrew Street to the north, and Castle Street to the east. The southern boundary adjoins a number of commercial properties, including the Allied Press building and other character contributing and heritage buildings within the Stuart Street Commercial Heritage Precinct.
- [17] The buildings within 280 Cumberland Street comprise the heritage façades along the Cumberland and Castle street frontages, and other buildings of varying age, size and construction type. Ancillary structures include two silos on the Castle Street frontage. The former Dairy and Machine House building that is to be retained is on the Castle Street frontage of this property.
- [18] The heritage façades that are the subject of this application are not located within 336 Cumberland Street, but the applicant has advised that 336 is included in the application because it is likely to be used as a staging area for the proposed demolition activity

(including for vehicle access).² Resource consent LUC-2019-540 authorised the deconstruction of the Cadbury warehouse distribution building formerly located within this site, and this work is largely completed.

- [19] Beyond the site, the dominating features adjoining the site boundaries are the twin state highways, i.e. north-bound Cumberland Street and south-bound Castle Street. Beyond the highways, the land use is varied, including commercial, industrial, residential and commercial residential activities (these land uses are detailed in Section 4.1.2 of the application). The block across St Andrew Street/SH88 to the north (“the Wilsons block”) is owned by the Ministry of Health and is the subject of resource consent LUC-2019-558, which authorises the above ground demolition of the buildings located within 360 and 398 Cumberland Street.
- [20] The application sites are legally described as Section 53-55, 72-74 Block XVI Town of Dunedin and Part Section 56, 71 Block XVI Town of Dunedin, held in Record of Title OT129/279, and Deposited Plan 5322, held in Record of Title OT304/181 (280 Cumberland Street); and as Section 60-67 Block XVI Town of Dunedin, held in Record of Title OT13B/66 (336 Cumberland St).

ACTIVITY STATUS

- [21] Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the “Operative District Plan”, and the Proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
- [22] The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

Operative District Plan 2006

- [23] The application site is zoned **Industrial 1**, and part of the 280 Cumberland Street site lies within the **Anzac Square/Railway Station Heritage Precinct (TH11)**. The buildings within 280 Cumberland Street are listed as item **B030** in Schedule 25.1 (Townscape and Heritage Buildings and Structures) and are protected in respect of their façades to Cumberland and Castle Street. They are also included as Category II items in the Heritage New Zealand Pouhere Taonga Heritage List (item 2143).
- [24] Castle and Cumberland Streets are classified as national roads in the Operative District Plan Road Hierarchy, and are also designated as state highway (designations **D453** and **D454** respectively). St Andrew Street is classified as a regional road, and this section of the street is classified as state highway (designation **D465: SH88**).
- [25] The relevant rules in Section 10 (Industry) and Section 13 (Townscape) are deemed inoperative and have been replaced by rules in the Proposed 2GP (Section 4: Temporary Activities, Section 13: Heritage, and Section 18: Commercial and Mixed Use Zones).

² This information is not in the application and was provided in an email dated 7 July 2020 from Ms Rachel Murdoch, in response to a request for clarification from the DCC during the public notification process.

Proposed Second Generation Dunedin City District Plan ("Proposed 2GP")

- [26] The subject site is zoned **Commercial and Mixed Use: CBD Edge – Commercial North** and the following overlays apply to the site:
- Archaeological Alert layer
 - Hazard 3 (flood)
 - Hazard 3 (coastal)
 - Item **B030** in 2GP Appendix A.1.1 (Schedule of Protected Heritage Items and Sites) – protection of façades to Castle and Cumberland Streets is required.
- [27] Castle and Cumberland Streets are both classified as urban high density corridors in the road classification hierarchy mapped area, and, as noted above, are also designated as State highway (designation **D453**: SH1 Southbound, and designation **D454**: SH1 Northbound). St Andrew Street is classified as a strategic road in the road classification hierarchy mapped area, and this section of it is also designated as state highway (designation **D465**: **SH88**).

City-wide Activities

- [28] The proposed above ground demolition of the existing Cadbury factory buildings is a 'Construction' activity, which is defined in the 2GP as:

The use of plant, tools, gear or materials as part of the erection, installation, repair, maintenance, alteration, dismantling or demolition of any building or structure; or site development. This definition includes all work from site preparation to site restoration.

This definition does not include any resultant buildings, structures or site development activities (including demolition or removal for relocation), which are separately defined under development activities or city-wide activities.

Temporary Activities

- [29] 'Construction' is an activity in the 'Temporary Activities' category (refer to Nested Table 1.3.1).
- [30] Rule 4.3.2.2 provides for construction activities as a permitted activity, subject to a noise performance standard (Rule 4.5.4). The information included with the application indicates that construction noise associated with the proposal will be received in buildings that house noise sensitive activities; and that the demolition activity will exceed 20 weeks, (which means the long term duration noise limits apply – refer Rule 4.5.4.1.e.)
- [31] The acoustic information included with the application indicates that construction noise will exceed the noise limits set out in the tables under Rule 4.5.4.1.a, by more than 5dB LAeq (15 min). Consequently the proposal is assessed as a non-complying activity, in accordance with Rule 4.5.4.1.d. Assessment of the proposal is guided by assessment rules 4.10.2 and 9.8.2.6.
- [32] Rule 4.5.4.1.b requires that vibration from construction must not exceed a maximum particle velocity measured on any foundation of an adjacent building on another site, or

the same site if different ownership, of 25mm/second for commercial buildings or 10mm/second for buildings housing noise sensitive activities. The information included with the application indicates that the vibration limits could be exceeded where works occur adjacent to buildings beyond the site (such as the Allied Press building). As noted in the application, there is no associated activity status rule. Nor is there a related assessment rule.

Heritage

[33] Rule 13.9.1 sets out the special information requirements for the demolition of a scheduled heritage building. It reads:

1. *For resource consent applications proposing demolition of a scheduled heritage building, the following is required:*
 - a. *A Heritage Impact Assessment addressing the effect the demolition will have on heritage values, including a full discussion of the alternatives considered, including quantified reasons why the alternatives are not reasonable.*
 - b. *Where demolition is proposed due to seismic risk, a detailed seismic assessment, fully quantified costs and an economic analysis of seismic upgrade (including a staged upgrade) to the minimum requirements by a Chartered Professional Engineer qualified engineer with demonstrated experience of assessment and seismic upgrade of buildings with the same or similar construction form and materials. The information should include the methods of strengthening considered.*
 - c. *In addition, where partial demolition is proposed,*
 - i. *evidence of the structural feasibility of retaining the part of the building proposed for retention.*
2. *All information provided in support of any resource consent application, including engineering assessments, consideration of alternatives and design statements may be peer reviewed by Council prior to making a decision.*

[34] The application includes a heritage impact assessment prepared by Underground Overground Archaeology which addresses the matters set out in Rule 13.9.1.1.a. An engineering assessment report prepared by WSP – Opus and costings prepared by Rider Levett Bucknall (“RLB”), which detail the structural feasibility of retaining the heritage façades are also included. Thus the special information requirements have been met.

Development Activity

[35] Demolition is a ‘buildings and structures activities’, which is defined in the 2GP as:

The sub-category of activities that consists of:

- *(new) buildings*
- *structures*
- *additions and alterations*
- *removal for relocation*
- *demolition; and*
- *repairs and maintenance.*

Buildings and structures activities are a sub-category in the 'development activities' category (refer to Nested Table 1.3.3).

Commercial and Mixed Use Zones

- [36] Rule 18.3.6.1 sets out a number of performance standards that apply to development activities. The proposed demolition does not comply with performance standard Rule 18.3.6.1.a (Boundary Treatments and Other Landscaping), which requires that activities comply with Rule 18.6.1. Rule 18.6.1.1 requires that a landscaping area with a minimum width of 1.5m be provided along the full length of any road boundary that does not have a building within 1.5m of that boundary. No such landscaping area is proposed, and this aspect of the proposal is assessed as a restricted discretionary activity, in accordance with Rule 18.6.1.6. The matters of discretion are set out under assessment rule 18.9.4.1.
- [37] Rule 18.3.6.19 determines that demolition affecting a protected part of a scheduled heritage building or a scheduled heritage structure is a non-complying activity. Assessment is guided by rules 18.12.2.1, 18.12.4.1, 13.8.2.1, 13.8.3.1 and 14.6.2.1.

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("the NES")

- [38] The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("the NES") came into effect on 1 January 2012. The NES applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites might need to comply with permitted activity conditions specified in the soil contamination NES and/or might require resource consent.
- [39] The application site is a HAIL site. Nonetheless, the proposal is not an "activity" as set out in Regulation 5(2-6) of the NES. Specifically, the proposal for the aboveground demolition of all of the existing Cadbury factory buildings within the application site will not involve the disturbance of soil, and therefore is not deemed to be covered by Regulation 5(4), which relates to soil disturbance.
- [40] Therefore the NES is not considered applicable to this application. As noted in footnote (2) above, the applicant has indicated the resource consent for the below ground removal of the building slabs and foundations (and associated earthworks and disturbance of contaminated soils) will be sought at a future date.
- [41] There are no other National Environmental Standards relevant to this application.

Overall Activity Status

- [42] The Proposed 2GP was notified on 26 September 2015, and some Proposed 2GP rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.
- [43] As noted above, the relevant rules in Section 10 (Industry) of the Operative District Plan are deemed inoperative and have been replaced by rules in the Proposed 2GP (Section 4: Temporary Activities, Section 13: Heritage, and Section 18: Commercial and Mixed Use Zones).

- [44] Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.
- [45] In this case, there is more than one rule involved, and the effects are linked. As a result, having regard to the most restrictive activity classification, the proposal is considered to be a **non-complying** activity.

NOTIFICATION AND SUBMISSIONS

- [46] No written approvals were submitted with the application.
- [47] The application was publicly notified in the Otago Daily Times on 11 July 2020. Links to copies of the application on the DCC website were sent to those parties the Council considered could be directly affected by the proposal. Submissions closed on 7 August 2020.
- [48] Five submissions were received by the close of the submission period. Two of these were in support of the proposal, and three were opposed to it. Since preparation of this report commenced, one submitter in opposition (Allied Press Limited) has withdrawn its objection to the proposal. The other two opposing submitters have indicated they no longer oppose the proposal, but have not withdrawn their submissions.
- [49] A submission from the Otago Chamber of Commerce Inc was received by the Council on 10 August 2020. This submission is late and the Commissioner will need to decide whether or not to receive the submission under Section 37 of the Act.
- [50] The submissions (excluding the late submission) are summarised in the table below, and a full copy of the submissions and subsequent correspondence from opposing submitters is attached in Appendix 3. The opposing submission that has been withdrawn is included in the summary, to ensure the Commissioner has a complete record of the submission process, but no further reference to this submission is made in the assessment that follows.

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
Mr Athol Parks (City Walks)	Oppose	- Believes scheduled façades have 'very significant heritage value and make a strong and positive contribution to Dunedin's special townscape'. - Accepts that it would be impractical to incorporate the scheduled façades into any hospital build, but seeks that consent be declined until Cabinet approves the detailed business case for the new hospital and commits to build on that site.	No
Mr Ted Daniels (Exchange Renaissance Ltd)	Oppose	- Believes the Cadbury buildings are still an important part of Dunedin's streetscape and history . - Considers there is a great risk that after the buildings are demolished,	No

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
		there will be no hospital built on the site, or the design of the new hospital will adversely affect the heritage aspects of the railway station and Stuart Street. Seeks that consent be declined until clear design, full government commitment to the site and certainty that that Cadbury site is the only possible and viable site for the new hospital have been provided, to ensure the Cadbury buildings are not lost for nothing.	
Ms Karen Billingham for Southern District Health Board	Support	- SDHB considers there is significant public benefit that could not otherwise be achieved, by granting the resource consent to demolish the Cadbury factory buildings, to allow the design and build of the new Dunedin Hospital. - Wholeheartedly supports the new Dunedin Hospital project, which it considers will provide the most up to date, modern, innovative health care for the Southern region for decades to come; and ensure economic vibrancy in Dunedin over the next ten years, if not longer. - Submission details the health-related and economic benefits it considers will arise from the new hospital.	Yes
Ms Sheila Watson for Heritage New Zealand Pouhere Taonga	Support	- Considers that a condition requiring the retention and adaptive re-use of the Dairy and Machine House building should be included if the consent is granted. - Recommends the inclusion of consent conditions relating to - a conservation plan and cyclical maintenance plan for the Dairy and Machine House Building - a noise and vibration management plan - the salvage of historical or archaeological features - Notes that an archaeological authority will be required prior to demolition. - Seeks to be consulted on the proposed conservation plan and	Yes

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
		cyclical maintenance plan for the Dairy and Machine House Building, and the noise and vibration management plan before those documents are finalised.	
Allied Press Limited (withdrawn)	Oppose	- Submission expresses concern about potential adverse effects from the demolition, including noise, vibration and dust; and is concerned about potential impacts upon the Allied Press commercial printing press. - Seeks consent conditions requiring the consent holder to - obtain and maintain adequate insurance to indemnify owners of surrounding properties and businesses against damage or losses resulting from the proposal; and - provide a copy of the demolition management plan and the noise and vibration management plan to Allied Press before it is approved.	No

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[51] Section 104(1)(a) of the Act requires that the Council have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in Section 3 of the Act as including-

- a) Any positive or adverse effect; and*
- b) Any temporary or permanent effect; and*
- c) Any past, present, or future effect; and*
- d) Any cumulative effect which arises over time or in combination with other effects—*
regardless of the scale, intensity, duration or frequency of the effect, and also includes –
- e) Any potential effect of high probability; and*
- f) Any potential effect of low probability which has a high potential impact.*

[52] Accordingly, the following effects are considered in the assessment below:

- Noise and vibrations
- Streetscape amenity
- Heritage Values

- Other Effects – Manawhenua, dust and sediment control, traffic management, and benefits of the hospital redevelopment.

Assessment of Effects

Noise and Vibrations (Operative District Plan Assessment Matters 9.9.6, 9.9.11 and 21.6.1; Proposed 2GP Assessment Rules 4.10.2, 9.8.2.1, 9.8.2.6 and 18.12.2.1.g)

- [53] In general, these assessment matters require consideration of the extent to which activities are managed so as to avoid, or mitigate to the point of insignificance, any adverse effects from noise on the health of people. Consideration of short and long term effects (including effects in combination with other activities), and of the potential for cumulative effects to arise, is also required.

The Application

- [54] The application indicates that a demolition management plan is to be developed, and that this plan will incorporate a number of associated plans (including a noise and vibration management plan) to ensure demolition effects, including noise and vibrations, are ‘appropriately avoided or mitigated’.
- [55] A demolition noise and vibration assessment undertaken by Marshall Day Acoustics is included with the application, and focusses on noise emissions in the context of construction noise standard NZS 6803:1999 and 2GP rules; and vibration emissions in relation to 2GP requirements and international guidance for assessing construction vibration. The executive summary section of this assessment provides an accessible and helpful summary of noise and vibration effects, and is cited in part here:

...

Our calculations indicate that the construction noise limits given in Rule 4.5.4.1 of the proposed Dunedin City District Plan (2GP) will be exceeded at times. As predicted noise levels are more than 5 dB above the permitted performance standard, the activity will have non-complying status with regard to noise.

The District Plan construction noise limits are based on the guidance given in NZS 6803:1999. This Standard provides further guidance on the appropriate management and mitigation of construction noise, which is also of relevance to demolition activities. This Standard notes that, “noise from construction is generally of limited duration, [so] communities will usually tolerate a higher noise level provided it is no louder than necessary”.

Our assessment shows that the noise limits will be exceeded in a few instances when demolition works occur at the boundaries of the Cadbury Block. We note that one instance of elevated noise levels is anticipated as a result of cumulative effects, as detailed in Table 12.

We also note that the existing noise environment in the area is already relatively high, principally due to road traffic noise levels from SH1. Ambient noise levels are above the daytime 70 dB LAeq criterion, hence exceeding this limit by a small margin will not necessarily result in adverse effects. NZS 6803 notes that “the high background level may warrant less stringent noise limits than those recommended”, but the District Plan does not allow for any adjustment of the noise limits.

Specific focus has been given to the Otago Daily Times (ODT) building at 260 Cumberland St, which is the only receiver that directly adjoins the worksite. The existing Cadbury's structures will provide some screening to this building while they remain in place. Even when demolition of the closest structures commences, internal noise levels within the ODT offices are expected to be below 50 dB LAeq, which is the limit given in NZS 6803. However, a small number of high risk activities may elevate internal levels beyond this and specific management and controls will be required for these works (e.g. party wall works).

Overall, we consider that the noise and vibration levels at all receivers will be generally reasonable, subject to the suitable implementation of a Noise and Vibration Management Plan (NVMP) for the NDH project as a whole. The NVMP should outline the Best Practicable Option (BPO) measures to mitigate construction noise and vibration.

Most receivers are set back by at least the width of the road corridor from the works. We expect that vibration levels will comply with the relevant criteria beyond 30 metres from any works. Vibration risks can therefore comfortably be managed within the scope of the NVMP, which will facilitate the monitoring of demolition effects and, with a particular focus on adjacent heritage structures. Specific monitoring is also likely to be required for the ODT building, which is well within 30 metres of the closest works.

[56] Marshall Day recommend the inclusion of the following two consent conditions:

1. Demolition noise shall comply with the recommended residential and commercial noise limits for long term construction taken from Tables 1 and 2 of NZS 6803: 1999 "Acoustics - Construction Noise" as far as practicable.

Note: this should apply on a cumulative basis to all demolition activities associated with the NDH project.

2. A Noise and Vibration Management Plan (NVMP) must be prepared by a suitably qualified person and submitted to Dunedin City Council 5 days prior to the commencement of the works. At a minimum, the NVMP must address the relevant measures in Annex E of NZS 6803:1999 "Acoustics - Construction Noise" and Appendix B of DIN 4150-3:2016 "Vibration in buildings – Part 3: Effects on structures". The NVMP must be implemented throughout the project and a copy must be maintained on site.

[57] The application volunteers a number of consent conditions to mitigate the adverse effects of the demolition activity (i.e. conditions 5, 7, 8 and 9 in section 7.5 of the application). The two conditions recommended by Marshall Day are generally reflected in these conditions (refer to proposed conditions 5 and 9 in particular).

[58] The application concludes:

Demolition related effects, including noise, vibration, and traffic will at times be disruptive for surrounding properties and transport network users. However, they will be periodic and temporary in duration, and mitigated as far as practicable in accordance with best practice measures contained in a Demolition Management Plan provided to the DCC prior to demolition commencing. Demolition noise will be reasonable with this mitigation.

Submitters

[59] The submission from Heritage New Zealand Pouhere Taonga has suggested the demolition activity has the potential for adverse effects on both the Dairy and Machine House Building and off-site, surrounding heritage buildings. The submission suggests the the Noise and Vibration Management Plan should:

... include a plan of the area of influence of vibration effects, identify the heritage structures listed on the New Zealand Heritage List within that area and set out the methods for monitoring the vibration effects on the identified heritage structures. The proposed demolition should be managed so as not to cause any material damage to listed heritage buildings.

Heritage New Zealand Pouhere seeks involvement in the development of the Demolition Management Plan and the Noise and Vibration Management Plan.

Council Officer Evidence

[60] The application was referred to the Council's Environmental Health Department for assessment. The environmental health officer, Ms Lyn Pope, acknowledges the professional expertise of Marshall Day Acoustics in the field of acoustic issues, and, having considered their report, identifies the following key issues in respect of noise:

- *Although the proposed site falls within a commercial/mixed use zone there are noise sensitive receivers nearby (residential and commercial). These include the ODT building which share a boundary wall. Whilst the Acoustic Consultants report indicates noise experienced inside the ODT building should remain below 50dB Leq their predictions do not account for any structure-borne transmission of noise during the party wall works and removal of the courtyard wall. Works on these walls will be for a short period but may lead to disturbance.*
- *The area already has elevated day time background noise levels attributed to high traffic volumes and the proposal indicates activity outside of day time hours will only occur in emergency situations.*
- *Whilst the recommended upper noise limits for construction should be based on long-term duration (>20weeks) for the project as a whole, the elevated background noise levels already in the area may warrant less stringent noise limits and those for 'Typical Duration' may therefore be more applicable.*
- *The predicted worse case noise levels are in exceedance of the performance standard by up to 5dB Leq and at this stage no mitigation measures were considered which could lower the noise levels further.*
- *When putting these above points into context, the scale of effects on the surrounding area may be considered as low. NZS 6803:1999 acknowledged that small exceedances are often considered reasonable if they are of limited duration and best practical option measures are implemented to avoid, remedy and mitigate the noise emissions as far as practicable.*

[61] On the matter of vibration effects, Ms Pope notes:

The report by Marshal Day has considered vibration in regard to the District Plan limits, German Standard DIN 4150-3:2016 and British Standard BS 5228-2:2009. The main vibration concern is typically structural or cosmetic building damage, but people may be affected even at low levels.

Environmental Health are not experienced in this field and I agree with Marshal Day that a more suitably qualified acoustic specialist may need to be engaged to provide detailed guidance on vibration and reradiated noise effects once the working methodology (e.g. type of pile driving etc) has been determined.

[62] Ms Pope concludes her advice by recommending the inclusion of the following consent conditions:

- *The applicant must meet the residential and commercial noise limits for Typical Duration construction noise outlined in NZS6803:1999 except in emergency situations.*
- *The applicant must submit a Noise and Vibration Management Plan prepared by a suitably qualified person prior to the commencement of work. It should address the relevant measures in NZS6803:1999 (noise) and DIN 4150-3:2016 (vibration).*

[63] It is noted that the conditions recommended by Ms Pope are included in the list of conditions offered by the applicant.

[64] The full text of Ms Pope's advice is included in Appendix 4.

Reporting Officer's Assessment

[65] Taking into account the noise and vibration assessment undertaken by Marshall Day Acoustics, together with Ms Pope's review of that advice, it is considered that instances of noise levels exceeding permitted noise limits by 5dB LAeq (15 min) will be infrequent, and of short duration. Any such exceedances will be insignificant in the context of noise levels permitted by the Proposed 2GP, and ambient noise levels associated with high traffic volumes. In coming to this conclusion, I had particular regard to the following advice from Ms Pope:

NZS 6803:1999 acknowledged that small exceedances are often considered reasonable if they are of limited duration and best practical option measures are implemented to avoid, remedy and mitigate the noise emissions as far as practicable

The works will occur during daytime hours when ambient noise levels are highest; and the measures proposed in the demolition management plan, and the noise and vibration management plan in particular, will ensure that impacts upon noise sensitive activities within the receiving environment (including the Allied Press building and the sleeping quarters within the Dunedin Fire Station) will be reduced.

[66] In terms of cumulative noise effects, the advice from Marshall Day that noise from demolition works should be assessed cumulatively with all demolition activities associated with the hospital project is considered pertinent. Should consent be granted to the proposal, a consent condition that requires a cumulative assessment of noise is considered appropriate – see suggested condition 11 in Appendix 5.

[67] In addition, the inclusion of consent conditions that reflect conditions 5, 7, 8 and 9 offered in the application (albeit modified to reflect standard Council wording and practices) will ensure that any adverse effects from noise on the health of people will be acceptable, and adverse effects on the surrounding environment and activities within it are managed appropriately. Advice notes to encourage consultation with Allied Press Limited and Heritage New Zealand Pouhere Taonga during development of the noise and vibration management plan are also recommended.

[68] With regard to vibration effects, it is noted that the management of vibration effects was considered when processing the applicant's resource consent application for test piling works across three locations within the land at 280 and 360 Cumberland Street ("the Cadbury block"), and at 360 and 398 Cumberland Street ("the Wilsons block"). This

resource consent (LUC-2020-365) gave particular regard to vibration effects received at the Allied Press commercial printing press, and nearby heritage buildings, including the Dairy and Machine House Building within the subject site, and the adjacent Allied Press building. Consent conditions were included to require that:

- a full investigation and pre-condition survey be undertaken for all buildings where the guideline vibration limits set out in DIN 4150-3:2016 were likely to be exceeded;
- vibration data be collected from test piling sites at the Cadbury Block warehouse and loading area and/or the Wilsons Block; and
- the vibration data be used to inform management of vibration risks for the Allied Press building and printing press.

[69] It is considered that the vibration data gathered during the test-piling activity would be useful in determining how best to manage vibration effects from the demolition of the Cadbury factory buildings and protected façades. Should consent be granted to the current proposal, consent conditions to reference the vibration data gathered during the test piling activity, and to require similar vibration management measures to those included in the test-piling resource consent are considered appropriate – see suggested conditions 5, 6(d) and 12 in Appendix 5.

Streetscape Amenity (Proposed 2GP Assessment Rules 18.9.2.1 and 18.9.4.1)

[70] These assessment matters require consideration of the extent to which development maintains or enhances streetscape amenity by implementation of landscaping where buildings are not built to the street frontage.

[71] The application does not address this matter. It is acknowledged that the current application to demolish the Cadbury factory buildings is a pre-cursor to the construction of a new hospital; and that it is likely that issues of amenity will be considered when application for building/resource consent for the new hospital is made. Nonetheless, the current application does not meet the boundary treatments performance standard, and it is considered appropriate to consider this matter on the basis of the current application as it stands.

Submitters

[72] In his submission in opposition to the proposal, Mr Daniels is concerned at the potential for the demolition to be undertaken and the site then left undeveloped. He observes:

It would be unacceptable to lose the Cadbury buildings for nothing and we will end up with another empty site.

Council Officer Evidence

[73] The Council's urban designer, Mr Peter Christos, has considered the application and observed that a landscape buffer is not generally required when subsequent development of the site is pending. Notwithstanding this, he goes on to advise:

...should redevelopment not commence within a reasonable time frame, from commencement of demolition, there is significant risk that such a large and centrally located site would have negative effects on streetscape values, if left as a cleared site. For the above reasons, I would suggest a condition that required the developer to install a landscape strip as prescribed by rule 18.6.1.

[74] The full text of Mr Christos' advice is included in Appendix 4.

Reporting Officer's Assessment

[75] Should the site be subsequently developed for a new hospital as indicated in the application, any adverse effects on streetscape amenity arising from the lack of a landscaping buffer along the road-front boundaries following demolition would be temporary and therefore acceptable.

[76] Nonetheless, as alluded to by Mr Daniels, while it is assumed that the hospital project will continue to progress, there is the potential for it to be deferred or abandoned and the site left vacant. Should this scenario eventuate, the lack of a boundary treatment around a 2.2ha demolition site in a relatively prominent central city location between two state highways would have a significantly adverse effect on streetscape amenity. Taking this into account, together with the advice of Mr Christos, should consent be granted to the proposal, a consent condition to require that if development of the site does not commence within a certain period, then a landscaping area/boundary treatment must be provided along the full length of any road boundary that does not have a building within 1.5m of that boundary is considered appropriate, to ensure that in the long term, streetscape amenity is maintained.

Heritage Values (Proposed 2GP Assessment Rules 13.8.2.1, 13.8.3.1, 18.12.2.1 and 18.12.4.1)

[77] In general, these assessment matters require consideration of the extent to which the proposed activity does not detract from, or preferably contributes to, the strategic directions objectives. A heritage impact assessment is required, and must address the effect of the demolition on heritage values, including a discussion of alternatives considered, and reasons why these alternatives are not reasonable. Consideration of short and long term effects (including effects in combination with other activities), and of the potential for cumulative effects to arise, is also required.

The Application

(Alternatives to Demolition - Section 7.2 of the Application)

[78] The application sets out the range of alternative hospital developments and locations that were considered, noting that eight possible redevelopment scenarios (including a "do minimal" option) and six potential sites (including four central city sites) were investigated. It notes that the Cadbury factory and Wilson's block sites were chosen because:

- There would be no need to demolish existing hospital facilities and decant services for the new build, as would be the case at Wakari.
- The close proximity of the site to the existing hospital, the University of Otago, and central city.
- The combined size of the Cadbury and Wilson's blocks provided sufficient room for the required facilities and provided flexibility where parts of the complex could be located through the design process.
- The Cadbury factory site was already for sale as one block, enabling ease of acquisition.

[79] The application advises that following the selection of the Cadbury factory and Wilson's block sites, a preliminary site master plan was developed, during which various spatial arrangements across the Cadbury and Wilsons blocks were tested. As a consequence of this process, it was determined that the larger Acute Services Building ("ASB") would be

located on the Cadbury block and the smaller Ambulatory Services Centre building ("ASC") on the Wilsons block, for the following reasons:

- It locates the smaller and lower ASC in the northern block and the larger ASB in the southern block. This offers a better fit in terms of urban form within the context of the wider CBD.
- It creates the opportunity for public outdoor amenity to the north and west of the site where it benefits from good sun and daylight.
- It provides an excellent linkage between the ASC with the existing hospital facilities (including the Southern Blood and Cancer Building that will remain in operation when the hospital is constructed), and the University research education precinct.
- It provides the opportunity on the northern part of the Wilsons block for future expansion and/or development of a health precinct (potentially in conjunction with the University of Otago).
- It would enable construction of the ASB on the part of the overall site (Cadbury) which has more consistent in-ground geotechnical conditions. Advice received during the Preliminary Site Masterplanning indicated that geotechnical conditions of the Wilsons block are varied, meaning it would be less suited to construction of an Importance Level 4 building (i.e. the ASB), and more suited to construction of an Importance Level 3 building (the ASC).

[80] In terms of façade retention options, the application includes a number of technical assessments, comprising:

- Different structural options for retaining the facades, including temporary support during demolition and construction. This is detailed in the report from engineers WSP included in **Appendix 6**.
- The costs of implementing the different options for retaining the facades identified by WSP. This is detailed in the report from quantity surveyors Rider Levett Bucknall (RLB) included in **Appendix 12**.
- The construction feasibility of the different options for retaining the facades, detailed in a buildability report from project managers RCP included in **Appendix 13**.
- The heritage implications of the different options for retaining the facades, detailed in the heritage impact assessment from Underground Overground in **Appendix 7**.
- Implications for the design and functionality of the hospital from retaining the buildings and scheduled facades. Considerations that formed part of the development of the Preliminary Site Masterplan are detailed in the memorandum from CCM Architects included in **Appendix 10**. Considerations that have formed part of the options review and evaluation, and concept design process are detailed in the statement from the hospital's lead architects Warren & Mahoney included in **Appendix 11**.

[81] The report from WSP (Appendix 6 of the application) concludes its assessment of the feasibility of the engineering aspects of retaining the façades by observing:

It is still possible to retain the façades; however, this will affect the layout and usage of the site, and both the extent and complexity of the construction work required. This will have significant cost, programme and health & safety implications.

The smaller footprint of the proposed hospital means that if the facades were retained it will become more obvious that they are standalone features. This will potentially increase the impact on their heritage value while still having a significant effect on the new hospital.

[82] The application concludes that '...it is not considered practicable for the buildings or façades to be retained and incorporated as part the hospital development, due to a range of design, seismic risk, construction feasibility, and cost considerations.' It

suggests that retention of the buildings and façades (other than the Dairy and Machine House building) would:

- Significantly impact on the optimal design and functionality of the new hospital in terms of safe and efficient clinical use and flows, public and vehicle access (including for emergency vehicles), alignment of floor levels and fenestration, building services, management of risks from flooding and remaining earthquake prone buildings, and flexibility for expansion.
- Whilst having less impact on heritage values than total demolition of the façades, retention of the façades under Options 1 – 4 is not consistent with HNZPT best practice, and would result in them being retained as purely an aesthetic feature that would be unrelated to the structure behind them. They would also to varying degrees impact the heritage fabric of the façades. Construction of a replica façade under Option 5 would remove all heritage values and contravene heritage charters and guidelines.
- Result in the retention of the masonry façades of Blocks 1 and 2, which may have a residual seismic risk following strengthening that would not be appropriate for a site which is essential to post-disaster recovery (except for Option 5).
- Significantly impact on the construction feasibility of the hospital as a result of the temporary facade support structure adding to construction complexity, impedence of in ground utilities, and sustained disruption of state highway traffic flows which may be untenable. Furthermore, it will add construction complexity, elevate health and safety requirements, and significantly increase the duration of construction.
- Result in significant additional build costs, irrespective of the façade retention option, that range from an estimated \$36.2m to \$74.6m.

3

(Effects on Heritage Values - Section 7.3 and Appendix 7 of the Application)

- [83] The application includes a heritage impact assessment prepared by Underground Overground Archaeology (“UOA”) which evaluates the effects of the demolition of those buildings and their façades on the heritage values of the Cadbury Confectionery Ltd Building. This assessment is included as Appendix 7 in the application documentation.
- [84] In terms of heritage significance, the UOA assessment suggests that the architectural merit of the façades contributes the least to their overall heritage value, with architectural rarity and historic values in terms of connection to function, individuals and companies having higher significance. Only the Biscuit Factory and Dispatch Building was determined to have high architectural integrity, as it represents an intact structure that has not been heavily modified. In contrast, the other buildings in the complex, including their façades, have low value in terms of their architectural merit. Overall, the UOA assessment considered that the Cadbury buildings are of medium heritage significance.
- [85] With regard to effects on heritage values, the UOA assessment observes that the proposed adaptive re-use of the Dairy and Machine House Building would have a ‘moderate beneficial effect’. However, the loss of the remaining buildings and façades was deemed to have a ‘major adverse effect’ upon the heritage values of the overall Cadbury complex; and to reduce the contextual value of the Dairy and Machine House Building that is to be retained. Overall, in combination, the retention of the Dairy and Machine House Building and the demolition of the remaining buildings and façades was deemed to have a ‘moderate to large’ adverse effect on the heritage values of the Cadbury Buildings.

³ The applicant appears to have transposed figures from the Rider Levett Bucknall costings report, whereby references to costs of \$32.6 million have been cited as \$36.2 million (refer to sections 7.2.3.1 and 7.2.3.5, and Appendix 12 of the application).

- [86] The UOA assessment recommends a number of measures to mitigate the adverse effects associated with demolition, and concludes that if these measures are implemented, the magnitude of adverse effects on heritage values could be reduced to 'moderate'.⁴
- [87] The application indicates that the applicant accepts some, but not all, of the mitigation measures proposed by UOA, and offers a number of consent conditions that reflect these measures (these conditions are detailed in Section 7.5 of the application). It suggests that with the adoption of these mitigation measures (including retention of the Dairy and Machine House building), overall the proposed demolition will have a moderate adverse effect on heritage values.

Submitters

- [88] Submitters in opposition to the proposal suggest the scheduled façades '...have very significant heritage value' and '...make a strong and positive contribution to Dunedin's special townscape.' In his submission, Mr Athol Parks observes:

I accept that it would be impractical to incorporate the scheduled facades within any hospital build. I'm simply asking that we exercise prudence at this very uncertain time and retain these significant buildings until such time as a Government properly commits to building a hospital on that site.

- [89] The submission from Heritage New Zealand Pouhere Taonga supports the application, subject to the amendment of some of the conditions detailed in the application to ensure the restoration and re-use of the Dairy and Machine House Building is appropriate and reflects the historic land use of the site. It states:

In order for the Dairy and Machine House Building to partially mitigate the significant adverse effects that the loss of the protected facades would have, the building should be restored and re-used in a manner that ensures its viability. The application states that the final use of the Dairy and Machine House Building is still to be determined but is being considered for non-clinical functions as part of the new hospital development (Section 5.1.1). This suggests that the restoration works and re-use may not eventuate. Heritage New Zealand considers that a condition requiring the retention and adaptive re-use of this building should be included if the consent is granted.

- [90] The submission also seeks consent conditions to require:
- a demolition management plan developed in consultation with Heritage New Zealand Pouhere Taonga that incorporates a heritage protection plan, a noise and vibration management plan
 - a conservation plan and cyclical maintenance plan for the Dairy and Machine House Building; and
 - the salvage of historical or archaeological features.

An advice note detailing the circumstances in which an archaeological authority is required is also sought.

⁴ Refer to Section 12 of the UOA for the detail of the mitigation measures proposed. The mitigation measures are then summarised in Section 13.

Council Officer Evidence

(Alternatives to demolition)

- [91] The application was forwarded to the Council's consultant engineers, Stantec, for a peer review of the technical assessments and costings provided with the application. Stantec's principal structural engineer, Mr Derek Chinn, has considered the information provided, and has summarised his review as follows:

We believe that WSP's engineering assessment (including respective addendum) of existing Cadbury factory facades (to Cumberland and Castle Street) does sufficiently stress the difficulty and resulting expense of having a layout which includes sections of the façade attached to the new building and sections of the façade independently supported. The layout indicated in the report addendum from WSP, which involves significant portions of the façade independently supported while having part of the façade connected to the new hospital building, includes further complexity over the initial report. There are significant issues including:

- *Structural support to the independent façade*
- *Separation between the fixed façade elements and the independently supported elements of the façade*
- *Founding of the façade and support*
- *Aesthetic issues associated with the independent façade*
- *Clash between the permanent support frame required for the façade and the adjacent facilities*
- *Foundation conditions and piling*
- *Coordination of the façade with the new entrances*
- *Fitting the temporary supporting structure around the existing underground services in the road and the vehicle and cycle lanes*

The cost estimates provided are not specifically applicable to the proposed layout which involves sections of façade both independently supported and supported by the proposed building. Thus, we consider that the estimates provided may not sufficiently cover the proposed layout. The estimate provided for option 2A (façade support independent from the building) is approximately \$65M. We believe that there is insufficient detail provided to review these estimates further, a more detailed take off would be required to assess this. We anticipate that the works will be more complex than described in the WSP report for the reasons noted above and as a result there may be a further increase in the cost estimate for the works.

- [92] Based on Mr Chinn's advice, the information included in the technical assessments and costings provided with the application is accepted.
- [93] The full text of Mr Chinn's advice is included in Appendix 4.

(Effects on Heritage values)

- [94] The application has been considered by the DCC heritage advisor, Dr Andrea Farminer, who notes that, in terms of the heritage status of the façades, the façades are a Category 2 Historic Place on the *New Zealand Heritage List/Rārangi Kōrero*. She observes that this List identifies New Zealand's significant and valued historical and cultural heritage places; and that Category 2 historic places are of historical or cultural significance or value. As such that she considers that the scheduled and listed façades to Cumberland Street are of regional heritage significance.
- [95] With regard to undertaking an assessment of the heritage values of the façades, Dr Farminer observes:

It is fundamental to understand that the façade of a building cannot be divorced from its constructional and historic context and, indeed, facades derive their values from being part of the whole building story. However, it has been a long-standing approach in district plan, built heritage protection to often protect solely the facades of historic buildings, and the Dunedin City District Plan(s) follow suit with regard to the Cadbury Factory site.

She notes that the UOA heritage impact assessment ("HIA") takes a broader approach, assessing the values of the façades on both their own merits and their built heritage and historical contexts, and concluding that their overall heritage significance is **medium**. She considers however that some of the heritage values of the façades have been undervalued in the UAO assessment.

- [96] Specifically, whereas the UAO HIA assesses the architectural values of the façades of **low** value, Dr Farminer considers them to have **high** architectural value, on the basis of the quality of their architectural design and evolution, representativeness, architectural integrity and context/group value. She observes:

The Cumberland Street façade, read from south to north, follows and expresses the key timeline of the development of the factory within, and through that tells part of the story of the Cadbury site

and that:

...the Castle Street factory façade demonstrates equally strong and distinctive architectural qualities from its expanses of modernist industrial architecture that connects the east and west faces of the later Cadbury factory site together. No where else in Dunedin are there similar expanses of industrial modernist architecture (the earlier, 1928 Mandeno and Fraser-designed, Spotlight building on Cumberland Street possibly an exception) on the scale and quality of the Cadbury Factory.

- [97] Similarly, while the UOA HIA assess the cultural values of the façades as **moderate**, she considers those values to be **high**, observing:

This opinion is founded on the long-term relationship between Hudson's/Cadbury with the people of Dunedin that survived until its closure in 2018. The establishment of Cadbury World in c.2001, its sponsorship of the Dunedin marathon for many years, and other philanthropic activities led from the start by the Hudson family, have cemented the people-place relationship between the city, its many visitors and the factory to a significant level. A visit to Cadbury World for any visitor – whether local or international – began with a walk through the front

door of the Cumberland Street façade, set within the earliest portion of the façade's story – the west elevation of the 1868 granary building.

- [98] Dr Farminer concludes that overall, 'the effects on the heritage values of the scheduled Cadbury Factory facades remain as **major adverse effects** through the almost total loss of the historic facades.'
- [99] Turning to the mitigation recommendations included in the UOA HIA and in the application, Dr Farminer considers the proposed retention of the Dairy and Machine House building represents '...only a very small scale of mitigation when compared against the scale of loss of the whole of the scheduled facades and their values.'
- [100] She considers that other recommendations in the HIA and application relating to careful demolition, salvage, recording of structures and public engagement are '...largely management recommendations' and do not materially meet the definition of mitigation of the effects on heritage values. She observes there will still be major adverse effects because '...the high heritage values of the place and the facades are still being destroyed, leaving only an archival record to capture them.'
- [101] Dr Farminer concludes her consideration of effects on heritage values by stating:

*From my review of the Heritage Impact Assessment, which has revised the overall heritage value of the façades to be of high significance, using the HIA effects assessment matrix approach, this will result in the overall effects of the proposed demolition of the Cadbury Factory facades as being large to very large adverse effects or in planning terms, **having major adverse effects**.*

- [102] The full text of Dr Farminer's advice is included in Appendix 4.

Reporting Officer's Assessment

- [103] The assessments of Underground Overground Archaeology and Dr Farminer differ in terms of the perceived scale of the adverse effects that will result from demolition of the Cadbury buildings and façades; and the extent to which the retention of the Dairy and Machine house building will offset the loss of the majority of the façades. Nonetheless, whether the effects on heritage values are moderately adverse (UOA) or majorly adverse (Dr Farminer) the assessments of both heritage experts have confirmed that adverse effects on the heritage values of the protected façades will be substantially more than minor.
- [104] The technical assessments and costings provided as appendices to the application have been endorsed by Mr Chinn, and as such it is not disputed that it would be difficult and costly for the buildings or façades to be retained and incorporated as part of a proposed new hospital based on the preliminary site master plan.
- [105] It is noted however that at this time, only conceptual plans exist for the proposed buildings for the hospital, and what they might look like. It is difficult to assess the loss of a scheduled heritage item against an anticipated development, for which no detailed plans have been provided. By way of context, applications seeking resource consent to demolish a scheduled heritage item, would usually be expected to provide details of the proposed replacement building, and it would be unusual for resource consent to be granted on the basis of unconfirmed plans. In this instance however, the benefits of the hospital relate largely to a broader scale than the site and physical environment.

- [106] Further to this, assessment rule 13.8.2.1.c requires consideration of short and long term effects; and the potential for cumulative adverse effects to arise from similar activities occurring as a result of a precedent being set by the granting of a resource consent. The UOA assessment suggests that the Cadbury factory buildings (of which the scheduled façades are an intrinsic part) are ‘...one of the last representations of wider industrial activity immediately below the Octagon from the 1880s into the twentieth century’ and ‘...represent a rare complex of industrial buildings surviving at the heart of Dunedin’s central business district.’ To grant consent to the demolition of a scheduled heritage item that has been identified as being both of regional significance and an example of rare industrial heritage, would potentially make it difficult to ensure the protection of other heritage structures throughout the city; and generates the potential for cumulative effects to arise, particularly if considered in combination with the loss of other heritage building throughout the city previously.
- [107] Taking these matters into account, overall, I concur with the assessment of Dr Farminer, and consider that the adverse effects on the heritage values of the protected façades that will arise from the proposed demolition will be major.
- [108] With regard to the proposed retention of the Dairy and Machine House building, it is noted that the application does not seek to remove the building, and that it will continue to be protected as item **B030** in 2GP Appendix A.1.1 (Schedule of Protected Heritage Items and Sites). Consequently, it must be retained in any case.
- [109] Notwithstanding this, in the event that consent is granted to the proposal, for clarity, it is recommended that a consent condition requiring the retention of the Dairy and Machine House Building be included, together with other conditions and advice notes along the lines of those offered in the application (albeit modified to reflect standard Council wording and practices) are recommended, to ensure some level of compensation for the loss of the façades occurs; and to take into account the matters raised in the submission from Heritage New Zealand Pouhere Taonga – refer to Appendix 5.

Other Effects

Manawhenua (Operative District Plan Assessment Matter 5.5; Proposed 2GP Assessment Rules 14.6.2.1 and 18.12.2.1)

- [110] In general terms, these assessment matters require consideration of the extent to which provision is made for Manawhenua to engage in the resource consent process in an effective and meaningful way.
- [111] The method for such engagement is set out in Strategic Directions Objective 2.5.1, and, more specifically, Policy 2.5.1.2, which read:

Objective 2.5.1 (Kaitiakitaka): *Kāi Tahu can exercise kaitiakitaka over resources within their takiwā.*

Policy 2.5.1.2: *Provide for effective and meaningful engagement with Manawhenua at appropriate stages of the resource management process through:*

- a. encouraging early consultation by applicants;*

- b. *requiring that the effects on values of significance to Manawhenua are considered for culturally sensitive activities and activities that may adversely affect wāhi tūpuna and mahika kai;*
- c. *recognising and providing for matauraka Māori and tikaka during the consent and hearing process; and*
- d. *advising rūnaka of applications for activities affecting sites and values of significance to them.*

[112] The application includes a cultural narrative précis prepared by Aukaha. That précis concludes:

Demolition of the former Cadbury factory, which forms the corpus of the NDH site, will shortly begin. Those tasked with building the NDH, and indeed the public at large, will soon view this block of land as a blank slate – in much the same way as Dunedin’s earliest Pākehā colonists viewed the upper harbour in the 1840s. However, then, as now, Kāi Tahu history lays beneath and Kāi Tahu hopes for the future hang in the air. Aukaha, on behalf of Mana whenua and Papatipu Rūnaka, looks forward to refining these aspirations and weaving them into the NDH.

[113] The proposed demolition of the Cadbury factory buildings is the pre-cursor to the anticipated construction of a new hospital. The inclusion of Aukaha’s précis in the current application is considered to demonstrate willingness on the part of the applicant to engage and consult with Manawhenua at the outset of the resource consenting process, which is consistent with the direction and methodology anticipated by the Proposed 2GP.

Dust and Sediment Control

[114] The application indicates that the demolition management plan will incorporate controls to suppress and minimise dust nuisance, and avoid the tracking of sediment off the site or into the Council reticulated stormwater network (sections 5.1.2 and 7.4.1). The controls are referred to within condition 5 proposed by the applicant.

[115] The application was referred to the Council’s 3 Waters Department for assessment. The development support officer, Ms Helen Little, has observed that the applicant will be required to adopt all practicable measures to prevent sediment-laden stormwater run-off from the site into the Council stormwater network and neighbouring properties during any stages of site disturbance associated with the proposed demolition. She notes that 3 Waters will require a dust and sediment control plan, and provides details of what this plan should include. She also advises also that all wastewater and stormwater laterals not being utilised are to be sealed off at the DCC pipes in the road way.

[116] The full text of Ms Little’s advice is included in Appendix 4.

[117] Taking Ms Little’s advice into account, should consent be granted, the inclusion of a consent conditions requiring the sealing off of redundant wastewater and stormwater laterals, and the preparation of a dust and sediment control plan are considered appropriate, to ensure effects on the city’s reticulated infrastructure are managed appropriately – refer to Appendix 5.

[118] The application observes that the demolition process will require the temporary closure of footpaths adjacent to the site, and possibly the temporary relocation or partial closure of traffic/cycle lanes. It notes that these matters will be addressed in the traffic management plan ("TMP") that is to form part of the demolition management plan. It suggests that any any adverse transport effects will be periodic and temporary in duration; and that undertaking the proposed demolition in accordance with the TMP will ensure any adverse transport effects on the surrounding environment and activities are appropriately avoided or mitigated as far as practicable (section 7.4.3). The TMP is referred to within condition 5 proposed by the applicant.

[119] The application was referred to the Council's Transport Department for consideration. The transport planner, Mr Logan Copland, has advised:

... Given the consent relates to demolition/deconstruction, the transport effects associated with this proposal are considered to be temporary in nature. It is advised, however, that in the event of future development on the site, Transport would assess any associated transportation effects at the time of resource consent/building consent.

The details of the traffic management plan will be assessed at a later stage, upon receipt of the TMP, outside of this resource consent process. Section 7.5 of the application indicates by way of an advice note that prior to submitting the required TMP, it should be provided to the NZTA for review, and any feedback incorporated into the plan prior to formal submission to the Dunedin City Council, for approval/certification.

As a general comment, demolition/deconstruction traffic will need to be managed in such a way so as to retain appropriate provision/level of service for all road users, to ensure that the safety and efficiency of the transport network is maintained to an appropriate standard, throughout the demolition period (as authorised under any approved TMP). This includes the bus service, as well as vehicle, pedestrian and cycle traffic. A condition should also be imposed on the consent requiring any damage to any part of the footpath, road formation and/or any other public roading assets as a result of the demolition works, to be reinstated at the applicant's expense, to the satisfaction of the relevant road controlling authority i.e. the NZTA or the Dunedin City Council's Transport department.

Overall, while the proposed demolition will have noticeable effects on the transportation network, it is considered appropriate in this instance for these to be managed by way of temporary traffic management plan(s), which will require further consultation with the relevant RCAs.

The applicant may also require separate approval for any temporary vehicle access locations, once chosen, and these will be required to comply with the vehicle access performance standards contained with Rule 6.6.3 of the 2GP.

[120] The full text of Mr Copland's advice is included in Appendix 4.

[121] Should consent be granted, the inclusion of a consent condition requiring the repair of any damage to the roading infrastructure, and advice notes that reflect Mr Copland's advice are considered appropriate. The consent condition offered by the applicant in

respect of the traffic management plan component of the demolition management plan is also considered appropriate – refer to Appendix 5.

Benefits of the Hospital Redevelopment

- [122] Section 7.1 of the application includes a commentary that suggests the new hospital will deliver significant benefits for the health and wellbeing of the community, and that the loss of heritage values will be substantially offset through the significant healthcare benefits of the replacement hospital. It states:

Overall, the new hospital will deliver significant benefits for the health and wellbeing of the community of the SDHB region. The new hospital will enable rolling out of modern models of care that will improve the efficiency and effectiveness of hospital services. By changing the way in which services are organised in the new hospital, and how they integrate with primary care and allied health, the SDHB can realise the benefits of improved patient flow, improved quality of patient care, improved patient and staff safety, increased efficiency of service delivery, and reduced costs.

The hospital will also be designed to be well integrated and achieve accessibility and interaction with the surrounding urban environment, and promote a positive pedestrian experience. Aukaha is also working with Ministry to incorporate Kāi Tahu cultural elements into the design and layout. The new hospital will support urban regeneration in central Dunedin. The hospital will be an important landmark, located in walking distance from the centre of the city. It will provide a potential catalyst for further redevelopment in the surrounding city blocks. Such a regeneration outcome could be less certain if the Cadbury factory buildings were to remain without significant investment that provides for their adaptive reuse.

- [123] This view is unreservedly endorsed in the submission from the Southern District Health Board.
- [124] The benefits associated with the hospital redevelopment are not disputed. It is accepted that the proposed new hospital is the entire rationale for the demolition of the heritage façades, and that significant public benefits will arise from the establishment of a new hospital on the subject sites. Furthermore, the proposed demolition will facilitate the establishment of a new hospital on the subject sites by providing a clear site, thereby reducing costs and construction constraints. Nonetheless, while these benefits might be important considerations, they do not translate into a direct and quantifiable environmental effect directly associated with the demolition of an existing heritage structure, particularly when the hospital development is not part of the application, and details of the proposed building form and character are uncertain at this time.

Environmental Effects Conclusion

- [125] Compliance with the recommended consent conditions relating to the management of noise and vibration management will ensure that any adverse effects from noise and vibrations on the health of people will be minor, and cumulative effects will not arise in relation to these matters.
- [126] Similarly, effects on streetscape amenity can be managed to an adequate level by the implementation of a consent condition to require that, in the event the site is not developed following demolition, a landscaping area/boundary treatment be implemented where buildings are not built to the street frontage.
- [127] However, the primary matter to be considered when assessing the environmental effects arising from this application is effects on heritage. This is because the environmental effects relating to noise, vibrations and streetscape amenity are incidental to the proposed demolition of the Cadbury factory buildings, including scheduled façades. The adverse effects on the heritage values of the protected façades

that will arise from the proposed demolition are the core environmental effects issue and are considered to be major.

- [128] While effects on noise and vibration, and streetscape amenity effects can be mitigated to an acceptable level by conditions of consent, and while the establishment of a new hospital is expected to deliver significant benefits to the community, in the assessment above, adverse effects on heritage values have not been found to be mitigated to any significant extent, and will be substantially more than minor. It is therefore considered that overall, the adverse effects arising from the proposed activity will be major.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

- [129] Section 104(1)(ab) of the Resource Management Act 1991 requires that the Council have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.
- [130] The application discusses the benefits associated with the anticipated establishment of a new hospital on the site (Section 7.1 of the application) and concludes its evaluation of environmental effects by suggesting the benefits of a new hospital are ‘...sufficient to offset the associated loss of heritage values’. It does not however specifically address Section 104(1)(ab) in its statutory assessment (Section 8 of the application) nor explicitly propose offsetting or compensation measures.
- [131] It is assumed that the *only* reason the application has been made is to facilitate the establishment of a new hospital on the site; and that the new hospital will eventuate. Nonetheless, as noted in the environmental effects assessment and conclusion above, while these benefits might be an important consideration, they do not translate into a direct and quantifiable environmental effect that can be assessed as offsetting the demolition of an existing heritage structure. The benefits are discussed further, as a Section 104(1)(c) matter, later in this report.

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of Objectives and Policies of the District Plan (Section 104(1)(b)(vi))

- [132] The objectives and policies of the Operative District Plan and the Proposed 2GP were taken into account in assessing the application.

Operative District Plan

- [133] The proposal is assessed against the following Operative District Plan objectives and policies:

Transportation Section

Objective and Policy	Assessment
Objective 20.2.2: <i>Ensure that land use activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.</i>	The application considers that the proposal is consistent with the transportation objectives and policies of the Operative District Plan, stating: <i>The adverse effects on transportation will be periodic and temporary in duration. Demolition will be managed in accordance</i>

Objective and Policy	Assessment
Objective 20.2.4: <i>Maintain and enhance a safe, efficient and effective transportation network.</i> Policy 20.3.3: <i>Provide for activities on roads and footpaths where this: (a) Is compatible with the function of the road. (b) Is safe for road users and pedestrians. (c) Has no more than minor adverse effects.</i> Policy 20.3.5: <i>Ensure safe standards for vehicle access.</i> Policy 20.3.6: <i>Encourage heavy traffic to use appropriate routes.</i> Policy 20.3.8: <i>Provide for the safe interaction of pedestrians and vehicles.</i> Policy 20.3.9: <i>To sustainably manage transport infrastructure, particularly that of national or regional importance, in a way which will provide for its effective operation and preserve its capacity to meet the reasonably foreseeable needs of future generations, while avoiding, remedying or mitigating any adverse effects resulting from the operation of this infrastructure.</i>	<i>with a Traffic Management Plan developed in consultation with the NZTA, and approved by DCC prior to demolition commencing. The TMP will address management of appropriate truck movements, traffic/cycle lane relocation and closures, and pedestrian routes to ensure adverse effects on safe, efficient, and effective operation of the transport network are adequately mitigated, and effective operation of nationally/regionally important roads provided for.</i> Taking Mr Copland's advice into account, the applicant's assessment of these objectives and policies is accepted. Subject to compliance with the recommended conditions of consent, the proposal will mitigate adverse effects on the transportation network and maintain its safety, efficiency and efficacy. Accordingly, the proposal is consistent with these objectives and policies.

Environmental Issues Section

Objective and Policy	Assessment
Objective 21.2.2: <i>Ensure that noise associated with the development of resources and the carrying out of activities does not affect public health and amenity values.</i> Policy 21.3.3: <i>Protect people and communities from noise and glare which could impact upon health, safety and amenity.</i>	The application provides the following assessment of this objective and policy: <i>The adverse noise effects from the demolition will be periodic and temporary in duration, and typically occur only during day time hours when ambient noise levels are already highly elevated by traffic noise. The work will be managed in accordance with best practice measures contained in a Noise and Vibration Management Plan approved by the DCC prior to demolition commencing. With these measures, adverse noise effects will be minimised so as to be reasonable, and people and communities will therefore be protected from noise that could impact on health, safety and amenity. The demolition of the Cadbury factory buildings will therefore be consistent with the environmental objectives and policies of the Operative District Plan.</i>

	I concur with this assessment and agree that the proposal is consistent with this objective and policy.
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The Section 10 (Industry) and Section 13 (Townscape) objectives and policies haven't been given any weight because the rules of both sections are inoperative, and the zoning of the subject sites (Industrial 1 in the Operative District Plan) is beyond appeal.

Proposed 2GP

[134] The proposal is assessed against the following Proposed 2GP objectives and policies:

Temporary Activities Section

Objective and Policy	Assessment
Objective 4.2.1: <i>Temporary activities are enabled while minimising, as far as practicable, any adverse effects on the amenity and character of the zone; and ensuring that any adverse effects on people's health and safety are minimised as far as practicable.</i> Policy 4.2.1.1⁵ <i>Require temporary activities to be designed and operated to minimise, as far as practicable, adverse effects on the amenity of surrounding properties; and people's health and safety.</i>	The application notes: <i>Demolition will at times cause adverse effects on the amenity of surrounding properties from noise, vibration, traffic, and general disruption. Such effects will be periodic and temporary in duration. Amenity, and public health and safety effects will be minimised as far as practicable in accordance with best practice measures contained in a Demolition Management Plan approved by the DCC prior to demolition commencing. The demolition of the Cadbury factory buildings will therefore be consistent with the 2GP temporary activity objectives and policies.</i> I agree that impacts on amenity of surrounding properties, and on the health and safety of people, would be minimised by the implementation of the demolition management plan, and, more specifically the noise and vibration management plan that forms part of the DMP. As such, the proposal is consistent with this objective and policy.

Transportation Section

Objective and Policy	Assessment
Objective 6.2.3: <i>Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel modes and its affordability to the public.⁶</i>	Taking Mr Copland's advice into account, and subject to compliance with the recommended conditions of consent, it is considered that the safety and efficiency of the transport network will be maintained. Accordingly, the proposal is consistent with this objective and policy.

⁵ Policy 4.2.1.1 is the subject of an appeal from KiwiRail (refer ENV-2019-CHC-252). The appeal seeks to amend Policy 4.2.1.1 to add reference to the 'safety and efficiency of the transport network'.

⁶ This objective is the subject of an appeal.

Policy 6.2.3.9: <i>Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where: a. adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and b. any associated changes to the transportation network will be affordable to the public in the long term.</i>⁷	
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Public Health and Safety Section

Objective and Policy	Assessment
Objective 9.2.2: <i>Land use, development and subdivision activities maintain or enhance people's health and safety.</i> Policy 9.2.2.1: <i>Require activities to be designed and operated to avoid adverse effects from noise on the health of people or, where avoidance is not practicable, ensure any adverse effects would be insignificant.</i>	As detailed in the effects assessment above, adherence to the noise and vibration management plan would ensure that instances of noise levels exceeding permitted noise limits are infrequent, of short duration, and, in the context of permitted noise levels and ambient noise levels from high traffic volumes, insignificant. Impacts upon noise sensitive activities within the receiving environment (including those within the Dunedin Fire Station and the Allied Press building) will be reduced. Thus people's health and safety will be maintained. The proposal is therefore consistent with this objective and policy.

Heritage Section

Objective and Policy	Assessment
Objective 2.4.1 (Form and Structure of the Environment): <i>The elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected and enhanced. These include:</i> <i>a. important green and other open spaces, including green breaks between coastal settlements;</i> <i>b. trees that make a significant contribution to the visual landscape and history of neighbourhoods;</i> <i>c. built heritage, including nationally recognised built heritage;</i> <i>d. important visual landscapes and vistas;</i>	The application suggests: <i>Taken together these objectives and policies are considered to generally seek protection of built heritage from demolition. The requirement for protection however is not absolute, and demolition may be appropriate in limited circumstances where there is a significant risk to safety or property, or demolition is required to allow for a significant public benefit that outweighs the loss of the building, and there is no reasonable alternative to demolition.</i> It is agreed that the objectives and policies for the respective sections of the Plan (together with the overarching Strategic Directions),

⁷ This policy is the subject of an appeal.

Objective and Policy	Assessment
e. <i>the amenity and aesthetic coherence of different environments; and</i> f. <i>the compact and accessible form of Dunedin.</i> Objective 2.4.2 (Heritage): <i>Dunedin's heritage is central to its identity and is protected and celebrated as a core value of the city, through the heritage conservation and retention of important heritage items, and the maintenance and active use of built heritage.</i> Policy 2.4.2.1: a. <i>Identify in a schedule (Appendix A1.1) buildings and structures that have significant heritage values and use rules to:</i> i. <i>manage additions and alterations to, or removal for relocation of these buildings, in a way that maintains important heritage values;</i> ii. <i>restrict demolition of these buildings except in limited circumstances;</i> iii. <i>support adaptive re-use, heritage conservation and restoration; and</i> iv. <i>prioritise protection of heritage values over compliance with other performance standards where there is a conflict.</i> b. <i>Identify heritage buildings and structures based on the following criteria:</i> i. <i>historic and social significance;</i> i. <i>spiritual/cultural significance, including significance to Māori</i> i. <i>design significance; and</i> <i>technological/scientific significance.</i> Objective 13.2.1: <i>Scheduled heritage buildings and structures are protected.</i>	should be considered and assessed collectively.⁸ Thus, while Strategic Directions 2.4.1 and 2.4.2, and Objectives 13.2.1 and 13.2.4 strongly indicate that built heritage is to be protected, retained, and actively used, the policies to implement these objectives indicate that, in restricted circumstances, the loss of heritage is provided for and acceptable. The proposed demolition of a scheduled heritage structure that has been identified as being of regional heritage significance will neither protect nor enhance built heritage, but rather destroy it. Notwithstanding this, the circumstances of the application (i.e. demolition of the scheduled façades to facilitate the development of a public hospital on the site) comprise the “limited circumstances” anticipated by Strategic Direction Policy 2.4.2.1.a.ii. This policy seeks to “restrict” rather than “avoid” demolition of scheduled buildings and structures. With regard to encouraging the adaptive re-use of heritage buildings, as promoted in policies 2.4.2.1.a.iii and 13.2.1.1 however, Dr Farminer has indicated that the retention of the Dairy and Machine house building represents ‘...only a very small scale of mitigation when compared against the scale of loss of the whole of the scheduled facades and their values.’ Furthermore, as Heritage New Zealand Pouhere Taonga have noted, the ‘active use’ of the building has not yet been determined by the applicant. Accordingly, the extent to which retention of the Dairy and Machine House building comprises an adaptive re-use and/or heritage conservation is marginal. With regard to Policy 13.2.1.7, clauses a.ii and b are relevant. The proposal’s consistency with these clauses is predicated upon the demolition being essential (‘could not otherwise be achieved’ and ‘no reasonable alternative’) for the establishment of the new hospital (‘significant public benefit’); and that that benefit outweighs the loss of the heritage façades. In this instance, it is clear that the establishment of a new hospital would provide

⁸ The further information provided by the applicant on 24 September 2020 and included as Appendix 2 to this report includes references to caselaw to confirm that, for a section 104(1)(b) assessment, the objectives as policies of a plan should be assessed as a whole.

Objective and Policy	Assessment
Policy 13.2.1.1: <i>Encourage the maintenance, ongoing use and adaptive re-use of scheduled heritage buildings, including by enabling repairs and maintenance, earthquake strengthening, and work required to comply with section 112 (Alterations) and section 115 (Change of Use) of the Building Act 2004 where it is done in line with policies 13.2.1.2-13.2.1.4.</i> Policy 13.2.1.7: <i>Avoid the demolition of a protected part of a scheduled heritage building or scheduled heritage structure unless the following criteria are met:</i> a. i. <i>the building or part of the building poses a significant risk to safety or property; or</i> ii. <i>the demolition is required to allow for significant public benefit that could not otherwise be achieved, and the public benefit outweighs the adverse effects of loss of the building; and</i> b. <i>there is no reasonable alternative to demolition, including repair, adaptive re-use, relocation or stabilising the building for future repair; and</i> c. <i>for buildings and structures located within a heritage precinct:</i> i. <i>development post demolition will maintain or enhance the heritage streetscape character and amenity in accordance with Policy 13.2.3.6; and</i> ii. <i>conditions will be imposed which would give reasonable certainty that this will be completed within an acceptable timeframe.</i> Objective 13.2.4: <i>Dunedin's archaeological sites are protected from inappropriate development and use.</i> Policy 13.2.4.1: <i>Require an archaeological authority to be obtained, if one is required, prior to undertaking earthworks on a scheduled archaeological site.</i>	significant public benefit – these benefits are discussed elsewhere in this report, and documented in the application. The technical assessments and costings provided with the application (and subsequently peer reviewed and endorsed by Mr Chinn) confirm that the construction feasibility and functionality of the hospital would be critically impacted upon if the Cadbury buildings and/or heritage façades were to be retained for incorporation into the new hospital. Furthermore, significant financial costs would be incurred (refer to the RLB Façade Retention Cost report included with the application as Appendix 12). In weighing up public benefit against the loss of the building (and associated heritage values), one must consider, if the heritage façades are to be retained, how the public benefit would be achieved; and whether the associated costs and constraints would be a reasonable burden for the applicant to bear. Taking into account the factors detailed above (regarding costs and functionality), it is not considered that retention of the façades is a reasonable option. (As an aside, the modest number of submissions received in response to the public notification of the proposal appears to indicate a level of comfort with the proposal on the part of the public; and to confirm the benefits of the new hospital outweigh the loss of the heritage façades.) For these reasons, overall, it is considered that the costs involved and compromises to the efficacy of the hospital would outweigh the benefits gained from retaining the heritage façades. With regard to Objective 13.2.4 and Policy 13.2.4.1 (relating to archaeological sites), the Underground Overground Archaeology heritage assessment indicates there are four archaeological sites within the subject sites. Therefore, an archaeological authority will be required from Heritage New Zealand Pouhere Taonga. The application acknowledges that an authority is required prior to commencement of works (refer section 6.2 of the application). Overall, the proposal is found to be consistent with these objectives and policies.

Commercial and Mixed Use Zones Section

Objective and Policy	Assessment
Objective 18.2.1: <i>Dunedin has a well-structured and economically and socially successful range of commercial and mixed use environments based on: [clauses a-h, which detail specific zones and centres, and the range of activities anticipated for them]⁹</i> Policy 18.2.1.10: <i>Provide for hospital activity in the CEC - North Zone, to allow for the relocation of Dunedin Hospital into this zone.</i> Policy 18.2.1.15: <i>Enable training and education in the CBD, all centres, CEC North Zone, and WP, PPH, SSYP and HE zones to enable tertiary (including the University of Otago and Otago Polytechnic) and specialist education providers.</i> Objective 18.2.3: <i>Land use and development maintains or enhances the amenity of the streetscape, including the visual and environmental amenity for pedestrians along identified pedestrian street frontage mapped areas.</i> Policy 18.2.3.1.a: <i>Require development to maintain or enhance streetscape amenity in all commercial and mixed use zones, by ensuring:</i> <i>a. an attractive street interface is maintained through landscaping where buildings are not built to the street frontage...</i>	The intent behind the proposed demolition is to facilitate the establishment of a new hospital within the CBD Edge – Commercial North Zone. While final design details for the new hospital are not available, the details included in the preliminary site master plan indicate that the Cadbury buildings and heritage façades will be replaced by a development that will enhance streetscape amenity. Thus the proposal is consistent with these objectives and policies.

Overall Assessment of District Plan Objectives and Policies

- [136] The above assessment finds that the proposal is **consistent with** the relevant district plan objectives and policies in respect of the secondary aspects of the proposal (i.e. the management of noise and traffic, and zone integrity); and the primary objectives and policies to be considered when assessing a proposal to demolish a scheduled heritage item, i.e. those relating to the protection of scheduled heritage buildings and structures.

⁹ Clauses d, g and h of this objective are subject to appeals. These clauses do not relate to the CBD Edge – Commercial North Zone however, and have no implications for the current proposal.

Assessment of Regional Policy Statements (Section 104(1)(b)(v))

- [137] The objectives and policies of the Partially Operative Otago Regional Policy Statement (“RPS”) were taken into account in assessing the application. The RPS was made partially operative in January 2019.
- [138] The 2GP provisions pertaining to heritage are beyond appeal, and as such are deemed to give effect to the the relevant objectives and policies of the RPS. The policy assessment above has found that the proposal is consistent with the objectives and policies of the 2GP, and as such it is also considered to be consistent with the relevant objectives and policies of the RPS.¹⁰

DECISION MAKING FRAMEWORK

Part 2 Matters

- [139] The 2GP has been developed to give effect to Part 2. The policy assessment above has found that the establishment of a new hospital would provide significant public benefits; and that demolition of the Cadbury buildings and heritage façades is necessary to achieve those benefits. Accordingly, the proposal is deemed to achieve the overall purpose of the Act (i.e. the sustainable management of natural and physical resources), and the principles of Part 2.
- [140] Specifically, granting consent to the demolition of the scheduled heritage façades would:
- meet the purpose of the Act to promote the sustainable management of natural and physical resources (Section 5), by enabling people and communities to provide for their health and safety;
 - provide for the protection of historic heritage from inappropriate subdivision, use, and development (Section 6(f)) – the above assessment has found that the proposed demolition is not “inappropriate”, but necessary to achieve the public benefit of a new hospital;
 - accord with the matters set out in Section 7, expressly:
 - the maintenance and enhancement of amenity values Section 7(c)); and
 - the maintenance and enhancement of the quality of the environment (Section 7(f)).

Section 104D

- [141] Section 104D of the Act specifies that a resource consent for a non-complying activity must not be granted unless the proposal can meet one of two limbs. The limbs of Section 104D require that either the adverse effects on the environment will be no more than minor; or that the application is for an activity which will not be contrary to the objectives and policies of either the relevant plan or the relevant proposed plan.
- [142] As discussed above in the assessment of effects, it is considered that overall, the adverse effects arising from the proposed activity will be major. Therefore the requirement set out in Section 104D(1)(a) is not met.

¹⁰ The further information provided by the applicant on 24 September 2020 (included as Appendix 2 to this report) provides a helpful summary of the process by which the 2GP has given effect to the RPS – refer to paragraphs 2.11 – 2.13.

- [143] With regard to Section 104D(1)(b), overall the proposal is considered to be **consistent with** district plan objectives and policies; and therefore meets the requirement of this section of the Act.
- [144] In summary, the application passes one of the threshold tests in Section 104D of the Act, and consideration may therefore be given to granting the consent.

Section 104

- [145] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall would be major.
- [146] Section 104(1)(ab) requires the Council to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects. The application discusses the benefits associated with the anticipated establishment of a new hospital on the site, but does not specifically address Section 104(1)(ab) in its statutory assessment (Section 8 of the application) nor explicitly propose offsetting or compensation measures. This report concluded that while these benefits might be an important consideration, they do not translate into a direct and quantifiable environmental effect that can be assessed as offsetting the demolition of an existing heritage structure.
- [147] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be consistent with the key objectives and policies of both the Operative District Plan and the Proposed 2GP, because it is consistent with the exceptions detailed in the key policy, 13.2.1.7.
- [148] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it was concluded that the application is consistent with the relevant objectives and policies of the Partially Operative Otago Regional Policy Statement, by virtue of the fact that the Proposed 2GP is deemed to give effect to the relevant objectives and policies of the RPS.

Other Matters

- [149] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [150] The application suggests that the establishment of a new hospital on the subject sites will deliver significant benefits for the health and wellbeing of the community. The benefits associated with the hospital redevelopment are not disputed. It is accepted that the new hospital is the entire rationale for the demolition of the heritage façades, and that significant public benefits will arise from the establishment of a new hospital on the subject sites. While these benefits are not a direct effect of the proposed demolition, it is appropriate that they be taken into account as another matter.
- [151] The technical evidence provided by the applicant and reviewed by the Council's consultant, Mr Chinn, has confirmed that should the Cadbury buildings and/or heritage façades be retained for incorporation into the new hospital, the construction feasibility and functionality of the hospital would be critically impacted upon. The proposed demolition will facilitate the establishment of a new hospital on the subject sites by providing a clear site, thereby reducing costs and construction constraints. In weighing

up public benefit against the loss of the buildings (and associated heritage values), it is considered that the costs involved and compromises to the efficacy of the hospital would outweigh the benefits gained from retaining the heritage façades.

[152] Overall, I consider that if a new hospital is to be established on the subject sites, adverse effects on heritage values cannot realistically be avoided. Clearly, providing for a new hospital is an exceptional circumstance, and as such, the proposal is not considered to represent a challenge to the integrity of the district plan. Approval of the application would be unlikely to undermine public confidence in district plan provisions.

CONCLUSION

[153] Having regard to the above assessment, I recommend that the application be granted.

RECOMMENDATION

*Pursuant to Part 2 and Sections 34A(1), 104, 104B and 104D of the Resource Management Act 1991, the Dunedin City Council **grants** the proposal for a **non-complying activity**, being the aboveground demolition of all of the existing Cadbury factory buildings within the application sites, including the façades that are scheduled heritage items, but excepting the former Dairy and Machine House building, on the sites at 280 and 336 Cumberland Street, Dunedin, legally described as Section 53-55, 72-74 Block XVI Town of Dunedin and Part Section 56, 71 Block XVI Town of Dunedin, held in Record of Title OT129/279, and Deposited Plan 5322, held in Record of Title OT304/181 (280 Cumberland Street); and as Section 60-67 Block XVI Town of Dunedin, held in Record of Title OT13B/66 (336 Cumberland St), **subject to** the conditions imposed under section 108 of the Act, as shown in Appendix 5.*

Report prepared by:



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9 October 2020

Report checked by:



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9 October 2020