

12 February 2009

Mr Jim Harland  
Chief Executive Officer  
Dunedin City Council  
PO Box 5045  
Dunedin 9058

Dear Mr Harland

**NOTICE OF REQUIREMENT**

**DIS-2007-5: DUNEDIN CITY COUNCIL  
FAIRLEY STREET WALKWAY – NORTHERN  
SECTION, 15 CRESSWELL STREET, 8 BOMBAY  
STREET & 1 THOMAS BURNS STREET, DUNEDIN**

The above Notice of Requirement for the Fairley Street Walkway – Northern Section for the Dunedin City Council ('the Requiring Authority') was processed on a notified basis in accordance with Sections 168A and 169 of the Resource Management Act 1991 (the Act).

We were appointed as Independent Commissioners to the Hearings Committee to hear and decide upon the application. We heard the Notice of Requirement in public between 21-31 July 2008 jointly with Proposed Plan Change 7: Dunedin Harbourside and Proposed Plan Change 1 to the Regional Plan: Coast for Otago. Separate decisions have been issued for the plan changes.

At the end of the public part of the hearing, in accordance with Section 48(1) of the Local Government Official Information and Meetings Act 1987, we resolved to exclude the public. We undertook site visits of the harbourside area on 21 July 2008 and 4 August 2008.

It is our decision that the Notice of Requirement be **confirmed, subject to the modification** shown on the plan attached to this decision, and subject to conditions set out on pages 3-4 of this decision. The full text of the decision commences below.

**The Hearing and Appearances**

The Requiring Authority was represented at the hearing by:

- Mr Michael Garbett – Counsel
- Mr Jim Harland – Chief Executive, Dunedin City Council
- Ms Janet Reeves – Urban Design Consultant

Submitters attending to speak to their submissions were:

- New Zealand Historic Places Trust represented by Mr Owen Graham (Otago/Southland Area Manager), Ms Heather Bauchop (Heritage Advisor – Registration), Mr Jonathon Howard (Heritage Advisor – Conservation), Dr Matthew Schmidt (Regional Archaeologist), Mr Doug Bray (Heritage Advisor - Planning)
- Chalmers Properties Ltd represented by Mr Robert Makgill (Counsel), Mr Antony Penny (Traffic Engineer), Mr Dave Pearson (Heritage Architect) and Ms Christine Ralph (Planner)

- Southern Branch New Zealand Institute of Architects represented by Mr Nick Baker and Mr Michael Ovens
- Ms Geraldine Tait
- Farra Engineering represented by Mr John Whittaker (CEO)
- Wilson Brothers Ltd represented by Mr Mike Wheeler

Dunedin City Council (DCC) staff in attendance were:

- Ms Debbie Hogan - Handling Officer
- Mr Paul Freeland – Acting Planning Policy Manager
- Ms Jennifer Lapham - Governance Support Officer

## **Summary of Evidence Heard**

### Officer's Report

Ms Debbie Hogan presented her report, prepared pursuant to Section 42A of the Act, and provided a summary of her assessment. Following an assessment of the Notice of Requirement, Ms Hogan considered that the establishment of the walkway would give rise to adverse effects, which could be avoided, remedied or mitigated through a modified designation. Ms Hogan considered that the Requiring Authority had considered a range of alternative sites and routes to achieve the objective of the designation but had not fully investigated alternative methods for undertaking the proposed works. Overall, Ms Hogan recommended confirmation of the Notice of Requirement with modification of its extent to exclude the site at 17 Cresswell Street.

### The Applicant's Case

Mr Garbett managed and presented the case on behalf of the Requiring Authority. Mr Garbett outlined the relevant statutory provisions to assess the designation and stated that the Notice of Requirement met these provisions. Mr Garbett stated that the Requiring Authority accepted the conditions recommended in the Officer's Report.

Ms Janet Reeve's evidence outlined the benefits of the walkway in relation to the New Zealand Urban Design Protocol.

### Evidence from Submitters

#### *NZ Historic Places Trust (NZHPT)*

Expert witnesses for NZHPT spoke to their submissions, which related to the Proposed Plan Change 7 and the Notice of Requirement, with no specific comments in relation to this Notice of Requirement. Dr Matthew Schmidt outlined the benefits of undertaking an archaeological assessment prior to development.

#### *Chalmers Properties Limited (CPL)*

Ms Christine Ralph confirmed the support of CPL for the designation. Ms Ralph considered that the Fairley Street walkway was crucial to achieve the objectives and policies of the Harbourside Zone.

#### *Southern Branch of New Zealand Institute of Architects (NZIA)*

Mr Nick Baker provided an overview of the NZIA submission which focused upon Proposed Plan Change 7 and the use of an urban design panel.

### *Farra Engineering*

Mr John Whittaker objected to the walkway bisecting the scrap yard and the car park. Mr Whittaker explained that the walkway would reduce the scrap yard, which stores scrap metal prior to going into the foundry, by 60% in area. Mr Whittaker stated that, if the walkway proceeded and an alternative could not be found, it would mean closure of the foundry. Mr Whittaker also explained that car parking in the area is becoming increasingly difficult: although it has been less so with the pedestrian over-bridge being closed. This, he said, will add to staff costs and inconvenience.

### *Wilson Bros Ltd*

Mr Mike Wheeler explained the general difficulties with traffic flows and parking impacts related to the redevelopment of the harbourside area and his business located at 15-21 Thomas Burns Street.

### Reporting Officer's Additional Comments

In closing, Ms Hogan confirmed her report recommendation.

### Applicant's Right of Reply

No additional comments were provided by the Requiring Authority.

## **Statutory and Other Provisions**

In accordance with Section 168A(3) of the Act, the Officer's Report detailed in full the relevant statutory provisions and other provisions we considered. These statutory provisions included the relevant matters in Sections 5, 6 and 7 of Part 2 of the Act. Regard was given to the New Zealand Coastal Policy Statement, the Regional Policy Statement for Otago, and the Regional Plan: Coast for Otago. Regard was also given to the relevant provisions of the following sections of the Dunedin City District Plan ('the Plan'): 4 Sustainability, 10 Industry, 11 Ports, 20 Transportation, and proposed Section 26: Harbourside.

The Officer's Report also considered the requirements of Sections 168A(b), (c) and (d).

## **Main Findings of Fact**

We have considered the submissions, evidence heard, the relevant statutory and plan provisions, the principal issues in contention and the main findings of fact. The main findings of fact have been incorporated within the reasons discussed below.

## **Decision**

The final consideration of the application, which took into account all information presented at the hearing, was held during the public excluded portion of the hearing.

We reached the following decision after considering the application and the submitters' concerns under the statutory framework of the Act:

*That, pursuant to Sections 34A and 168A(4), and after having regard to Part 2 matters of the Resource Management Act 1991, the Notice of Requirement issued by Dunedin City Council for a designation for "Fairley Street Walkway – Northern Section" with the purpose of "Fairley Street Walkway – Northern Section" on 1 Thomas Burns Street (Section 45 Block LXII Town of Dunedin), 8 Bombay Street (Section 23 Block LXII Town of Dunedin) and 15 Cresswell Street (Section 18 Block LXII SO14419 Town of Dunedin) be **confirmed, subject to the modification** shown on the plan attached to this decision. The following conditions shall apply to the designation:*

1. *That the Requiring Authority makes provision in any final design and construction of the walkway to enable continued access and egress to the roller door located on the western side of the existing building at 1 Thomas Burns Street.*
  
2. *That prior to commencement of any work on the site, a construction management plan shall be prepared for and submitted to the Dunedin City Council. That plan shall include, as a minimum:*
  - i. *mitigation measures to reduce adverse effects on traffic management in relation to any nearby intersections or arterial roads;*
  - ii. *mitigation measures to reduce adverse effects on the operation of adjoining businesses, including access, dust, noise and safety of people visiting the sites; and*
  - iii. *outline the process to occur should condition (3) below be invoked.*
  
3. *If koiwi tangata (human skeletal remains), taonga or archaeological artefacts are discovered during site construction, the Requiring Authority shall, without delay:*
  - i. *Cease all work within a 50m radius of the discovery and secure the area.*
  - ii. *Notify their nominated archaeologist, the consent authority, Kai Tahu ki Otago, the New Zealand Historic Places Trust, and in the case of koiwi tangata (human skeletal remains), the New Zealand Police.*
  - iii. *Enable a site inspection by the New Zealand Historic Places Trust and the appropriate runanga, and their advisors, who shall determine the nature of the discovery and the further action required, including whether an Archaeological Authority is required under the Historic Places Act 1993.*
  - iv. *Any koiwi tangata or taonga shall be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal and preservation.*
  - v. *Ensure that the further action identified in accordance in part (iii) of this condition is undertaken.*
  - vi. *Upon completions of tasks (i) to (v) above, and provided all statutory permissions have been obtained, the Requiring Authority may recommence site construction following consultation with the consent authority, Kai Tahu ki Otago, the New Zealand Places Trust, and in the case of koiwi tangata (human skeletal remains), the New Zealand Police.*

### **Reasons for this Decision**

1. In reaching a decision, we were mindful of the assessment required by Section 168A(3) of the Act, which is set out below for convenience:
  - (1) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to –*
    - (a) *any relevant provisions of –*
      - (i) *a national policy statement;*
      - (ii) *a New Zealand coastal policy statement;*
      - (iii) *a regional policy statement or proposed regional policy statement;*
      - (iv) *a plan or proposed plan; and*
    - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*
      - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
      - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*

- (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) *any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

### Assessment of Effects

2. In assessing the effects of the activity, we relied upon the assessment in the Officer's Report. We have considered the effects based upon the headings used in that report.

#### *Physical Effects*

3. The Fairley Street Walkway – northern section, as notified, is located through the sites at 15-17 Cresswell Street (Sections 18-17 Block LXII SO14419 Town of Dunedin), 1 Thomas Burns Street (Section 45 Block LXII Town of Dunedin) and 8 Bombay Street (Section 23 Block LXII Town of Dunedin). To give effect to the designation it will be necessary to demolish part of, or, the entire building at 6-8 Bombay Street. The remaining sites provide parking areas and outdoor storage yards for nearby businesses.
4. With regard to the designation involving part of the site at 1 Thomas Burns Street, the current leasehold owner, Thomas Burns Holdings Ltd, submitted their desire to maintain parking and access into the existing building. We acknowledge that the Requiring Authority stated in their application their willingness to work with the owner to ensure that access is maintained, which will mitigate any potential effects. The Officer's Report recommended a condition to ensure that this occurs. We are satisfied with this condition and note the Requiring Authority's acceptance of this.
5. The site at 15 Cresswell Street, contains part of a carpark and part of the scrap yard for the Newcastle Foundry. The site at 17 Cresswell Street is fully occupied by the scrap yard. Newcastle operate within the Farra building complex at 28 Willis Street. The remainder of the scrap yard is located on 19 Cresswell Street, which is not subject to the Notice of Requirement. In his evidence, *Mr John Whittaker* explained that the loss of 60% of the scrap yard would make it difficult to continue the operations of the foundry, being an essential part of the foundry operations. *Mr Whittaker* also considered that the loss of part of the car park would have an effect upon the ability of staff to find parking in the vicinity.
6. The Officer's Report considered that a reduction in the scrap yard area of 60% would be a significant physical and economic effect upon the submitter. The report recommended a modification of the designation to exclude the site at 17 Cresswell Street, which would result in a 20% reduction in the area of the scrap yard. We concur with the Officer's recommendation and consider the modified designation will provide more than sufficient area to establish and operate a walkway, while maintaining an operational scrap yard for Newcastle. We note that the evidence of *Mr Whittaker* did not comment on the costs or benefits of a 20% reduction in the scrap yard.
7. With respect to the car park we consider that removal of part of the car park currently used by Farra/ Newcastle as a result of the designation would still enable sufficient area to continue to provide for parking, albeit with a reduced number of parks.

#### *Traffic and Safety Effects*

8. The Officer's Report outlined that the walkways have been designed in the context of the Harbourside vision and in accordance with the principles of Crime Prevention through Environmental Design (CPTED), and good urban design. This includes good sight lines and safety for pedestrians. *Public Health South* submitted their concerns in relation to public safety in the design of public spaces and that the walkway is smoke-free. We agree with the assessment contained in the Officer's Report and are satisfied that the principles of good urban design and CPTED will be applied to the final design of the walkway to ensure public safety. The submitter's request relating to a smoke-

free walkway is a matter of management, and is outside the purpose of the designation and our powers.

#### *Noise Effects*

9. We agree with the assessment of noise effects in the Officer's Report, which considers that any noise effects during construction will be temporary and noise generated by the use of the walkway is not considered significant.

#### *Hazardous Substances, Discharge of Contaminants and Site Contamination*

10. We are satisfied that the designation will not result in hazardous substances or discharge of contaminants. Construction of the walkway will, however, require ground disturbance and there is a possibility of site contamination given the historical use of the harbourside for industrial activities. The onus will be upon the Requiring Authority to test for contamination prior to construction. Where contamination exists, remediation will be necessary along with discussion with, and possible consents from, Otago Regional Council. We consider that any potential effects can be managed through an appropriate condition.

#### *Amenity and Visual Effects*

11. The Notice of Requirement documentation states that the Fairley Street Walkway has been designed to have both access and amenity functions including:
  - providing the most direct possible pedestrian link from the centre of Dunedin to the harbour edge, with a visual connection between the railway overbridge and the waterfront;
  - providing direct links within the Harbourside area to the harbour edge;
  - improving pedestrian connectivity within Harbourside by breaking up the long east-west blocks;
  - providing small sheltered public spaces, by means of variations in width;
  - providing vehicular access to mid-block residential / commercial car parking; and
  - to interconnect public space within harbourside.These functions also provide for positive amenity and visual effects within the harbourside.
12. The evidence of Ms Janet Reeves discussed the urban design benefits of the walkway in terms of the objectives that the Requiring Authority wants to achieve, including providing shorter and more direct routes to the waterfront, increase pedestrian permeability and open up axial views from the north to the water. Ms Reeves was of the opinion that it will be necessary to take steps to encourage people into the harbourside area and that, while walkways are an important step they are not an automatic recipe for success. Ms Reeves considered the walkway had benefits but had reservations as to whether the axial views to the water would be achieved. Ms Reeves stated that "*Once reaching ground level there will be the opportunity to look along the view shaft while walking towards the water. Again the view will only be possible if the pedestrian aligns themselves correctly. Because the terrain is flat it will not be possible to see the water from eye level, except at close quarters. However, a vertical feature could be positioned on the wharf side as a focal point. Moored or passing boats may also be sighted.*"
13. The concerns of Ms Reeves with regard to the axial views were also shared by *Montavilla Investments Limited* who considered that the visual benefits for views to the harbour and protection for pedestrians as promoted by the walkway are overstated. While we heard no urban design evidence against the establishment of the walkway, we acknowledge the concerns raised by Ms Reeves and *Montavilla Investments*. However we do not consider these to result in a significant adverse effect upon the operation of the walkway or the objectives of the walkway. We note that the provisions of the Harbourside Zone encourage the development of a rebuilt or

refurbished Fryatt Street wharf with a height lower than the existing wharf and buildings designed to enhance the views to the water.

14. With the development of a walkway adjacent to the foundry scrap yard in Cresswell Street, we acknowledge that there may be some adverse visual and amenity effects. Given the timeframe for development of the walkway and the proposed land use changes that will occur as part of the harbourside redevelopment, we accept that such effects will reduce over time and are not significant.

#### *Social and Cultural Effects*

##### Potential disturbance of archaeological sites

15. Both *NZHPT* and *Elizabeth Kerr* sought that an archaeological assessment be undertaken for the whole harbourside area. We do not consider that such an assessment is necessary. The construction of the walkway will require ground disturbance, with the removal of buildings. Such ground disturbance will be subject to the requirement for an archaeological authority under Section 12 of the Historic Places Act 1993, where it is associated with activities pre-dating 1900. We consider it appropriate to impose a condition on the designation for accidental discovery protocol.

##### Heritage Values

16. The Officer's Report confirmed that none of the sites or buildings subject to the Notice of Requirement are identified on Schedule 25.1: Townscape and Heritage Buildings and Structures of the Plan.

#### *Construction Effects*

17. We note that during the course of construction of the walkway, effects may arise including dust, noise, inconvenience to operators and effects on adjoining sites. We are satisfied that these effects will be temporary in nature and can be remedied, mitigated or avoided by contractors adopting best practice.

#### *Iwi Effects*

18. We do not consider that confirmation of the Notice of Requirement will result in adverse effects upon Kai Tahu.

#### *Economic Effects*

19. As we have discussed above, giving effect to the designation will result in physical impacts upon existing buildings and activities on the sites subject to the Notice of Requirement. In the case of 6-8 Bombay Street, the removal or demolition of the existing building will be required along with the relocation of the existing business. While there may need to be some adjustment to the operations of the businesses in relation to 1 Thomas Burns Street and 15 Cresswell Street. The costs of moving operations and business disruption, is an effect that can be mitigated through the acquisition and compensation process that the Requiring Authority will have to undertake under the Public Works Act 1981 upon confirmation of the designation.
20. We note the statement by the Requiring Authority in their Notice of Requirement documentation that it will work with owners and occupiers to find alternative locations, which we expect would form part of the necessary purchase and compensation negotiations to enable the designation to be given effect to.
21. *Farra* and *Newlcast* raised concerns that the establishment of walkways where there is operating industry will lead to reverse sensitivity effects and safety concerns with the likely increase in pedestrians. *Geraldine Tait* considered that, as the harbourside is an industrial area, there is no need to develop walkways that will be disruptive to business.

22. The walkways have been designated in the context that the environment will change to mixed use under the provisions of Proposed Plan Change 7. Within this context, it is acknowledged that there may be some concerns initially as the area develops but that this should reduce over time. The plan change contains methods and rules relating to reverse sensitivity for activities. In such an environment these effects would be considered minor.
23. Confirming the designation and its eventual construction will result in positive effects, establishing a public walkway that includes obtaining direct connection between the railway over-bridge and the harbour edge, permeability and other urban design benefits for the long term development of the Harbourside under the provisions of Proposed Plan Change 7.

#### **Consideration of Relevant Statutory Documents (s 171(1)(a))**

24. We considered the provisions of the relevant statutory documents. In doing so we had particular regard to the assessment contained in the Officer's Report.

##### *New Zealand Coastal Policy Statement (NZCPS)*

25. We were mindful that the walkway does not directly affect any part of the coastal marine area but acknowledged that the walkway will enhance public access to the coastal marine area.

##### *Regional Policy Statement for Otago (RPS)*

26. The relevant policies contained in the RPS include recognising and providing for the Manawhenua perspective; land, coast, built environment, natural hazards and energy. We noted that the site, being reclaimed land, was not likely to hold any significant cultural values. We considered that it is appropriate to impose a condition to require construction works to cease should any items of potential cultural/archaeological significance be discovered and the runanga/NZHPT be contacted.
27. We considered that the proposal was not inconsistent with the objectives and policies of the RPS.

##### *Regional Plan: Coast for Otago*

28. We were mindful that the proposal is not within the coastal marine area, but noted that Objective 7.3.1 seeks to maintain and enhance public access to Otago's coastal marine area. We considered that the proposal will achieve this objective with the walkway facilitating direct access to the waterfront on this site.

##### *Dunedin City District Plan*

29. We considered the proposal in accordance with the provisions of the significant resource management Issues Objectives and Policies, contained in Section 4: Sustainability of the Plan.
30. Objective 4.2.1 seeks to enhance the amenity values of Dunedin, while ensuring that significant natural and physical resources are appropriately protected (Objective 4.2.4). Policy 4.3.1 seeks to maintain and enhance amenity values, while Policy 4.3.6 seeks to provide access to natural and physical resources.
31. We determined that the proposed designation is not contrary to the above objectives and policies. The designation is consistent with Objective 4.2.1 and Policy 4.3.1, resulting in an improvement to the amenity values of the affected sites, and the waterfront area more generally. Policy 4.3.6 is achieved through the improvement of public access to the coast and the harbourside as a natural resource.

32. We noted that the site is zoned Port 2 in the Plan, which is subject to rezoning under Proposed Plan Change 7. Objectives and policies contained in the Plan for the Port Zones relevant to the subject site seek to manage the port resources to sustain their future potential use (Objective 11.2.1). Policy 11.3.7 seeks to provide public access to and along the coastal marine area margin except where it is inappropriate for public health and safety reasons.
33. We considered that the proposed designation is not contrary to the need to manage port resources to sustain their future potential use (Objective 11.2.1), particularly as the proposed site is not used for port-related activities. We considered that the walkway will achieve Policy 11.3.7 providing access to the coastal marine area.
34. We considered the designation is not contrary to the objectives and policies of Section 20: Transportation, particularly Policy 20.3.8 which seeks to provide for the safe interaction of pedestrians and vehicles.
35. We note that the site is subject to rezoning as Harbourside under Proposed Plan Change 7. The walkway designation is consistent with the objectives and policies of the proposed Section 26: Harbourside. Objective 26.2.1 seeks to attain a Dunedin harbourside that is easily accessible with strong visual and safe physical connections to the city centre, harbour and surrounding areas. Objective 26.2.2 seeks to achieve a Dunedin harbourside area that is a vibrant and attractive place to visit, work and live, with public open spaces along the harbour edge creating a high quality waterfront environment. Policy 26.3.3 identifies the location of areas to be provided and maintained for public open space, pedestrian connections and view shafts to vistas of the water.

#### **Consideration of alternative sites, routes or methods (s 168A(3)(b))**

36. Section 168A of the Act only requires an assessment of alternative sites, routes or methods in the event that it is determined that the requiring authority has an insufficient interest in the land, or, if it is likely that there would be significant adverse effects arising from the proposed activity. We are satisfied that the Requiring Authority did not have sufficient interest in the land and had not commenced negotiations. We considered that assessment of alternatives is necessary.
37. We acknowledge that a number of alternative options to achieve the walkway were included in the Notice of Requirement. The alternatives include various alignments and utilisation of existing footpath routes to achieve pedestrian access and connections to achieve the harbourside vision. Given the developed nature of the Harbourside and the desire to achieve direct connections and views to the harbour edge, it would be difficult to achieve these without demolition of existing structures. We heard the urban design evidence of Ms Janet Reeves discuss the benefits of a walkway and other means available to achieve the objectives, including use of the existing footpath and road network. We are satisfied that the Notice of Requirement demonstrated that the proposed works will be the most efficient and logical option to achieve the objective for the harbourside to: *reconnect the heart of the City to the harbour and to rejuvenate the Harbourside with a mix of land uses, public spaces and amenity areas.*

#### **Necessity of the work and designation for achieving the requiring authority's objectives (s 168A(3)(c))**

38. We considered the Notice of Requirement demonstrated the need for the walkway in relation to fulfilling the vision for the harbourside. We considered that the designation process is appropriate as it would ensure that the Requiring Authority could undertake establishment of the walkway without the need for further consent.
39. The Officer's Report did not consider that the Notice of Requirement sufficiently considered alternative methods for undertaking the proposed works. The Officer's Report considered such methods included imposing relevant rules within the Harbourside Zone to obtain the areas for the walkways upon redevelopment. The Officer's Report recognised that this method relies upon the owners and developers

providing such areas, along with the availability of the site, and may not achieve the desired objectives sought by the Requiring Authority.

40. The Officer's Report also considered that the other option is to apply for resource consent over land the Requiring Authority does not own. The construction of a walkway would require consent as a non-complying activity and, as such, we do not consider provides certainty for the Requiring Authority or the ability to use the Public Works Act 1981 if necessary.

### **Any other Matters (s 168(3)(d))**

#### 41. Proposed Plan Change 7: Dunedin Harbourside

We have referred to Proposed Plan Change 7 throughout this decision. We heard submissions on the plan change alongside the Notice of Requirement. We have issued a separate decision on Proposed Plan Change 7. We are satisfied that the designation for the walkway was integral to the plan change and vision. A significant amount of time and consultation had gone into the development of the vision. Plan Change 7 seeks to create a mixed use environment in which to live, work and visit. This involves the provision of a network of public open spaces connecting the city centre and the harbour to support and encourage the mixed use environment. We consider that the designation will achieve this.

### **Part 2 Matters**

42. We were satisfied, having heard and considered the evidence from the Requiring Authority, that the establishment of the walkway is an efficient use of the land and that it would not adversely affect the life-supporting capacity of air, water, soil and ecosystems.
43. We also considered that the proposal will not have a significant adverse effect on the social wellbeing, nor the health and safety of the community, and it is not in conflict with any of the matters specified in Sections 5(2)(a) to (c) of the Act.
44. With regard to Sections 6(e) and 6(f), provided that the contractors comply with an appropriate discovery protocol in the event that archaeological material is unearthed during excavation, we consider that the proposed works would respect the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, and would also be consistent with the protection of historic heritage in general. In addition, an archaeological approval will be necessary to meet the requirements of the Historic Places Act 1993. No buildings or structures on the subject sites have been identified as having heritage significance within the Plan.
45. We consider that the proposed walkway would enhance the amenity values of the site and the quality of the environment, and therefore considered that the application was consistent with Sections 7(c) and (f) of the Act.
46. Overall, we are satisfied that the proposed Fairley Street walkway – northern section would not adversely affect amenity values or the maintenance and enhancement of the quality of the environment.
47. We conclude that confirming the Notice of Requirement, subject to the modification as shown on the map attached to this decision along with the attached conditions, would be consistent with the purpose of the Act to promote the sustainable management of natural and physical resources.

**Lapsing of Designation**

48. This designation shall lapse after a period of five years from the date on which it is included in the Dunedin City District Plan. This period may be extended on application to the Dunedin City Council pursuant to Section 184 of the Act.

Please direct any enquiries you may have regarding this decision to Debbie Hogan at 474-3331 or by e-mail to [dhogan@dcc.govt.nz](mailto:dhogan@dcc.govt.nz).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Roger Tasker', written in a cursive style.

Roger Tasker  
**CHAIR of the HEARINGS COMMITTEE**

John Lumsden  
**HEARINGS COMMISSIONER**

Encl