

**TO:** Consent Authority

**FROM:** Allan Cubitt, Planning Consultant

**DATE:** 3 October 2013

**SUBJECT:** **NOTICE OF REQUIREMENT DIS-2013-1**  
**Dunedin City Council**  
**Harbourside Arterial Link**

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## **1. INTRODUCTION AND BACKGROUND**

This report has been prepared on the basis of information available on 3 October 2013. The purpose of the report is to provide a framework for the Consent Authority's consideration and their subsequent decision on Notice of Requirement DIS-2013-1. The Consent Authority is not bound by any comments made in this report. The Consent Authority is required to assess the application using the statutory framework of the Resource Management Act 1991 (hereon referred to as 'the Act') before reaching a decision.

Opus International Consultants, on behalf of the Dunedin City Council, have prepared and lodged a Notice of Requirement ("NoR") for two designations in relation to the Harbourside Arterial Link road corridor development. Designation 1 comprises three parts and relates to an already constructed road. It has the notation "Harbourside Arterial Link". Designation 2 is for a new access road to be constructed from the Arterial to the eastern boundary of Anzide Properties Limited (80 Anzac Avenue) across DCC owned land. The notation sought for Designation 2 is "*Dunedin Arterial - Access Road*".

Turning to Designation 1, the first part comprises a 120-130m long section of constructed road corridor between Anzac Avenue and western end of the already designated Harbourside Arterial Link (being D845 in the District Plan). This land is shown as A – K on the proposed designation plans found in Appendix B of the application and has an area of approximately 3726m<sup>2</sup>. The second part of Designation 1 relates to a small section of land associated with the construction of the roundabout at the Ravensbourne Road (NE) end of the arterial. It is shown as BH on the proposed designation plans and has an area of approximately 1025m<sup>2</sup>. The third part relates to an area of land on which the storm water infrastructure for the Arterial is located. It is shown as L on the proposed designation plans and has an area of approximately 1310m<sup>2</sup>.

These areas of land were formerly included in D845 by an application under section 181 of the Act for an alteration to the designation. An independent Commissioner confirmed the alteration (DIS 2010-2) on 30 June 2010 and the works were constructed accordingly.

A Council review process on the need for the remainder of the Arterial Designation D845 (for areas which had not yet been given effect to) was also undertaken in August 2010. The Council made a decision to uplift parts of the designation over an area where a raised roundabout was intended. This led to that part of the designation that applied to Anzide Properties Limited ("APL") land as no longer being considered necessary and was uplifted by Council on 31 August 2010. Notice of that went to property owners on the same day.

Unfortunately this process inadvertently included the land within which the storm water infrastructure (retention pond) is located. This NoR seeks to re-establish the designation over the storm water infrastructure on the basis that the work is essential to the operation of the existing Arterial.

Following these processes, the owner of 80 Anzac Avenue, being APL, applied for a 'Without Notice Interlocutory Application for Interim Orders' from the High Court, based on safety concerns. APL sought a declaration from the High Court that the decision to alter the designation was illegal and an injunction to prevent the use of the newly built road and to provide safe access to the Anzide Land, including the closure of Ward Street over bridge.

In October 2011 the High Court, by consent, quashed the decision of the Independent Commissioner, dated 30 June 2010, that altered the designation. As part of this process, the DCC consented to the temporary closure of the Ward Street over bridge while the parties sought to find a solution to APL's site access issues so the new traffic signals installed at the SH88/Frederick Street intersection could be used.

At a further hearing at the High Court on the 26 April 2012, the Court directed, following the parties' agreement, that the re-designation process must be completed prior to the traffic signals being turned on. As a consequence of this, the temporary access arrangements to the APL property have been left in place until resolution of this NoR. Designation 2 has been proposed to address the access issues of concern to APL.

The land required for the designation is owned by the Requiring Authority ("RA"), being the Dunedin City Council, and is set out below.

**Table 1: Details of land that would be directly affected by the designation**

**Designation 1:**

Shown	Area m <sup>2</sup>	Legal Description	CIR Ref	Owner
<b>Existing Section of Arterial Area:</b>				
A	320	Section 1 SO 431840	535754	DCC
B	378	Section 2 SO 431840	535754	DCC
C	482	Section 3 SO 431840	535754	DCC
D	537	Section 4 SO 431840	535754	DCC
E	640	Section 5 SO 431840	535754	DCC
F	778	Section 1 SO 446754	535754	DCC
G	18	Section 7 SO 431840	535754	DCC
H	295	Section 2 SO 446754	535754	DCC
I	184	Section 3 SO 446754	535754	DCC
J	83	Section 4 SO 446754	535754	DCC
K	11	Section 5 SO 446754	535754	DCC
<b>Storm water Pond Area:</b>				
L	1310	Section 13 SO 446754	535754	DCC
<b>Ravensbourne Road Roundabout Area:</b>				
BH	1025	Lot 2 DP 418365	470472	DCC

## Designation 2:

Shown	Area m2	Legal description	CIR Ref	Owner
A1	201	Section 20 S0431840	535754	DCC
B1	450	Section 21 S0431840	535754	DCC
C1	274	Section 22 S0431840	535754	DCC
D1	218	Section 23 S0431840	535754	DCC
E1	22	Section 24 S0431840	535754	DCC

Appendix B of the application contains a designation plan that illustrates the extent of land to be designated. The relevant Certificates of Titles are also included.

## 2. RESOURCE MANAGEMENT ACT 1991 PROVISIONS

The notice of requirement was publicly notified in the *Otago Daily Times* on 2 August 2013. The closing date for submissions was 30 August 2013.

Form 18 of the Resource Management (Forms, Fees and Procedure) Regulations 2003, specifies that a notice of requirement for designation must supply information on the following matters:

- The site to which the requirement applies;
- The nature of the proposed public work;
- The nature of the proposed restrictions that would apply, if any;
- The effects that the public work will have on the environment and the ways in which any adverse effects will be mitigated;
- The extent to which alternative sites, routes and methods have been considered;
- The reasons why the public work and designation are reasonably necessary for achieving the objectives of the requiring authority;
- Resource consents that are needed for the proposed activity, if any;
- Details of any consultation that has been undertaken with parties that are likely to be affected; and
- Additional information required by the District Plan, Regional Plan or any regulations of the Act, if any.

The information supplied by Opus International Consultants in application DIS-2013-1 fulfils these requirements.

In the normal course of events the territorial authority makes the decision on a notice of requirement in terms of Section 168(4) of the Act. However in this case, the territorial authority has made a decision under Section 198H that the NoR is to be the subject of a decision by the Environment Court instead of a decision by the territorial authority. Sections 198I to 198M apply to this process, with Section 198I setting out the timeframe within which the decision must be made. The territorial authority made the decision on the 5<sup>th</sup> of September which was within 5 working days of the close of the submission period (being 30 August 2013).

Under section 198J of the Act (pre the 4 September 2013 version of the Act), the Council must continue to process the requirement and must comply with the following:

*(2) The territorial authority must prepare a report on the requirement within the longer of the following periods:*

*(a) the period that ends 20 working days after the date on which the period for submissions on the requirement closes;*

*(b) the period that ends 20 working days after the date on which the territorial authority makes its decision under section 198H(1).*

*(3) In the report, the territorial authority may—*

*(a) address issues that are set out in section 168A(3) or 189A(10) to the extent that they are relevant to the requirement;*

*and*

*(b) suggest conditions that it considers should be imposed if the Environment Court confirms the requirement (with or without modifications).*

*(4) As soon as is reasonably practicable after the report is prepared, the territorial authority must provide a copy to every person who made a submission on the requirement.*

This report is therefore prepared in accordance with Section 198J and has addressed the matters set out in Section 168A(3) of the Act. That section states that:

*(3) 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 decision on the requirement.*

The effects on the environment of allowing the designation, subject to Part 2 of the Act and having regard to the matters set out in section 168A(3) of the Act, will be considered in sections 6 to 11 of this report.

### **3. SITE AND SURROUNDING ENVIRONMENT**

The designation site forms part of the constructed Harbourside Arterial Link road. The site is described in Section 2.1 of the NoR and this description is considered to accurately reflect the existing environment. It is set out here for convenience's sake as follows:

*The Arterial is approximately 1.3 km long and is located between the Frederick Street/ Anzac Avenue intersection and Ravensbourne Road where it connects with SH 88. The Arterial begins at the Frederick Street intersection and runs between the Anzide Property Limited site and the Hocken Library before running parallel to the rail corridor (The Main South Line), crossing the Water of Leith before swinging north east behind the Forsyth Barr Stadium to join SH 88 at Ravensbourne Road. Approximately 8,100 vehicles per day used the*

Arterial (SH88 Realignment (east of Anzac Avenue)) in 2012 (refer section 7, Transport Assessment Appendix D).

The land on which the Arterial has been constructed is flat and surrounding land use generally includes a variety of industrial uses and towards the NE end of the Arterial the Stadium. Land use around the Frederick Street intersection and immediately adjacent to the arterial includes on the northern corner a Mobil Service Station, automobile repair business (Automotive Solutions) and on the western corner Laserforce (a family entertainment venue). To the NE of the intersection is the Hocken Library and on the south east corner is a contractors yard and coal merchant (APL and AJ Allen).

I would add here that the APL land located immediately adjacent to the western parts of Designation 1 and the Designation 2 access road is used for a contracting business with large trucks, cranes and other contracting equipment regularly parked or located on site. AJ Allen Ltd leases the west side of the APL land (adjacent to the Frederick Street intersection and the Ward Street overbridge) and operates a coal merchant business from the site.

Importantly the application also describes the access arrangement to the APL properties. Again this is an accurate description of the situation and is summarised below:

- The site includes 70, 76 and 80 Anzac Avenue and they are legally described in the table below:

Address	Legal Description	Right of Way for Easements Access
70 Anzac Ave	Lot 1 and Lot 2 DP 15153	Transfer 5009780.1 is a Right of Way over Lot 2 in favour of Lot 1 DP 24328 to provide legal access.
76 Anzac Ave	Lot 1 DP 24328	Transfer 5009780.1 as described above.
80 Anzac Ave	Section 33 and 34 BLK LXXVI Town of Dunedin	

- Existing access to these properties is currently from Ward Street via a shared single large kerb crossing 17m in width. (If this NoR is confirmed, this access will eventually be controlled by the Frederick Street Intersection traffic signals).
- While the kerb line and associated kerb crossing has been moved to the east by approximately 2m by the construction of the Arterial, the access arrangement to the sites has not fundamentally changed.
- The temporary access arrangements that include the closure of Ward Street have meant that 70, 76 and 80 Anzac Avenue have continued to have vehicle access from Ward Street as it was prior to the Arterial being constructed.
- **76 Anzac Avenue** (Lot 1 DP 24328) gains legal and physical access to Ward Street is via a right of way over 70 Anzac Ave (specifically Lot 2 DP 15153 of that property). However the application suggests that the right of way does not appear to be fully utilised for access purposes given aerial photos that show this area before and after the construction of the Arterial being used for long term storage of materials and parking of vehicles.
- That part of **70 Anzac Avenue** leased from APL by AJ Allen (Lot 1 DP 15153) has a separate access onto Ward Street immediately adjacent to Lot 2 DP 15153 which provides right of way access to 76 Anzac Avenue. This access consists of part of the shared area and shared single large kerb crossing as described above.

- Access to **80 Anzac Avenue** is from the entrance to the site from Ward Street. This is currently the only vehicle access to the site. It is understood that the access is currently partly across 70 Anzac Avenue despite 80 Anzac Avenue having no right of way easement across 70 Anzac Avenue. This access arrangement appears to have been in place for some time and has been formalised on site by gates to this address. The NoR contains a 2007 aerial photo of the area that shows this access in use prior to the construction of the Arterial (Refer Appendix J).

The NoR also provides a recent history of access to 80 Anzac Avenue which illustrates that it has had a number of different access configurations over recent years. The 2007 aerial photograph indicates that the site had two accesses including the access that is currently open and an access in the north eastern corner (which appears to be blocked by internal activity within the site).

A resource consent (LUC-2008-473) granted in 2008 enabled the site to be used as a temporary commercial car park. A condition of that consent required the north eastern access to be closed but allowed an alternative access to the car park to be constructed at the head of the Parry Street cul-de-sac. The application was framed on the basis that the access across 70 Anzac Avenue was not to be used as an access to the car park and was closed by the erection of a cyclone netting gate.

The car park consent expired on 28 October 2011 although the lessee, I understand, stopped using it as car park in December 2010. After this time the access at the head of the Parry Street cul-de-sac was fenced and the kerb crossing was physically removed when the Arterial was constructed. The north-eastern access remained fenced and closed over this time. The dropped kerb was removed by the Council, using its roading authority powers under the Local Government Act 1974, as part of construction of the Arterial. That decision considered the crossing to be redundant. (The decision is attached at Appendix K of the application.)

#### **4. DESCRIPTION OF THE PROPOSED DESIGNATION**

The NoR application contains a full description of the proposed designation and the nature of the proposed works. The designation plans are attached at Appendix B. The NoR states that the *"reason these designations are needed is because the Dunedin City District Plan does not allow new road construction and the previous designation over these areas has been removed by the High Court."*

As noted above, there are three parts to designation 1 and all are on land owned by the RA. All three parts are already constructed and are described in the application as follows:

- *Frederick Street/Anzac Avenue: a section of road constructed between APL and the Hocken Library which extends in length for approximately 120-130 m. The road has been constructed as part of the now existing Arterial Link and consists of two lanes, one in each direction. Opposite the Hocken Library there is a dropped crossing access that allows access to and from the adjacent DCC land onto the Arterial.*
- *Storm Water Retention Pond: the storm water pond is located adjacent to and slightly southeast of the arterial alignment described above. This area consists of a pond which collects storm water from the road and hard standing surfaces. The pond is securely fenced. The purpose of the pond is to improve water quality before discharging it to the Water of Leith via the existing DCC storm water system. The area around the pond has been landscaped to improve the visual amenity of the area. This area is included in Designation 1.*
- *Parry Street – Ravensbourne Road Roundabout: There is a small area of land included in Designation 1 at the eastern end of the proposed alignment (Refer Appendix B). This area is required to allow for the constructed roundabout that intersects with Parry St / Ravensbourne Road. A design improvement shifted the original location of the roundabout slightly outside the original*

*designation. This small area was also part of the decision that was quashed by the High Court in 2011.*

Because Designation 1 is retrospective in nature there is no construction process involved and as a consequence no conditions have been promoted as part of the NoR.

Designation 2 is for the proposed new access road from the Arterial to the APL land at 80 Anzac Avenue. It will be constructed on an area of flat land owned by the RA. The road will be two lanes, approximately 7m wide and approximately 94m long. The land is not currently being utilised. A dropped crossing point of 47.5m in width will be constructed as the access to the Arterial. A new access gate in the existing fence will be constructed where the road meets APL's boundary.

The purpose of the new access road is to provide APL a second access to their site at 80 Anzac Avenue. This will enable vehicles to use the existing Ward Street access to come in one access and out the other.

The construction process is described as follows:

- *Stripping topsoil;*
- *Forming the 7m wide and approximately 94m long road including placement of base and sub base material and earthworks of approximately 700m<sup>3</sup>;*
- *Sealing the road with asphaltic concrete and chip seal;*
- *Forming kerb and channel and installing associated drainage;*
- *Constructing a gate into APL with APL's permission to allow access into 80 Anzac Avenue from the new local road;*
- *Construction of a 2.1m high fence along the property boundary;*
- *Forming the vehicle crossings;*
- *Installing road signs and markings.*

The applicant considers that these works are fully described in the NoR and as a result they do not consider it necessary to prepare an Outline Plan under Section 176A (2)(b) of the RMA. However a number of conditions are proposed in relation to this part of the designation as follows:

- (a) *That prior to commencement of any work on site, a construction management plan shall be submitted to the Dunedin City Council. That plan shall include, as a minimum, the following:*
  - (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 adjoining properties, including, dust, noise and safety of people visiting the site; and*
  - (iii) *Outline the process to occur should condition (b) below be invoked.*
- (b) *That 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 advisers, 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 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.*
  - (iv) *Upon completing 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 Historic Places Trust, and in the case of koiwi tangata (human skeletal remains), the New Zealand Police.*
- (c) *Construction shall occur generally in accordance with plans marked Layout Plan 7/583/154/3704, Sheet 1, R2.*

The District Plan zones all the sites except the Ravensbourne Road Roundabout as Industrial 1. The underlying zone for the Ravensbourne Road Roundabout part of the designation is the Stadium Zone.

I would also note here that the stormwater infrastructure part of Designation 1 is located within the existing New Zealand Railway Corporations ("NZRC") designation of the Main South railway (shown as D419). Under section 177(1)(a) of the Act, the written consent of the requiring authority responsible for an existing designation on a site is required before any work for a later designation on the same site can begin. I understand that the Requiring Authority had sought and obtained written support to proceed with the original Harbour Arterial NoR from NZRC and this would have also related to this particular area. To ensure that NZRC's railway operational and technical requirements were satisfied, they were involved in detailed technical consultation with the Council during the final design phase for the Arterial. Given the stormwater infrastructure has been built under the designation before it was quashed, it can be assumed that this occurred and NZRC are comfortable with the design of the stormwater infrastructure.

The NoR (at section 3.1) also highlights a number of physical changes to the Frederick Street intersection. These changes include lane markings, signs, and traffic signal poles and associated detection equipment at the APL Ward Street access. The NoR advises that the existing Ward Street access to APL land at 80 Anzac Ave will be modified by a sign which will advise of the restriction on large trucks, in particular, semi-trailer and B train trucks turning left into the Ward Street entrance from the Arterial when heading to the south. It states that this restriction is required as their turning radius when swinging into the access will impose on the adjacent AJ Allen access (no such restriction applies to the AJ Allen access). The Ward Street access will also become part of and controlled by the SH88/Frederick/Ward Street traffic signal system. Phasing of the traffic signals will be designed so vehicles leaving will have enough time to cross the intersection safely.

The NoR also advises that a new pedestrian crossing over Ward Street is also proposed and the northern pedestrian crossing from APL to the Mobil Service Station across Anzac Avenue has been removed from the original Frederick Street Intersection design. This is illustrated in the plans attached in Appendix C of the NoR.

The NoR notes that these works are all within the existing road corridor and therefore are considered to fall within the day to day road operational requirements of the Council. They do not require resource consent or need to be designated as part of this NoR but are explained within this NoR as part of the overall mitigation measures proposed to resolve the existing APL access issues.

As a consequence, the applicant advises that they are not part of the NoR, which only relates to the new road and storm water construction.

## **5. SUBMISSIONS**

A total of 15 submissions were received during the submission period. Ten of those submissions are in support of the NoR, with two requesting modifications. Two of the submissions in support subsequently changed their position to neutral. Two other submissions were neutral while three oppose the NoR.

The points raised in submissions are summarised in Table 2 that follows. Submissions are in support of the NoR for the following reasons:

- Concerns regarding pedestrian safety and noise environment on Anzac Avenue, particularly around University Plaza Building at Stadium and Hocken Library users, due to traffic lights at Frederick Street/Anzac Avenue intersection not being functional.
- New link will avoid the conflict and inefficiencies associated with Stadium and University pedestrian traffic. Will provide greater safety, efficiency and functionality than current route.
- Making the traffic lights operational and opening the Ward Street over bridge will improve efficiency and safety for businesses on the harbour side of the over bridge. Vehicles servicing this area need to use the St Andrew Street railway crossing (which makes trips longer) or make unsafe turning manoeuvres on other parts of the network.
- No access to over bridge has major impact on businesses on harbour side of railway.
- Will provide an alternate route and improve travel times to and from the Port.
- Sensible and appropriate to regularise current operational situation and to mitigate effects of current temporary situation.
- Dual access provided to private land will provide well controlled access and does not cause or introduce safety issues for road users or private land users.
- The proposal is consistent with Dunedin City Council's Transportation Strategy, Policy 9 of NZCPS and with Transit New Zealand's Highway Strategy.

Submissions are opposed to the NoR for the following reasons (this list also includes concerns raised in supportive and neutral submissions):

- Lack of provision for pedestrians and cyclists.
- Negative effects on access to Anzide Properties Limited land.
- Alignment and access is unsafe.
- Roundabout should be installed instead of lights.
- Need to consider wider network.
- Unfair that DCC rely on constructed alignment as reason for it to stay.
- Don't see traffic lights adding much benefit compared to opening access as is.
- Consideration of alternatives is incomplete, cursory and arbitrary because it was influenced by existing alignment.
- Unclear whether the RA consulted upon the notified NoR or a previous design of designation 1.
- Objective to avoid having to purchase private land is an error in law.

**Table 2: Summary of submissions**

Submitter	Support/ Oppose	Reasons for submission	Decision Sought	Wish to be heard?
University of Otago	Support	<ul style="list-style-type: none"> <li>The bypass has been in operation since late 2011 but does not function effectively due to lack of working traffic lights at the intersection of Frederick Street and Anzac Avenue.</li> <li>The purpose of the bypass was to divert traffic away from FB Stadium and as well as provide for a more efficient route for heavy vehicles travelling between Port Chalmers and the city. No evidence that it has resulted in a quieter Anzac Avenue which suggests traffic still using the avenue in preference to Highway due to uncontrolled intersection. Without signal control, few lulls in traffic and no reduction in traffic speed to provide safe traffic environment. Increased pedestrian activity in area due to construction of University Plaza Building at Stadium and continued heavy traffic on Anzac Ave threat to pedestrian safety.</li> <li>Hocken Library staff have reported no concerns about the bypass beyond their continued frustration with the lack of traffic lights and its impact on the safety of Library users.</li> </ul>	Not stated.	No
Ritchies Coachlines Ltd	Support	<ul style="list-style-type: none"> <li>No issue with proposal</li> </ul>	Nil	Yes
Mountainbike Otago	Oppose	<ul style="list-style-type: none"> <li>Has considered health and safety concerns for members and fellow cyclists. Primary interest is ensuring there is a safe link between the harbour cycleway and Signal Hill recreation reserve.</li> <li>Believes there are some details that require further consideration: designated path seems to cater for commuters but doesn't lend itself well to Signal hill reserve as a destination; location of SH88 cycle lane and its width seem out of line with current cycle safety strategy; incomplete cycleway between Fryatt Street diverts cyclists into complex intersection; commuting cyclist and heavy vehicles converge at a single pint which is better eliminated than controlled.</li> </ul>	Not stated	Yes
Reillys Towage & Salvage 2002 Ltd	Support but changed to neutral after close of submission period	<ul style="list-style-type: none"> <li>States that having to drive south to enter the railway overbridge via hard left turn from Anzac Avenue is risky, particularly in peak hours. The sooner the intersection and traffic lights are working, the better for business on harbour side of Anzac Ave.</li> </ul>	Amended submission stated "I believe all the DCC facts were not disclosed during my discussion with Mr Matheson"	No
Paul Douglas	Neutral	<ul style="list-style-type: none"> <li>Consideration needs to be given to wider network not addressed in this proposal – these suggestions are outline in the submission but are not relevant to this proposal.</li> <li>In relation to this proposal, believes the roading networks and land uses near site will be critical in near future for resolving other problem such as Southern DHB and Otago University.</li> <li>Suggests a roundabout rather than traffic lights.</li> </ul>	That DCC buy relevant land [as identified in submission] and make a statement of its strategic importance, which negates the need for the roading access and access designations.	No

Submitter	Support/ Oppose	Reasons for submission	Decision Sought	Wish to be heard?
Bidvest Foodservice Ltd	Support but changed to neutral after close of submission period	<ul style="list-style-type: none"> <li>• Would like to see ramp open and lights operational.</li> <li>• Average 35 vehicle movements daily over the bridge and also receive inwards stock from outside freighters.</li> <li>• Opening ramp would improve efficiency and safety.</li> <li>• Amended submission states total safety is their concern.</li> </ul>	Open Ward Street ramp and operate traffic lights	No
New Zealand Transport Agency	Support	<ul style="list-style-type: none"> <li>• Designation necessary to assist in continued management and operation of 'Harbourside Arterial Link' Current designation along Anzac Ave has a number of limitations and constraints that impact on its safety, efficiency and functionality. New link will avoid the conflict and inefficiencies associated with Stadium and University pedestrian traffic. Will provide greater safety, efficiency and functionality than current route.</li> <li>• Realignment is supported by DCC Transportation Strategy and NZTA's National State Highway Strategy.</li> <li>• Submits it is sensible and appropriate to regularise current operational situation and to mitigate effects of current temporary situation.</li> <li>• Overall will improve safety, efficiency and functionality of network and will provide an alternate route and improve travel times to and from the Port.</li> </ul>	That Designation 1 be confirmed with no conditions and that Designation 2 be confirmed with a slight amendment to condition (c) to reflect that road markings on Layout Plan 7/583/3704, Sheet 1, R2 are indicative only.	Yes
Port Otago Limited	Support	<ul style="list-style-type: none"> <li>• Safe and efficient road access to and from Port Chalmers is essential for efficient operation for the Port. Currently this is compromised by closure of Ward Street overbridge which has diverted traffic 750 metres to St Andrews Street controlled rail crossing. In addition to distance of diversion, this adds to congestion at an already busy road.</li> <li>• Proposal will provide essential overbridge connection between wharves and industrial area with significant benefits for both short haul traffic between Port and Wharves and long haul traffic to and from areas north of the City. There will also be efficiency benefits for light traffic.</li> <li>• Believe the dual access provided to private land will provide well controlled access and does not cause or introduce safety issues for road users or private land users.</li> <li>• Will result in improved efficiency for freight and other traffic associated with the port and the other industry. Port responsible for 290 jobs and generates direct economic output of \$53m per annum. Safe and efficient access essential for maintaining economic benefits associated with the port.</li> <li>• Port and access to it is a key issue identified in relevant planning documents including policy 9 of NZCPS. Proposal responds to issue 9.3.3 of RPS.</li> <li>• Considers the DCC has appropriately considered alternative and agrees that this is best design option to meet objectives of the work.</li> </ul>	That the proposed NoR be confirmed without condition.	Yes

Submitter	Support/ Oppose	Reasons for submission	Decision Sought	Wish to be heard?
Jeffery James McDonald	Support	<ul style="list-style-type: none"> <li>Not stated</li> </ul>	Not stated	No
Delta Utility Services Ltd	Support	<ul style="list-style-type: none"> <li>Resolving intersection issue is very important for a commercial business located on Halsey Street. Traffic delays and potential safety issues with the uncontrolled intersection are an continuing concern.</li> </ul>	Not stated	No
Icon Logistics Ltd	Support	<ul style="list-style-type: none"> <li>No access to bridge has had major impact on their container business as need to go to St Andrew Street level crossing</li> </ul>	To have full access to Anzac Ave bridge including north side where lights are.	No
Naylor Love Construction Ltd	Neutral	<ul style="list-style-type: none"> <li>No firm view on actual designation but would like to see intersection open as soon as possible because current arrangement creates delays and causes frustration getting onto to Anzac Ave. Don't see traffic lights adding much benefit compared to opening access as is.</li> </ul>	Have intersection opened as soon as possible.	Yes
Otago Regional Council	Supports but seeks changes to NoR	<p>Specific concerns:</p> <ul style="list-style-type: none"> <li>Intersection of Frederick St and Ward Street and the new arterial - Provision needs to be made for pedestrians and joggers crossing Ward Street on the seaward side. Disputes observation on pages ii and 14 of the transport assessment for the NOR, that it is unlikely that pedestrians will wish to cross in front of the Anzide properties access. Pedestrians coming from Crawford Street walk on the seaward side of Anzac Avenue because on the western side there is no safe path between Crawford Street and Anzac Avenue. Pedestrians instead walk immediately in front of the Railway Station and along the seaward side of Anzac Avenue. Some arriving at the access to Anzide Properties may wish to cross Anzac Avenue e.g. to Frederick Street but others will wish to proceed on the seaward side to reach Parry St West.</li> <li>On the seaward side of the new arterial between the Frederick Street intersection and the mid-road crossing ("cycle refuge") giving access to the south end of Parry Street West - Footpath is required, so that those walking from Anzac Avenue along the seaward side do not need to make three road crossings to reach the end of Parry Street West.</li> <li>Northern end of the new bridge over the Leith - Steps are required on/off the bridge where the path underneath the new arterial joins the footpath across the bridge. The route has been designed for cyclists and not for active pedestrians who prefer a direct route. The out and back graded path is a lengthy diversion for pedestrians and needs to be supplemented with steps.</li> </ul>	Make modifications as requested	Yes

Submitter	Support/ Oppose	Reasons for submission	Decision Sought	Wish to be heard?
Otago Regional Council (continued)	Supports but seeks changes to NoR	<ul style="list-style-type: none"> <li>• Crossing at the northern end of the stadium carpark, near the intersection of Parry Street and Ravensbourne Road, which leads to Magnet Street - The current crossing is too far to the west to provide a direct link onto the short road link leading to Magnet Street. Pedestrians and joggers are commonly crossing the arterial further towards the city (on the direct desire line towards the stormwater pond). The crossing needs to be redesigned to make it more safe for pedestrians</li> </ul> <p>General concerns:</p> <ul style="list-style-type: none"> <li>• Must have particular regard to RPS and noted relevant policies. Should have particular regard to providing for pedestrians.</li> <li>• Refers to Regional land Transport Strategy. Suggest provisions relating to walking and cycling overlooked and that NoR teats non-motorised transport as secondary consideration to motorised traffic.</li> </ul>	Make modifications as requested	Yes
Anzide Properties Limited, Hall Brothers Transport Limited and Dunedin Crane Hire (2005) Limited	Opposes	<ul style="list-style-type: none"> <li>• Submission applies to Designation 1 – Approximately 120 to 130 metres from the intersection of Anzac Avenue and Frederick Street to the east towards Ravensbourne Road and Designation 2 – Access road to 80 Anzac Avenue The Submitters own 70, 76 and 80 Anzac Avenue.</li> <li>• The submission sets out the background of the process from the submitter's perspective.</li> <li>• Believes it is not clear whether the RA consulted upon the notified NoR or a previous design of designation 1.</li> <li>• Discusses the environment and believes the NoR fails to properly consider the receiving environment. Submits constructed alignment is unlawful. If alteration to designation had been notified, designation may not have been constructed in present alignment. No weight should be placed upon a physical resource that the physically constructed road and reliance upon its existence is an irrelevant consideration and an error of law. Environment to be considered is the pre-construction layout of affected land.</li> <li>• Considers the changes at Frederick Street and Anzac Ave intersection changes including signalisation are an effect on the environment as a consequence of NoR because would be unnecessary if not for the designations. Such effects should be properly considered.</li> <li>• Submits RA has misdirected its assessment of effects because constructed alignment is unlawful. Relying on it is unsound and presupposes that it promotes sustainable management.</li> <li>• Submits consideration of alternatives is incomplete, cursory and arbitrary because it was influenced by existing alignment. Objective to include avoiding the need to take any private land which misdirected the RA and erred in law by not properly considering alternatives.</li> </ul>	<p>That the territorial authority modify the Notice of Requirement to address the concerns of the Submitters set out above in a fashion that is satisfactory to the Submitters; <b>or</b></p> <p>That the Notice of Requirement be withdrawn.</p>	Yes

Submitter	Support/ Oppose	Reasons for submission	Decision Sought	Wish to be heard?
Anzide Properties Limited, Hall Brothers Transport Limited and Dunedin Crane Hire (2005) Limited (continued)	Opposes	<ul style="list-style-type: none"> <li>• Believes objective to avoid having to purchase private land is an error in law because it elevates cost and property rights above environmental effects. Inconsistent with Councils historic decisions. This approach excludes alternatives and possible alignment that achieve the purpose of the Act so fails to achieve the Act.</li> <li>• Vehicles using the submitters site require significant room to manoeuvring in and out of site and dimensions of 80 Anzac Ave make on site manoeuvring impossible. For this reason the two accesses from Parry Street could be used in tandem to enter and exit the site. Designation 2 (the "Access Road") is designed to address the loss of the tandem Parry Street access. The Access Road does not replace the Parry Street access because the Anzac Avenue and Frederick Street intersection (the "Frederick Street Intersection") cannot be used safely and efficiently by the Submitters and any tenants of the Anzide Land.</li> <li>• NoR fails to provide an assessment of effects on submitters and surrounding land. Being industrial land, often movement of heavy vehicles.</li> <li>• The historic access arrangements from Parry Street provided suitable, efficient and safe access into 80 Anzac Avenue. Access into 70 and 76 Anzac Avenue was from Ward Street. The NoR does not provide equivalent or better access to and from 80 Anzac Avenue. The access will have unacceptable adverse effects upon the Anzide Land and the operation of the Submitters' businesses from the site.</li> <li>• Access to and from 80 Anzac Avenue at the Frederick Street Intersection in large vehicles is impossible without travelling across the northern corner of 70 Anzac Avenue, which includes the right-of-way in favour of 76 Anzac Avenue. While in common ownership, encroaching onto 70 Anzac Avenue is not a problem. However, if any of the Anzide Land was sold or leased the access from the Frederick Street Intersection could be blocked. Access to and from 70, 76 and 80 Anzac Avenue must recognise property boundaries. The NoR fails to do this.</li> <li>• The NoR indicates that the RA will prohibit right turns at the Frederick Street Intersection travelling. Historic arrangement for this is not clear. The effect of the NoR is that the Submitters' vehicles will be required to travel to the Access Road to enter 80 Anzac Avenue. Vehicles travelling to 70 Anzac Avenue will need to enter the site straight ahead from Frederick Street or via a left turn travelling to the south west</li> <li>• Vehicles attempting to enter the Anzide Land at the Frederick Street Intersection on their green phase will be blocked from completing that manoeuvre by vehicles waiting to exit the Anzide Land on their red phase.</li> </ul>	<p>That the territorial authority modify the Notice of Requirement to address the concerns of the Submitters set out above in a fashion that is satisfactory to the Submitters; <b>or</b></p> <p>That the Notice of Requirement be withdrawn.</p>	Yes

Submitter	Support/ Oppose	Reasons for submission	Decision Sought	Wish to be heard?
Anzide Properties Limited, Hall Brothers Transport Limited and Dunedin Crane Hire (2005) Limited (continued)	Opposes	<ul style="list-style-type: none"> <li>The NoR fails to assess the effect upon the intersection at Anzac Avenue and SH88 where it becomes Ravensbourne Road.</li> <li>The proposed signalisation of the Frederick Street Intersection is not the optimum solution to control traffic entering and exiting the Anzide Land.</li> <li>Even if the signalisation of the Frederick Street Intersection and Designation 2 can be shown to be safe and lead to acceptable effects upon the Submitters, the road controlling authority could make changes to the functioning of the road that could lead to unacceptable effects upon the Submitters. This uncertainty is an adverse effect.</li> <li>Traffic turning right from State Highway 88 into the Access Road may "stack" in the right turning lane, blocking traffic travelling towards Ravensbourne from the Frederick Street Intersection, leading to inefficiencies in the affected area of the transportation network</li> <li>No provision for cyclist safety and fails to consider effect upon pedestrians walking to University.</li> <li>Fails to considers effects whether are events on at the Stadium.</li> <li>Fails to consider taking some of submitters land. Safest and most appropriate alignment is through submitters land generally on the basis of original alignment under D845.</li> <li>Contrary and inconsistent with Policy framework of District Plan and overlooks relevant matters in 2011 Regional Land Transport Strategy.</li> <li>Designations do not achieve purpose of the Act.</li> </ul>	<p>That the territorial authority modify the Notice of Requirement to address the concerns of the Submitters set out above in a fashion that is satisfactory to the Submitters; <b>or</b></p> <p>That the Notice of Requirement be withdrawn.</p>	Yes
AJ Allen(1996) Ltd	Oppose	<ul style="list-style-type: none"> <li>Refers to submission of Anzide Properties et al and generally supports and relies on that submission.</li> <li>In particular believes alignment and access is unsafe; unfair that DCC rely on constructed alignment as reason for it to stay; proposed access is unsafe and does not provide direct access to [76 Anzac Ave] so has significant effect on their business.</li> <li>Not convinced he was consulted with and not clear how plan addresses concerns previously raised.</li> </ul>	As for Anzide Properties et al	Yes

## 6. ENVIRONMENTAL EFFECTS OF ALLOWING THE REQUIREMENT

As noted above, Section 168A(3) provides that 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 the relevant provisions of various planning documents, whether adequate consideration of alternatives occurred, and whether the works and designation are reasonably necessary for achieving the objectives of the RA. The consent authority can also consider any other relevant matter that it believes is reasonably necessary to make a decision.

The principal planning document in the context of the effects assessment is the Dunedin City District Plan ("DP"). As noted above, the majority of the work is located within the Industrial 1 zone (with the roundabout located in the Stadium zone) which permits a range of activities but predominantly industrial and service activities, and

other yard based activities (e.g. vehicle and boat yards). The introduction section of the zone (10.1) recognises that industrial areas generally have lower amenity values than other areas of the City. Issue 10.1.2 recognises that industrial activities can generate effects beyond their boundary that may create a nuisance if the industrial activity is not compatible with the surrounding land uses. Industrial sites/activities can often be dusty and noisy and often generate heavy vehicle movements. Industrial buildings are generally purpose built, bulky and not particularly attractive. The majority of the works are located within an environment that enables these types of activities.

However legal road construction, unless it is considered as part of an approved subdivision consent, is not permitted and requires consent as a discretionary activity under Rule 20.5.4(i) of the Transportation section (section 20) of the DP. The introduction to this section notes "*Transport provides for the movement of people and goods, and is essential to the functioning of society. The establishment and use of transport (road, air, sea, rail, pedestrian) can generate both positive and negative environmental effects. The management of these effects must therefore be comprehensively integrated with the management of the effects of the use, development and protection of other resources of the City.*" It is relevant to note that the existing environment is heavily influenced by transportation infrastructure of significance, including the main south railway corridor and a roading network that connects the City to the port and that connects the industrial area to the south of the railway with the city and the port.

Overall then, the existing environment is one that can be expected to have a relatively low level of amenity, which is heavily influence by the effects of transportation infrastructure.

The NoR identifies a number actual and potential effects as follows:

- Effects on Anzide Property Ltd and AJ Allen Ltd Access;
- Effects on Other SH88/Frederick St/Anzac Ave Intersection landowners;
- Effects on NZTA;
- Effects on Frederick Street Intersection / Traffic Effects;
- Construction Effects [in relation to Designation 2 only];
- Positive Effects

Submitters have also identified a range effects, including positive effects that are largely assessed by the RA in the context of the effects identified above. These include safety (from the perspective of vehicular access, pedestrian and cyclist safety), efficiency and functionality effects.

Each of these effects is considered in turn below. However before I undertake that assessment, a preliminary issue needs to be considered in terms of the environment this assessment should be made against. The submission of APL argues that no weight in this assessment "*should be placed upon the physical resource that is the unlawfully constructed road. Any reliance upon the existence of the road constructed unlawfully is an irrelevant consideration and an error of law.*" They go on to say that the environment that must be considered is the pre-construction layout of the land affected by Designation 1.

The first point I would make in response to this position is that in my view the existing constructed road was not, and is not, an unlawfully constructed road. The construction was completed under the designation alteration decision (DIS 2010-2) of 30 June 2010 and was accordingly lawfully constructed at that time. That designation was not quashed until October 2011, by which time the work had been completed.

It is accepted, however, that the existence of the road does not create a legal presumption that it is acceptable or promotes sustainable management. Having said that, the actual physical environment does include the functioning arterial road, albeit with the temporary access arrangements in place. This provides the unusual ability to assess (at least in part) the works in operation.

It is important to note in this context that the designation that was quashed was for an alteration to a designation and that this did not introduce a new road to the location - it merely enabled its alignment to be changed slightly. Hence in my view, if

the submitter is correct, the relevant effects to be assessed against the pre-construction environment would be those that would have changed as a result of the realignment of the road. These, with one major exception, were assessed in the alteration decision. I have reviewed that assessment and generally find myself in agreement with it.

The exception relates to the issue in contention at the High Court, access to APL land, which was not discussed in Section 6.1.7 'Effects on local roads or accesses' of that decision. The matter was taken to the High Court, where the main issue appeared to relate to safety concerns given 80 Anzac Avenue's north-eastern access to Parry Street was closed. This led to the temporary traffic arrangement being put in place until this concern was resolved. Following that logic it could be argued that if the access issue to APL land is resolved, then the effects of the works should not be in contention. However the assessment below considers the effects identified by the NoR and submitters and revisits, briefly, the assessment in the alteration decision.

One further point needs to be made in the context of this assessment. A number of submitters appear to raise issues that relate to the RA's other role as the road controlling authority ("RCA") while other submitters raise issues that are outside the area of influence of this NoR. These will be discussed as they arise through the assessment but it is pertinent to outline here the general powers that Councils retain under the Local Government Act that are not matters for consideration under the NoR. Section 319 of the Local Government Act 1974 'General Powers of Councils in respect of Roads' provides as follows:

- (1) The council shall have power in respect of roads to do the following things:*
- (a) to construct, upgrade, and repair all roads with such materials and in such manner as the council thinks fit:*
  - (b) [Repealed]*
  - (c) to lay out new roads:*
  - (d) to divert or alter the course of any road:*
  - (e) to increase or diminish the width of any road subject to and in accordance with the provisions of the district plan, if any, and to this Act and any other Act:*
  - (f) to determine what part of a road shall be a carriageway, and what part a footpath or cycle track only:*
  - (g) to alter the level of any road or any part of any road:*
  - (h) to stop or close any road or part thereof in the manner and upon the conditions set out in section 342 and Schedule 10:*
  - (i) to make and use a temporary road upon any unoccupied land while any road adjacent thereto is being constructed or repaired:*
  - (j) to name and to alter the name of any road and to place on any building or erection on or abutting on any road a plate bearing the name of the road:*
  - (k) to sell the surplus spoil of roads:*
  - (l) for the purpose of providing access from one road to another, or from one part of a road to another part of the same road, to construct on any road, or on land adjacent to any road, elevators, moving platforms, machinery, and overhead bridges for passengers or other traffic, and such subways, tunnels, shafts, and approaches as are required in connection therewith.*

Furthermore, Rule 20.5.1 of the Transportation section of the DP permits the following activities within the legal road reserve and within existing formed road corridors that are not contained within the legal road reserve, provided that they comply with the relevant performance standards set out in Rule 20.5.2:

- (i) *Maintenance of existing roads, which includes realignment, traffic and parking controls, road signs, lighting and landscaping.* [my underlining]
- (ii) *Street furniture.*

This rule obviously applies to the existing road reserve at the Frederick Street/Anzac Avenue intersection and a number of areas on the already designated arterial route to the east of the land affected by this NoR referred to in the Otago Regional Council's submission. The phrase "*within existing formed road corridors that are not contained within the legal road reserve*" would also appear to indicate that the rule applies to the existing formed corridor within the land subject to this NoR.

Accordingly the provision and location of traffic controls (lights and signs), pedestrian and cycle lanes (and associated controls) within an existing road reserve or formed road carriageway, are permitted activities under the sole authority and control of the roading controlling authority. This affords the RCA the necessary flexibility to adapt to changing traffic conditions without the need to apply for a resource consent or an alteration to a designation. As a consequence, my view is that all matters raised in relation to such issues are outside the scope of the NoR.

### **6.1 Effects on Anzide Property Ltd and AJ Allen Ltd Property and Access**

As I have already noted above, the key issue in front of the High Court was the impact of the alteration on access to these properties and this has again been raised by these parties in their submissions. The APL submission highlights a number of safety concerns and believes that the safest and most appropriate alignment for Designation 1 is through Anzide land, generally on the basis of the original alignment of D845 prior to the alteration.

Taking into account my position as stated in the introductory section above, the two key issues in relation to these submitters is the effect of Designation 1 on access to site (given the loss of the previous access to Parry Street), and the effect on the physical extent of property, having regard to the submitters' position that the safest and most appropriate alignment for Designation 1 is through their land, which was considered as an alternative by the RA.

Turning to the second issue first, the proposed alignment clearly has an effect which is significantly less than the original alignment, which would have utilised most of the property. The proposed approach allows the property to continue to be available for industrial purposes while connecting better with the existing road reserve at the Parry Street/ Anzac Avenue intersection. Utilising the existing Parry Street/Anzac Avenue intersection location for the arterial connection to Anzac Avenue utilises existing road reserve and retains a character similar to the pre-construction state. This location contained access to Parry Street and a large area of car parking that wrapped around the north east boundary of the APL site. The current alignment also ensures that no small pocket of industrial 'no-man's' land is left between the original alignment and the previous Parry Street/Anzac Avenue intersection.

Probably more important than these issues however, is the traffic safety issue the NoR states as one of its reasons for discounting returning to the original alignment. At page 13, the NoR quotes Mr Clark of Flow Transportation Specialists Ltd, who prepared the Transport Assessment Report, as saying (on page 24 of his report) that:

*"The original Dunedin Harbour Arterial designation showed the route of the Arterial going through the Anzide Properties site. This alternative is now not considered viable for the following reasons:*

- *The new designation allows SH88 to approach the Frederick Street intersection on a gentler curvature than the originally designated route. In particular, this ensures suitable forward visibility of the signal heads for traffic approaching the traffic signals from the SH88 Realignment. This now improves a deficiency with the originally designated route.*

For the reasons I have outlined above, I believe the effect of the NoR on the submitters' property as a whole, leaving aside access, is positive.

Turning to the loss of the previous Parry Street access, the submitter states that the *"historic access arrangements from Parry Street provided suitable, efficient and safe access into 80 Anzac Avenue, with full turns onto the roading network. Access into 70 and 76 Anzac Avenue was from Ward Street. The Notice of Requirement does not provide equivalent or better access to and from 80 Anzac Avenue. The access to and from that site in the Notice of Requirement will have unacceptable adverse effects upon the Anzide Land and the operation of the Submitters' businesses from the site."*

The evidence presented in the NoR indicates that the Parry Street crossing was not used for at least some periods in the past. This led to Council closing the access pursuant to the Local Government Act 1974 on the basis that they were satisfied that the crossing was redundant. The letter noted the following:

"...

*3. On the northern boundary of 80 Anzac Avenue there is an old vehicle crossing that is currently gated and has not been used for over 2 years. This historic vehicle crossing is now located opposite the new intersection with Anzac Avenue and the new alignment of State Highway 88. This historic vehicle crossing is considered redundant. There is an existing, and currently used vehicle crossing at the western end of 80 Anzac Avenue that is used for vehicle access to 80 Anzac Avenue. In addition the redundant vehicle crossing on the northern boundary is located close to the new intersection with Anzac Avenue, and is considered unsafe for use, particularly by heavy vehicles.*

*4. For these reasons, pursuant to section 335(9) Local Government Act 1974, the Council is satisfied the historic vehicle crossing at 80 Anzac Avenue is redundant and is to be removed at the expense of the Council.*

..."

However it has been accepted by the RA that the loss of the Parry Street access does impact adversely on the access arrangement to, and manoeuvrability within, 80 Anzac Avenue. This has led to the current temporary access situation and the resubmitting of the NoR with an additional component, being the new access road sought by Designation 2.

It would appear to me that the new access road will effectively reinstate the previous situation of dual access. This will enable through access to deal with manoeuvrability issues within the site for large vehicles. It will also remove the problem for large vehicles travelling from the east that need to turn left into the site from the Ward Street access.

The submitter raises concern with the potential for vehicles to 'stack' at the new access when turning right from the new alignment into the Access Road. They believe such traffic *"...may 'stack' in the right turning lane, blocking traffic travelling towards Ravensbourne from the Frederick Street Intersection. In particular, when more than one vehicle is attempting to turn right there is insufficient room for large vehicles to 'stack' in the right turning lane. The nature of the businesses operated from the Anzide Land means that a large number of vehicles attempt to exit and / or enter the Anzide Land at peak times. Therefore traffic will back up behind the vehicles leading to inefficiencies in the affected area of the transportation network."*

The removal of the cycle refuge near the Parry Street cul-de-sac would enable greater queuing distance. However the NoR advises that the *"DCC did consider removing the cycle refuge to provide for more stacking space in the median for trucks in the original 2012 consultation scheme. However concerns raised by NZTA and APL during consultation have led to the refuge being retained."*

The Transport Assessment attached to the NoR assessed this concern at page 28 (5<sup>th</sup> bullet point) and concluded as follows:

*"Queuing at the secondary access: the analysis indicates that the right turn into the proposed secondary access off the SH88 Realignment will operate with a very low degree of saturation, of around 2%, with modest delays of around 15-16 seconds in*

*the peak hours in 2021. A truck will be able to sit within the median, to wait for safe gaps in oncoming traffic, and the frequency of the event of two trucks arriving at the same time (i.e. the second truck arriving within 16 seconds of the first) is considered to be extremely rare."*

Hence the potential for this to be an issue seems limited. Furthermore I would note that any truck arriving at the queuing lane to find that it is occupied need only travel a short distance further east and utilise the Ravensbourne Road roundabout to come back to the entrance. At this point the vehicle would have the priority left turn into the site.

The author of the NoR, Ms Julie McMinn (a Principal Planner with Opus), comes to the following conclusion (at page 23) in relation to the new access road:

*"Based on the Transport Assessment (Refer Appendix D), I consider the new access road will provide APL with a safe second alternative access to their 80 Anzac Avenue site. The new access road also replaces the access lost when the 80 Anzac Ave NE gate was permanently closed as a result of the construction of the Arterial. I also consider the new access road and gate arrangement as not dissimilar to the arrangement APL had when access to the NE gate was gained from Parry Street. The proposed new gate will also be accessed from a local road (the new access road) and the new road will be accessed from the Arterial. Originally the old gate was accessed from Parry Street which was in turn accessed from Anzac Avenue (SH88), Minerva Street (via Anzac Ave) or Ward Street.*

*The new access road will also allow for safe circulation of large trucks and other vehicles through the APL site thus accommodating any traffic movements that will be restricted at the Ward Street access.*

*I therefore consider that the proposed new access road is appropriate mitigation for the existing adverse effects that have resulted from the closure of APL's 80 Anzac Avenue NE gate."*

I agree with this conclusion and adopt it accordingly.

The submitter raises a number of issues with the intersection of Anzac Avenue and Frederick Street, including its signalisation, and believes these changes are an effect upon the environment as a consequence of the Notice of Requirement. They state that *"This is because the changes to the intersection would be unnecessary were it not for the Designations. Therefore those effects are to be properly considered by the Territorial Authority."*

I disagree with this position. Section 3 of the Traffic Assessment (page 11) attached to the NoR identifies the historic issues with this intersection. A summary of the problems with the former SH88 route was provided from a Scheme Assessment prepared by MWH in 2010 and is set out below:

- *There were conflicts between the arterial function and the access function*
- *Over the previous five years there had been 31 crashes recorded along the route. Of these crashes, four resulted in serious injury and 13 in minor injuries*
- *The Frederick Street intersection with Anzac Avenue was classed as a blackspot (being a location where a noticeable number of crashes has occurred), with six reported injury crashes. The Albany Street intersection with Anzac Avenue had previously been classed as a blackspot*
- *The marked pedestrian crossing just south of the Anzac Avenue/Albany Street intersection had been the subject of numerous complaints. There had been a number of near misses due to the volume of traffic, proximity to the intersection and the number of pedestrians. Several crashes had occurred when traffic stopped suddenly at the crossing*

- *The likelihood of safety issues was identified relating to pedestrian access and safety following the completion of the Forsyth Barr stadium and the adjacent university buildings*
- *Cyclists had to share the road with other traffic. In places there was insufficient shoulder available for cyclists. The volume of heavy traffic on the route had implications for cycle safety*
- *Traffic generated by the stadium was considered likely to cause deterioration in cycle safety.*

Regardless of this process, it is likely that this intersection would eventually be signalised to improve safety. The collision risk to vehicles crossing Anzac Avenue from Frederick Street and for vehicles crossing from Ward Street is now eliminated. Access to the APL site from Frederick Street and Ward Street is the same as previously existed and caters for all vehicles. There is a restriction for south bound large vehicles (over 8m in length) turning left into the site but this is overcome by the alternative access to be provided off the arterial. It will clearly be safer for vehicles to exit the APL site as they are to be provided a dedicated signal phase. My observations indicate that currently they have some difficulty exiting the site safely at times.

Access encroachment over 70 Anzac Avenue by heavy vehicles is an existing situation – the realignment has not changed this. The potential for vehicle conflicts at the 80 Anzac Avenue gateway on simultaneous entry and exit is a low probability. The Traffic Assessment attached to the NoR advises at page 22 that *"This matter has been assessed by Opus, in a Memorandum dated 13 April 2012. This states that the average probability of this event occurring is once every 5.1 weeks (based on the average heavy vehicle movement rate over the three days of observations).*

*While this calculation suggests that such an event will be quite rare, this would appear to overestimate the likelihood of the event, since the calculation assumes that all truck movements will continue to take place via the Ward Street access, whereas in reality a reasonable proportion of trips are likely to use the proposed secondary access."*

Hence any conflict of this nature is likely to be rare and can be managed by driver behaviour and courtesy.

The Submitter goes on to say that *"Even if the signalisation of the Frederick Street Intersection and Designation 2 can be shown to be safe and lead to acceptable effects upon the Submitters, the road controlling authority (DCC or NZTA) could make changes to the functioning of the road that could lead to unacceptable effects upon the Submitters. Given the recommendation in the Notice of Requirement and in the affidavits in support of the High Court proceedings that the intersection and functioning of the road generally will need to be reviewed to determine what changes may be necessary, this uncertainty is an adverse effect."*

Again I disagree with this position. As I outlined earlier, part of the RCA functions is to manage the safety and efficiency of the roading network without the need for this to be controlled through the resource consent or other consent processes. In my view it is simply not part of the NoR process. Part of this core function is to monitor intersections such as the one in question here and determine what safety and efficiency improvements are needed. The 'uncertainty' of the roading review process is a factor in the on-going monitoring of the entire roading network. This intersection is no different in that regard and in my view this is not an adverse effect in the context of this process.

While not required to, I am sure that the RCA would consult with the affected business owners when considering changes. However this should not form part of any formal resource consent or designation process (as seems to be suggested by the submitter) as it would not provide the flexibility needed to respond to these issues quickly and without undue formality.

The submitter, along with other submitters, also raised concerns in respect to pedestrian and cyclist safety at the intersection. These issues (which I do not believe are part of the NoR assessment) are dealt with in the context of specific submissions later in this report. However I believe the proposed changes will vastly improve safety for pedestrians crossing this intersection due to the protection offered by the installation of traffic signals. Cyclists will have improved facilities provided by the installation of Green Cycle Lanes and Green Stop Boxes at the intersection. Protection will also be provided by the traffic signals stopping vehicles approaching unexpectedly from the side.

The NoR did deal with the issues at this access, which I assume is because of the background to the temporary restrictions being put in place and the fact that the changes will mitigate the current issues. Ms McMinn concluded at page 25:

*Based on the Transportation Assessment I consider the proposed Frederick Street intersection works along with the proposed new access road will mitigate the manoeuvring and safety effects at APL and AJ Allen's Ward Street access. These works will also mitigate the existing adverse effects on traffic having to navigate the temporary arrangements in place around the Frederick Street Intersection and the closure of the Ward Street Over Bridge. In particular once the traffic signals are turned on they will provide a controlled intersection replacing the original arrangement of give way signs and resulting in an increase in safety benefits to all road users and pedestrians using the intersection including APL and AJ Allen.*

Again I agree with that conclusion. In my view the designation proposal (including the associated works proposed for the Anzac Avenue/Frederick St intersection that are not part of the NoR) will have significant positive effects on access to and from the APL site, and on the site as a functioning industrial property.

## **6.2 Effects on Other Frederick Street Intersection Landowners**

The NoR also assess the effects of the proposal on other Frederick Street intersection landowners, despite these changes not being part of the NoR. The previous discussion in relation to changes proposed to the intersection and the anticipated result of those changes on the APL and AJ Allen access are also relevant here.

### ***Hocken Library (University of Otago)***

The University of Otago submitted in support of the proposal. While their main focus was to ensure that the objective of improving the pedestrian environment around the University Plaza and Stadium is achieved, they did confirm that Hocken Library staff have reported no concerns about the bypass (being the formed section of the Arterial that is Designation 1) beyond their continued frustration with the lack of traffic lights and its impact on the safety of Library users. The NoR notes that this concern during consultation with the University of Otago and states that "[T]he perception is staff and other people trying to walk to the library and crossing to the Stadium Precinct will be safer once the traffic signals can be turned on". Confirming the NoR, which provides for secondary access to the APL property, should ensure this will happen.

While the proposed new access road provided for under Designation 2 is not yet constructed, it is not expected to affect the Library's existing vehicle access and parking arrangements, which is from Parry Street, now a cul-de-sac. The NoR notes that "[D]uring consultation over the proposed construction of the new access road (Designation 2) the University did not raise concerns on this issue. Also the proposed mitigation measures for construction including dust suppression are considered to mitigate any effects on the Library arising from construction. Therefore I consider the effects from the construction of the new access road on the Hocken Library to be less than minor." This opinion is confirmed by the fact that the University's submission did not mention any issues with the construction of the new access road.

Overall I agree with the NoR's position that "[T]he effect of allowing Designation 1 and 2 will however have the positive effect on the Hocken Library of allowing for the traffic

*signals at the Frederick Street Intersection to be turned on with the resultant increase in safety benefits for intersection users including University staff who use the intersection regularly."*

### **Mobil Service Station and Automotive Solutions**

Neither of these two businesses made submissions on the NoR despite the proposal to turn on the traffic signals at the Frederick Street intersection affecting their site access. This is possibly because they have been consulted on the proposed changes and may understand that they are not the subject of this process, given their access is to an existing legal road not subject to the NoR. The proposed new access road is some distance from these sites and is unlikely to affect the traffic and access arrangements to their site despite the concerns about 'stacking' from APL.

Turning on the traffic signals at the Frederick Street intersection will provide controlled breaks in traffic flow, which will allow vehicles more opportunity to turn safely into the Frederick Street access for these sites. The NoR acknowledges however that at times these entrance could potentially be blocked by traffic queuing waiting for the traffic signals to turn green. The NoR states that the consultation meetings with Mobil Service Station raised the following access arrangements concerns:

- *The tight turn to and from the service station on Anzac Avenue. In particular truck and trailers turning in sometimes cross the centre line and, when exiting, the site can potentially block the intersection in this location.*
- *Potential for vehicles queuing at the traffic signals blocking their Frederick Street exit.*
- *The owner of the service station would like the DCC to consider allowing vehicles to exit and turn right using the current entrance access off SH88.*

The NoR states that the RA has agreed to monitor the first two issues once the traffic signals are turned on as part of their normal function as the RCA. The last request is also to be considered by the DCC under their normal role as the RCA.

With respect to the consultation meetings with Automotive Solutions, the NoR advises that they would like the traffic signals turned on as soon as possible to help with the safety issues around the Frederick Street intersection. Their letter (undated) at Appendix F of the NoR highlights the confusion at the intersection now and indicates that "there are more 'near misses' now than when there were no traffic lights at all".

While acknowledging that the issues raised are part of the RA's normal role as RCA and fall outside this NoR process, the NoR concludes that the effects raised, when weighed against the increase in safety benefits to intersection users if the traffic signals are turned on, will be no more than minor. I agree and consider it more appropriate to allow any issues at these sites to be resolved in the normal way by the RCA.

### **Laserforce**

Again the owners of the Laserforce business on the south west corner of the Anzac Avenue/Frederick Street intersection did not make a submission on the NoR. The new access road provided for by Designation 2, being on the opposite side of the intersection and well to the east, will not affect the Laserforce site or business.

The NoR sets out the concerns of the Laserforce owners as identified through the consultation process. These concerns generally relate to the need for a safe and reliable access to their business. The previous owners raised concern in respect to the difficulties experience without an operational set of traffic lights at the intersection.

The NoR concludes that "*Confirmation of Designation 1 and Designation 2 will provide a more controlled intersection allowing for vehicles and pedestrians a more safe opportunity to enter and exit the Laserforce access safely. The effects on Laserforce are therefore considered to be less than minor.*" I agree.

### 6.3 Effect on the State Highway Network

The effect of the proposal on the SH network is discussed in Section 7.3 of the NoR. As the Arterial is to be handed over to the NZTA to become an extension to SH88, they have been fully involved in the process. The road has been constructed to NZTA standards (which is obviously necessary to facilitate the transfer process) while a number of amendments have been made to traffic management controls, both within the NoR land and at the Frederick Street intersection, as a result of consultation with NZTA. These are detailed in the NoR and are not repeated here.

The NZTA have submitted in support of the NoR and consider the designation necessary to assist in the continued management and operation of the 'Harbourside Arterial Link'. While highlighting the limitations of Anzac Avenue as the current designated route, they submit the new link will improve safety, efficiency and functionality of network and will provide an alternate route, which improves travel times, to and from the Port.

They request that Designation 1 be confirmed with no conditions and that Designation 2 be confirmed with a slight amendment to condition (c) to reflect that road markings on Layout Plan 7/583/3704, Sheet 1, R2 are indicative only. Mr Evan Matheson (a Projects Engineer with the Transportation Operations Department of the RA) confirms that they have no issue with this modification.

Clearly confirmation of the NoR (including making the traffic signals operational) will allow the Arterial to be formally handed over to the NZTA. It will then be managed as part of the National State Highway Network which will have positive social and economic effects for the local community.

### 6.4 Effects on the Roding Network

I note that the creation of the wider Harbourside Arterial Link was identified in Dunedin City Council's Transportation Strategy 2006 as a key means of achieving the Strategy's objective to 'provide for the competitive movement of goods, services and people by investing in key routes that improve transportation flows'.

The main purpose of the original designation for the entire network is to improve traffic flow from the Southern Motorway to Ravensbourne Road/SH88 and Port Chalmers, and from Dunedin's southern suburbs to the central city and North Dunedin. The outcome expected is a network that flows more smoothly and provides a safer than the previous route.

However the evidence suggests, as do the submissions in support of the NoR, that this objective has been compromised in this location because of the temporary layout at the Anzac/Frederick Street intersection. A number of submitters have raised safety and efficiency concerns in relation to the current layout. Observation of the intersection in action confirms these views.

The Transport Assessment attached to the NoR concludes on page 27:

*"The need for the temporary layout at the SH88/Frederick Street intersection is due, to a significant extent, to the issues incurred with access to the Anzide Properties. The provision of a secondary access to 80 Anzac Avenue will remove the need for trucks to reverse within the public road, allowing Ward Street to be reopened, and in turn allowing the traffic signals to become operational. This will enable the full benefits of the SH88 Realignment project to be realised, including safety benefits at the SH88/Frederick Street/Ward Street intersection, and it will reduce the current pressure on the western Ward Street ramp".*

Designation 2 has been promoted to provide an appropriate and safe secondary access to the APL land. This will enable the intersection traffic signals to be turned on, allowing the intersection to be operated as it was designed, which will immediately improve safety at the intersection. The Ward Street over bridge can also be re-opened allowing disrupted local traffic routes to be re-established to and from the industrial area between the harbour and the Arterial. Hence, confirming the designation will not only address the wider network issue and the specific issues with the intersection, but

will address effects on the local road network that have arisen as result of the temporary layout.

In this context it is also appropriate that I refer to the submission of Mr Douglas. In my view the majority of issues Mr Douglas submission raises relate to the wider network. However he does raise two issues that are specific to this proposal – the substitution of the traffic lights with a roundabout and questions whether the proposal will cater for future demands. Mr Evan Matheson has advised that the roundabout is a poor option as roundabouts do not cater well for cyclists or pedestrians and can reach traffic capacity quickly. Intersection modelling determined that traffic signals would cause less traffic delays, on average, than a roundabout. With respect to future demands, Mr Matheson advises that the design caters for anticipated traffic demand from Anzac Avenue and Frederick Street and considers likely roading network changes over the next 10 to 15 years.

### **6.5 Effects during Construction of the new Access Road**

The NoR states that construction for the access road will take approximately 8-10 weeks and will involve approximately 700m<sup>3</sup> of earthworks. No submission raised concern with the construction of new access road and I note that it is not located close to any sensitive activities, with the Hocken Library being the closest but who have not raised any concern in this regard.

The NoR addresses the normal effects of road construction including access, earthworks/dust, noise, traffic and cultural/heritage effects. A number of these issues were addressed during the previous alteration process (cultural and heritage effects), while the preparation of a construction management plan in accordance with NZTA's Code of practice for Temporary Traffic Management is to be prepared to address others.

Given the location of the site (an Industrial zone heavily influenced by transportation infrastructure), the nature of the immediate neighbours (industrial activities and transport infrastructure), the temporary and short duration nature of the activity, and the mitigation proposed, I am of the view that the effects of construction will be minor.

### **6.6 Effects of the Ravensbourne Road Roundabout and Storm Water Infrastructure**

The High Court's decision to quash the alteration decision also affected the roundabout at the Ravensbourne Rd (NE) end of the Arterial even though that was not in contention. The storm water infrastructure designation was inadvertently uplifted as part of a Council review process on the need for the remainder of the Arterial Designation D845 in August 2010. This NOR seeks to re-establish the designation over both these works on the basis that they are essential to the operation of the existing Arterial.

No submissions were received on these aspects of the proposed designations. Both works serve as critical elements of the wider arterial network and are constructed and fully operational. In my view the environmental effects of these works are positive and need not be considered in any further detail.

### **6.7 Effects on Pedestrians and Cyclists**

As I have outlined earlier in this report, matters relating to the control of pedestrian and cyclist safety within road corridors are carried out as part of the Council's road controlling function, in accordance with the provisions of the Local Government Act 1974 and Rule 20.5.1 of the Transportation section of the DP. Hence they are not part of NoR and do not need consideration. However I have briefly addressed the issues raised in submissions for completeness' sake.

The Otago Regional Council submission requests several modifications to the designation in relation to the pedestrian environment. A number of these submission points do not appear to relate to the area of land subject to the NoR. They have,

however, commented on the lack of pedestrian access across the front of the APL property and on the seaward side of designation down to the cycle refuge. They dispute the statement in the Traffic Assessment report that few pedestrians will wish to cross in front of the APL site. What the report actually said was that *"From observation, few pedestrians currently cross the SH88 Realignment (ie on the northern side of the intersection) and it was recommended to Dunedin City Council that a pedestrian crossing of Ward Street should be provided. This crossing has now been incorporated in the scheme design (see Appendix B).*

*There is no crossing proposed across the access to the Anzide Properties. Given the low volumes of traffic entering and exiting these sites, we do not consider this to be a significant issue. This is especially the case since with the removal of the crossing previously proposed across the SH88 Realignment, pedestrians will now have no reason to cross the Anzide Properties access."*

Having observed the existing situation and reviewed the proposed pedestrian layout, safety for pedestrians crossing this intersection is likely to be vastly improved due to the protection offered by the installation of traffic signal.

With respect to the new alignment itself, I tend to agree with the Traffic Assessment reports conclusion that Anzac Avenue provides the right environment for pedestrians rather than this part of the roading network, given its function. There would not seem to be any need for pedestrians to access the new realignment despite the comments made by the ORC regarding supposed pedestrian traffic from the east.

Some submitters also raised concerns for the safety of cyclists, in particular Mountain Bike Otago ("MTBO"). Again most of the specific issues raised are not relevant to the NoR but are addressed briefly here. With respect to the general concern relating to the Anzac Avenue/ Frederick Street intersection the provision of traffic signals will have the likely benefit of enhancing the safety of cyclists. However if cyclist perceive it as an unsafe intersection, they can avoid it by using alternate routes.

MTBO note that the designated path appears to cater for commuters and doesn't lend itself well to Signal Hill reserve as a destination. In response to this, Mr Matheson has advised that the objective of the cycle network for this project was to link the central city with the Ravensbourne shared path. A specific link to the Signal Hill reserve was not a consideration for this work but is likely to be addressed as part of the wider North Dunedin cycle network upgrade programmed for 2016/17.

With respect to their observation that the incomplete cycleway on Fryatt Street diverts cyclists into a complex intersection, Mr Matheson advises that the Council is about to construct a 3.5m wide new shared path linking Fryatt St/Wickliffe St and Minerva St and will provide cyclists with a safe alternative route to the Logan Park area that avoids the Frederick St/Anzac Avenue intersection. This was planned in conjunction with the original work on the realignment but property easement issues prevented it from being carried out at the time.

MTBO also suggest that the location of the SH88 cycle lane dividing two lanes of traffic and its current width is out of line with the current City Cycle Safety Strategy. Mr Matheson advises that the intersection is to be monitored to establish whether the installation of thin flexible lane posts along the edge of the cycle lane (similar to those recently installed along the one way system in central Dunedin) is warranted. He also notes that cycle lanes and boxes will be marked when the traffic signals are turned on and the intersection is fully operational.

## **6.8 Pre-construction Environment Effects**

As I have discussed above, my view is that the existing constructed road was in fact constructed lawfully and is now part of the existing environment. However it is accepted that the existence of the road does not create a legal presumption that it is acceptable or promotes sustainable management and accordingly there is the potential that it may be required to be removed as a result of this process.

However I would reiterate that the designation that was quashed was for an alteration to the designation but that this did not introduce a new road to the location - it merely enabled its alignment to be changed and moved slightly further north east on a gentler curve. No one has submitted that there should be no road here at all. APL appears to be suggesting that it be reinstated along the original alignment, which passed through their property.

The most significant difference between the two alignments appears to be that the new alignment resulted in the loss of the building at 14 Parry Street which allowed that site, along with 20 Parry Street, to be used to create a new intersection linking Frederick Street and Anzac Avenue to the new arterial. Also, the works included the closing of Parry Street to through traffic (as was described in the original designation application), which lead to Parry Street becoming a cul-de-sac at its western end. (The alteration also provided for the roundabout at the Ravensbourne Road/Arterial intersection and the construction of the storm water infrastructure but these works are not in contention here).

There is very little difference in the two options in terms of the displacement of industrial activities in the area. As I noted above, the realignment in fact has a positive effect on the APL site by ensuring it remains viable for industrial use.

The decision on the alteration assessed the environmental effects of the proposal in relation to a number of issues. In relation to effects on landscape values it stated:

*"The area is dominated by existing industrial activities and is now the location of the Forsyth Barr Stadium currently being constructed. Other key elements include Anzac Avenue, the main south rail line and other local roads. These elements sit within a wider urban landscape that include the presence of the Harbour to the south and Logan Park to the north.*

*The site is not identified on the District Plan Planning Maps as being an area of Outstanding Natural Features and Landscapes.*

*The proposed works will occur in an already heavily modified landscape. Upon completion, the Arterial alignment will not be out of context with the nature of the existing area. In addition, landscaping is proposed on areas of land within the designation not utilised by the road (see Appendix 5 of the application to alter the designation).*

*Overall, it is considered that the change to the landscape effects of the designation that would result from the proposed alteration would be no more than minor."*

With respect to visual and amenity effects, the decision noted that:

*These intersections will change the appearance of the area, but will not alter its existing visual character, which is characterised by industrial yards, parking areas and buildings, existing roading and the railway line. In addition, any land within the designation not required for roading will be landscaped and planted at the appropriate planting time.*

*The finalised intersection design will bring the Arterial somewhat closer to the industrial site at 20 Parry St. However, the rear of this site would have been immediately adjacent to the new road even without the proposed alteration to the design of the intersection. In addition, the owner and occupiers of the site have provided their written approval of the application for alteration of the designation.*

...

*The only notable change to the visual and amenity effects that would result from the alteration to the designation is the removal of the existing building at 14 Parry Street to accommodate the intersection with Frederick Street and Anzac Avenue. That effect will be discussed in section 6.1.5 of this report.*

Section 6.1.5 of the decision discussed heritage values and concluded, given there was a condition dealing with this issue, that the proposed alteration will have no more than minor effects on built heritage.

In my view the character of the existing environment, which is modified by the work assessed in this decision, confirms the accuracy of the above assessment. If anything, the environment created by the alteration is a more open and pleasant one than that which would have been created by the original alignment, given the removal of the large building at 14 Parry Street.

A range of other effects were also considered and found to be no more than minor. With the exception of the effect on access to the APL site, I agree with those assessments. The only sensitive activity located in the vicinity of the works is the Hocken Library and they (the University) are in support of the proposal. Prior to the alteration works occurring, Parry Street wrapped around the western end of the Hocken. While the arterial will carry more traffic, the environment is not dissimilar.

Overall I conclude that the effects of the proposal in terms of the pre-construction environment are no more than minor.

## **6.8 Positive Effects**

The NoR lists a number of positive effects that will occur if the designations are confirmed. These are largely discussed in the context of the effects assessment above but are set out below:

- *Providing APL a sealed second two way access to their boundary at 80 Anzac Avenue that will allow for safe access to and from the site in both directions. This new access is designed to accommodate large trucks entering or leaving the APL site. Large trucks can enter the APL site when southbound which means restricted left turn in for large trucks via Frederick Street intersection can be avoided. The new access road will also allow for site vehicles to move through the APL site without the need to reverse or carry out a U turn on site mitigating any on-going adverse effect that resulted from the closure 80 Anzac Avenues NE gate during the construction of the Arterial;*
- *Providing for the APL and AJ Allen Ward Street access in the Frederick Street Intersection traffic signal phasing so site vehicles and trucks can safely move into the intersection;*
- *The Ward Street Over bridge ramp can be reopened and used by local traffic wanting to access the harbourside industrial area by this route;*
- *Turning on the traffic signals on a permanent basis at the Frederick Street intersection with consequential improvement of having a controlled intersection and consequential increase in safety at this location for all intersection users;*
- *Legalising the existing section of constructed road (including the roundabout at the NE end of the Arterial) of the Arterial so the existing sections of designation can be joined and the road can function as an arterial;*
- *Including the storm water retention pond back into the Arterial designation as part of the infrastructure supporting the operation of the Arterial;*
- *Formally confirming the movement of arterial and Port traffic away from Anzac Avenue reducing pedestrian conflict near the University, Polytechnic and Stadium.*

I agree with the NoR that the confirmation of the designations will have the positive effects outlined above. A number of the submissions in support seek the confirmation of the designation as they wish to see the Ward Street over bridge re-opened. These submitters confirm that the re-establishment of local traffic routes (by the removal of the temporary intersection layout) will enhance safety and efficiency.

The Port Otago submission highlights that the Port is responsible for 290 jobs and generates direct economic output of \$53m per annum. They state that safe and efficient access is essential for maintaining economic benefits associated with the port.

Confirmation of the designations will also allow the RA to move closer to handing the Arterial to the NZTA. It will then become an integral part of the State Highway network as part of SH88 and allow NZTA to consider removing (in part) the SH88 designation from Anzac Avenue. Removing the designation from Anzac Avenue will then provide the potential to develop the Avenue into a more leisurely boulevard environment, with enhanced amenity values.

Confirmation of the designations will also have a positive economic effect in the sense that the current constructed alignment will not need to be deconstructed and a new alignment built. Mr Matheson advises that he has worked out a rough order of costs if this was to occur. He estimates the costs to deconstruct the existing road and construct the road back on the original alignment (through APL land) as follows:

1. Deconstruct existing road and landscape (250m length) - \$356,000
2. Construct new road on original alignment – 385m length (including link to Parry Street) - \$1,090,000
3. TOTAL estimated rough order of cost - \$1,446,000

Overall I believe confirmation of the designations will have significant positive effects.

## **6.9 Conclusion on environmental effects of the proposal**

In my opinion, the overall environmental effect of confirming the NoR DIS-2013-1 will be positive. Many of the issues raised in the submission are not relevant to the NoR process but are managed as part of the RA's normal role as road controlling authority. However the measures promoted to control traffic at the intersection and manage the safety of pedestrian and cyclists appear to be a vast improvement on the current situation.

## **7. RELEVANT PROVISIONS OF POLICY STATEMENTS AND PLANS**

In accordance with section 168A(3)(a) of the Act, this section of the report considers those provisions of policy statements or plans that are relevant to the proposed designation.

### **7.1 New Zealand Coastal Policy Statement and Proposed New Zealand Coastal Policy Statement**

The NZ Coastal Policy Statement 2010 is not directly relevant to the proposal, as the proposed road corridor is not located within the coastal environment. However one of the benefits of this work is to provide a safe and efficient route to the Port, which is considered essential to the efficiency of the Port. Policy 9 of the NZCPS requires plans to provide for this. It reads as follows:

#### ***Policy 9 Ports***

*Recognise that a sustainable national transport system requires an efficient national network of safe ports, servicing national and international shipping, with efficient connections with other transport modes, including by:*

*(a) ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes; and*

*(b) considering where, how and when to provide in regional policy statements and in plans for the efficient and safe operation of these ports, the development of their capacity for shipping, and their connections with other transport modes. [My underlining]*

## 7.2 Regional Policy Statement for Otago

The following objectives and policies are of the Regional Policy Statement are considered to be relevant to the designation:

### *Objective 9.4.2*

*To promote the sustainable management of Otago’s infrastructure to meet the present and reasonably foreseeable needs of Otago’s communities.*

### *Policy 9.5.2*

*To promote and encourage efficiency in the development and use of Otago’s infrastructure through:*

- (a) Encouraging development that maximises the use of existing infrastructure while recognising the need for more appropriate technology*

### *Policy 9.5.3*

*To promote and encourage the sustainable management of Otago’s transport network through:*

- (a) Promoting the use of fuel efficient modes of transport; and*
- (b) Encouraging a reduction in the use of fuels which produce emissions harmful to the environment; and*
- (c) Promoting a safer transport system.*

The main purpose of the works is to provide a safer and more efficient transportation network. On that basis the designation is considered to be consistent with the above objective and policies.

## 7.3 Regional Plan: Coast for Otago

The Regional Plan relates to activities located within the coastal marine area, and is therefore not directly relevant to the proposed road corridor.

## 7.4 Dunedin City District Plan

The following objectives and policies of the District Plan are considered to be relevant to the designations:

### Sustainability Section

<b>Objective/ Policy</b>	<b>Is the proposal consistent with the Objectives and Policies?</b>
<i>Objective 4.2.1 Enhance the amenity values of Dunedin.</i>	While the new road may not enhance amenity values, it will not detract from them given the existing environment and the relevant zoning.
<i>Objective 4.2.3 Sustainably manage infrastructure.</i>	The designations are considered necessary to sustainably manage the roading network and associated infrastructure.  The Notice of Requirement is therefore <u>consistent</u> with these objectives and policies.
<i>Policy 4.3.1 Maintain and enhance amenity values.</i>	
<i>Policy 4.3.5 Require the provision of infrastructure services at an appropriate standard.</i>	
<i>Policy 4.3.6 Provide access to natural and physical resources.</i>	

### Manawhenua Section

<b>Objective/ Policy</b>	<b>Is the proposal consistent with the Objectives and Policies?</b>
<p><i>Objective 5.2.2</i> Recognise that sites of waahi tapu exist throughout the City and that these must be protected.</p>	<p>KTKO was consulted as part of the original 2008 NoR and also when the 2010 Alteration of Designation was prepared. KTKO during the 2010 consultation identified that no additional issues arise from that already identified in the 2008 consultation. As a consequence the same accidental protocol condition on the original designation and the Alteration to Designation has been promoted for Designation 2 as part of this NoR. The RA also advises that it will adhere to the existing protocol between Te Runanga o Otakou and the DCC.</p> <p>The Notice of Requirement is therefore <u>consistent</u> with these objectives and policies.</p>
<p><i>Objective 5.2.3</i> Recognise the range of resources regarded as taoka by Manawhenua.</p>	
<p><i>Policy 5.3.1</i> Consult with Manawhenua regarding natural and physical resource issues of importance to them.</p>	
<p><i>Policy 5.3.4</i> Protect waahi tapu from the adverse effects of land use and development.</p>	
<p><i>Policy 5.3.5</i> Avoid, remedy or mitigate any adverse effects on waahi taoka resulting from land use activities.</p>	

### Industry Section

<b>Objective/ Policy</b>	<b>Is the proposal consistent with the Objectives and Policies?</b>
<p><i>Objective 10.2.2</i> Manage in a sustainable manner the natural and physical resources of the Industrial Zone.</p>	<p>While the proposed works would cause the loss of a small area of Industrial-Zoned land, it is considered that this is outweighed by the benefits of a general improvement of access between the Industrial Zone and both Port Chalmers and SH1, particularly if the Ward Street over bridge is reopened.</p> <p>Designation 2 has been specifically promoted to provide a safe second alternative access to an industrial site (the APL land) to replace the loss of through access. Hence the proposal does not limit the operation of industrial activities on this site.</p> <p>Access to a safe and efficient transportation network is an inherent need for all industrial activity and the arterial will provide this.</p> <p>The Notice of Requirement is therefore <u>consistent</u> with these objectives.</p>
<p><i>Objective 10.2.3</i> Ensure non-industrial activities in industrial areas do not limit the operation of industrial activities.</p>	
<p><i>Policy 10.3.2</i> Exclude activities not part of or associated with industrial activities from the Industrial 1 zone.</p>	

### Transportation Section

<b>Objective/ Policy</b>	<b>Is the proposal consistent with the Objectives and Policies?</b>
<p><i>Objective 20.2.1</i> Avoid, remedy, or mitigate adverse effects on the environment arising from the establishment, maintenance, improvement and use of the transportation network.</p> <p><i>Objective 20.2.4</i> Maintain a safe, efficient and effective transportation network.</p>	<p>The purpose of the original designation was to improve traffic flow (and therefore efficiency) from the Southern Motorway to Ravensbourne Road/SH88 and Port Chalmers, and from Dunedin's southern suburbs to the central city and North Dunedin. The purpose of this designation is to allow the Arterial to become fully designated so these benefits (safety and efficiency) and the strategic importance of the route can continue to be protected for the future.</p>

<p><i>Policy 20.3.1</i> Avoid, remedy or mitigate the adverse effects on the environment of establishing, maintaining, improving or using transport infrastructure.</p> <p><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.</p>	<p>The construction of the new access road to provide an alternative access to APL (and the proposed mitigation measures at the Ward Street access and intersection which are not part of the NoR) will provide appropriate mitigation of any effects associated with the development and operation of the route as an arterial.</p> <p>The Notice of Requirement is therefore <u>consistent</u> with these objectives and policies.</p>
<p><i>Objective 20.2.3</i> Achieve integrated management of the roading network, including pedestrian and cycle use, with rail, air and sea networks.</p> <p><i>Policy 20.3.8</i> Provide for the safe interaction of pedestrians and vehicles.</p>	<p>The designations are the final part of designating an Arterial route that provides an improved link between SH1 and Port Chalmers. The NoR application provides a description of the pedestrian routes and cycleways that would be provided in and around the area affected by the designation. These are an improvement on the current situation.</p> <p>The Notice of Requirement is therefore <u>consistent</u> with this objective and policy.</p>
<p><i>Policy 20.3.6</i> Encourage heavy traffic to use appropriate routes.</p>	<p>The Arterial is intended to be used by heavy traffic travelling between Port Chalmers and SH1. It would attract such traffic away from routes through the city centre and campus areas. Designations 1 and 2 support the arterial in this role.</p> <p>The Notice of Requirement is therefore <u>consistent</u> with this policy.</p>
<p><i>Policy 20.3.7</i> Maintain and enhance the safety of users of the transportation networks at railway level crossings.</p>	<p>Confirmation of this designation will enable the Ward Street over bridge to be reopened thereby reducing pressure on the railway crossings at St Andrew Street.</p> <p>The Notice of Requirement is therefore <u>consistent</u> with this policy.</p>

[155] Environmental Issues Section

<b>Objective/ Policy</b>	<b>Is the proposal consistent with the Objectives and Policies?</b>
<p><i>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.</p> <p><i>Policy 21.3.3</i> Protect people and communities from noise and glare which could impact upon health, safety and amenity.</p>	<p>This part of the Arterial is located within an industrial zone and adjoins the main south railway corridor. No residential activities are located nearby. Hence amenity values will not be affected. It has the positive effect of removing heavy traffic from the more pedestrian orientated environment of Anzac Avenue around the campus area.</p> <p>The Notice of Requirement is therefore <u>consistent</u> with this objective and policy.</p>

## Stadium Section

<b>Objective/ Policy</b>	<b>Is the proposal consistent with the Objectives and Policies?</b>
<i>Objective 27.2.3 The effects of activities within the Logan Point area are managed to avoid conflict</i>	The location of Designations will remove an area of vehicle and pedestrian conflict around the stadium and do not conflict with the stadium or other activities within the Logan Park area.  The Notice of Requirement is therefore <u>consistent</u> with this objective.
<i>Policy 27.3.5 Control the visual, traffic noise and nuisance effects of structures and activities that establish at Logan Point.</i>	One of the main purposes of the Arterial is to take heavy traffic travelling between the SH 1 and the Port away from Anzac Avenue and Logan Point. The Roundabout at Ravensbourne Road provides for the efficient flow of traffic so should reduce nuisance effects.  Therefore Designations 1 & 2 are <u>consistent</u> with this policy.

In my opinion, the proposed designation is consistent with all relevant provisions of applicable policy statements and plans, particularly the Dunedin City District Plan.

## 8. CONSIDERATION OF ALTERNATIVE SITES, ROUTES OR METHODS

Section 168A(3)(b) of the Act requires consideration of whether adequate consideration has been given to alternative sites, routes or methods for undertaking the proposed work. This assessment is only required if the requiring authority does not have an interest in the land sufficient for undertaking the work or it is likely that the work will have a significant adverse effect on the environment. In this case all of the land required for the designation is currently owned by the Dunedin City Council and I have concluded above that the effects of the proposal on the environment will be positive. Hence it is not considered necessary to carry out this assessment. However I will briefly consider the issue given the consent authority may find that there are significant adverse effects.

The documentation supporting the Notice of Requirement outlines alternative sites and routes that have been considered as required by Form 18 of the Regulations. With respect to the storm-water retention pond and the Ravensbourne roundabout, no alternatives were considered on the basis that these works are constructed in areas that are fixed by the existing Arterial route. These works are located on land owned by the RA and do not have adverse effects that could be considered to be significant. Furthermore I note that no submission have been received on these aspects of the works which indicates acceptance of their existence. Hence I agree with the RA that it is not necessary to consider alternatives for these works.

The RA considered three alternatives to the preferred option for Designation 1 as follows:

- Reinstatement Route along Anzac Avenue (also referred to as No Link);
- Original Designated Route (i.e. Arterial to be constructed through APL Land);
- Status Quo (i.e. Temporary Access Arrangements to APL become Permanent).

My understanding from case law is that when assessing this issue, the Consent Authority must not re-examine the alternatives which exist in an attempt to decide for itself which the best alternative is. (This principle was established by the Waimairi District Council v Christchurch City Council C30/82 case decided under the former Town and Country Planning Act 1977 and has been cited by a number of RMA cases). The consent authority cannot consider the merits of the assessment of alternatives process but can only consider whether that process was adequate, by which case law has defined as not being arbitrary.

The submission of APL believes the process "was incomplete, cursory and was arbitrary" because it was unlawfully influenced by the physical alignment. They went on to say that the objective to "Avoid having to purchase private land" lead to an exclusion of alternatives and the exclusion of a number of possible alignments for Designation 1. The submission does specifically list what other alternatives should have been considered but suggests that the original alignment is considered the safest and most appropriate alignment for Designation 1.

However it would appear to me that the RA considered the only practical alternatives that were open to them, which included the original alignment. Case law has confirmed that the Consent Authority does not have the ability to question the objectives of the RA. Even if it did, it would seem a prudent approach for a RA, who is a City Council and is therefore accountable to its ratepayers, to avoid having to buy additional land to facilitate a public work when it already owns land that can adequately accommodate the work. This approach is consistent with the Courts findings in Minhinnick v Minister of Corrections A043/04 which found that a RA could properly make a policy decision to exclude from consideration those properties that would have to be taken compulsorily. In any event, the proposed (existing) alignment was found to improve a deficiency with the originally designated route.

The documentation supporting the Notice of Requirement outlines what appears to be a comprehensive and extensive consideration and assessment of possible alternative options for Designation 2. These are as follows:

- Reinstate Route to Anzac Avenue;
- Slip Lane;
- One way or Two Way Lane Access to APL Land (Also referred to as 2G);
- APL and AJ Allen Ward Street Access Options;
- 2012 Consultation Option.

These options include a range of different approaches to providing access to APL's land. The NoR states that each option considered the various effects on access to APL's land and whether a suitable safe access can be provided to replace the NE gate from 80 Anzac Avenue onto Parry Street.

Having reviewed the relevant documentation, I am satisfied that assessment of alternatives for Designation 2 was not arbitrary and adequately considered alternative options to provide access to APL's land.

## **9 NECESSITY OF THE WORK AND DESIGNATION FOR ACHIEVING THE REQUIRING AUTHORITY'S OBJECTIVES**

The proposed designations are a part of the wider Harbourside Arterial Link, whose creation is identified in Dunedin City Council's Transportation Strategy 2006, as a key means of achieving the Strategy's objective to 'provide for the competitive movement of goods, services and people by investing in key routes that improve transportation flows'. This objective itself has been designed to contribute to the achievement of the 'Economic Well-Being' community outcome, which is identified in Dunedin City Council's Long Term Council Community Plan 2006-2016.

The NoR lists the high level objectives for the designations (which also applied to the original 2008 Notice of Requirement for the whole arterial) as follows:

1. *To reduce current congestion on the existing arterial network through Dunedin City allowing an improvement in the safety and efficiency of the existing network;*

2. *Remove heavy traffic from the inner city and give it a separate route;*
3. *To improve access between the city centre and the east, southeast, and southern suburbs, including the Peninsula, Waverley and South Dunedin;*
4. *Improve access from the Southern Motorway to the upper and lower port areas;*
5. *To assist with construction of part of the "around the harbour walkways and cycle ways" connections with the central city;*
6. *To allow land required for the Dunedin Harbourside arterial to be identified in the Dunedin City District Plan which will give a clear indication to the public of the requirement for this land to be used to construct this road network.*

These specific designations are only a small part of the wider road network and as a consequence the NoR contains specific objectives for these designations as follows:

7. *To realign SH88 away from Anzac Ave to avoid conflict and congestion with Stadium and University pedestrian traffic;*
8. *To provide an improved design including the intersection at Frederick Street and Ravensbourne Road with the proposed Arterial;*
9. *To connect the existing designations so the road can function as an arterial;*
10. *To provide land for a retention pond to improve storm water quality;*
11. *To avoid having to purchase private land.*

Having regard to the specific objectives above, the actual work seems reasonably necessary to avoid conflict and congestion with Stadium and University pedestrian traffic and to provide for an improved intersection design. The use of the designation process (as opposed to the resource consent process) is necessary to achieve the objective of connecting the work with the existing designation to enable the road to function as an arterial. Clearly to achieve the objective of having to avoid purchasing private land, the actual work must be on land owned by the RA which it is (and as I have previously commented, this is an appropriate objective for a RA).

It is therefore considered that the both the works and the designation are reasonably necessary for achieving the objectives of the requiring authority.

## **10. OTHER MATTERS CONSIDERED NECESSARY IN ORDER TO MAKE A RECOMMENDATION ON THE REQUIREMENT**

[170] A number of matters have been raised in submissions that do not directly relate to the environmental effects of the proposed designation, but are nevertheless relevant to an assessment of the proposal.

### **10.1 Consultation**

It is noted that there is no requirement in the Act to consult on Notices of Requirement before they are publicly notified. However, it is clearly desirable that affected parties should be consulted at this stage, particularly for a project of the scale of the Arterial, and the NoR application indicates that pre-notification consultation did take place. However some specific concerns were raised in relation to the consultation process and are addressed below.

APL submitted that it is not clear whether the RA consulted with the University and the NZTA upon the notified NoR or a previous design of Designation 1. Mr Matheson confirms that both NZTA and the University saw the current set of plans prior to notification but does acknowledge that in some earlier correspondence from NZTA they do refer to some details on an earlier set of plans that was used for preliminary consultation purposes. Given that the NZTA have a vested interest in this process and

reviewed the initial traffic assessment report prepared, I am comfortable that they have been appropriately consulted with.

The submission of AJ Allen stated that they are not convinced they were consulted with and that they were given a copy of some plans approximately 6 months and were told that someone would come to talk to them. They submit that it is not clear how these plans addressed previous issues raised and state that no one came to discuss the new plan. This position is not consistent with the consultation log submitted with the NoR (Appendix F). Mr Matheson confirms that he met with AJ Allen representatives in September 2012 to discuss the current plans and then again in July 2013 to advise that they were lodging the application and that the plans had not changed. Unless evidence to the contrary is produced, I accept that appropriate consultation was undertaken with AJ Allen.

Reillys Towage and Salvage Ltd, in their changed submission, stated "I believe all DCC facts were not disclosed during my discussion with Mr Matheson." Mr Matheson advises that he recalls the discussions with Reilly's and that it was the same conversation he had with the other business owners in the area. The range of points he covered in those meetings (held between 12 and 27 August) are outlined in a general file note attached. He advises that he is unsure of what he did not disclose and states that if that did occur, then it would have been unintentional.

Overall I am comfortable that the consultation undertaken was fair and reasonable.

## **10.2 Regional Land Transport Strategy**

Both the NoR and the Otago Regional Council ("ORC") submission consider the 2011 Regional Land Transport Strategy (RLTS). The 2011 RLTS was prepared by the ORC and sets the direction for Otago's land transport system for the next thirty years. The RLTS has as its goal:

*"A safe transport system that provides connections between communities, leading to regional prosperity, the creation of wealth and employment, social inclusion and the minimisation of adverse environmental effects"*

The NoR has assessed the relevant outputs listed in the RLTS and concluded that the designations are consistent with this strategy. Having reviewed the strategy, I agree with the assessment contained within the NoR and adopt it accordingly. In particular I believe the proposed designations are consistent with the following outputs:

### **Output 3.3.1**

*Efficient flow of traffic on the entire transport network, including state highways and trains on the main truck rail line*

### **Output 3.3.3**

*Unimpeded and efficient flow of goods to/from Port Otago, by road and rail*

However the ORC believes the RA has overlooked a number of sections of the RLTS (Outputs 2.2, 5.1 and 6.1) that concern active travel by ensuring people have choice in the mode of travel available that cover both active and motorised transport while utilising space in urban areas, and key corridors in alternative ways with less reliance on private motor vehicles. They submit that the NOR application "treats non-motorised (or 'active') transport as being of secondary consideration to motorised traffic" and advise that "the idea that walking and cycling is of lesser importance than motorised transport is not a view ORC supports, nor an approach the RLTS 2011 takes".

As I have previously outlined, I believe the provision of pedestrian and cycle facilities within the road corridor is part of the day to day functions of the RCA. Having said that, these issues have been discussed in section 6.7 above, which also identifies a number of future works that are proposed to cater for these modes of transport.

However it is important that the purpose of this part of the arterial is not lost sight of, which is to divert traffic, in particular heavy traffic, away from the more pedestrian environment of Anzac Avenue around the Campus and Stadium locations. Furthermore it creates an alternate and more efficient route to the port, so its focus will obviously be on providing for "motorised transport". Clearly parts of any particular transportation network will cater for different categories of traffic. However in my view that does not make those parts of network inconsistent with the RLTS. The network as a whole must be considered before such a judgment can be made.

## **11. DECISION MAKING FRAMEWORK – PART 2 OF THE ACT**

The assessment of the proposal is subject to Part 2 of the Act. The proposal must promote the Act's single purpose - *the sustainable management of natural and physical resources*. Section 5 defines sustainable management as:

*managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while -*

- a. *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c. *Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

Section 5 involves an overall broad judgement of whether or not a proposal promotes the sustainable management of natural and physical resources. Such a judgement allows for a comparison of conflicting considerations and the scale or degree of those conflicting considerations and their relative significance in the final outcome. The other sections in Part 2 of the Act, comprising sections 6, 7 and 8, inform and assist the purpose of the Act. These subsequent sections must not obscure the sustainable management purpose of the Act. Rather, they should be approached as factors in the overall balancing exercise to be conducted by the Consent Authority and may be accorded such weight as the Consent Authority thinks fit when assessing any competing considerations under Part 2, always bearing in mind the purpose of the Act. Where Part 2 matters compete amongst themselves the Consent Authority must have regard to the statutory hierarchy between Section 6, 7 and 8 as a part of the balancing exercise. These sections are not an end or objective on their own but are accessory to the principal purpose of the Act.

In my view there are few, if any, section 6 matters in play here. Matters relating to sections 6(e) (Maori Culture) and 6(f) (Historic Heritage) have been dealt under the previous NoR applications.

With regard to sections 7(c) and 7(f), the proposed works are located (for the most part) within an Industrial zone that is heavily influenced by transportation infrastructure. On that basis the works will at least maintain the amenity and the quality of the environment in the area affected. However they are designed to take traffic away from the more pedestrian environment of Anzac Avenue around the Campus and Stadium areas. In that regard they will enhance the amenity and quality of the environment of that area.

With regard to section 7(b), I consider the proposed designation will enable the efficient use and development of physical resources. The works, with the exception of the access road provided for by Designation 2, are constructed. It would be an inefficient use and development of resources to require the current alignment to be de-constructed and a new alignment built elsewhere in the location when the only reason the designation was originally quashed was because of access issues to APL properties. Designation 2 resolves those access issues.

If one considers this issue in the context of the pre-construction environment, I acknowledge that the works occupy industrial land and have displaced certain industrial activities. However the use of this land resource for the construction and operation of the new Arterial improves road links between the Industrial Zone, Port Chalmers and SH1, and this will bring efficiency benefits to the city as a whole.

In my opinion the proposal promotes the sustainable management of natural and physical resources. The NoR enables the development of essential transportation infrastructure that provides for the communities social and economic wellbeing (through efficiency gains) and for their health and safety (through an improved traffic safety environment). It does this in a manner that ensures these benefits will be available to future generations while remedying and mitigating adverse effects on the environment and ensuring life-supporting capacity of the environment is not compromised.

### **13. RECOMMENDATION**

That, pursuant to section 168A of the Resource Management Act 1991, the Consent Authority **confirm** the notice of requirement DIS-20013-1.

With respect to **Designation 1**, I recommend that it **be confirmed without conditions**.

With respect to **Designation 2**, I recommend that it **be confirmed with the following conditions**.

- (a) That prior to commencement of any work on site, a construction management plan shall be submitted to the Dunedin City Council. That plan shall include, as a minimum, the following:
  - (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 adjoining properties, including, dust, noise and safety of people visiting the site; and
  - (iii) Outline the process to occur should condition (b) below be invoked.
- (b) That 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 advisers, 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 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 completing 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 Historic Places Trust, and in the case of koiwi tangata (human skeletal remains), the New Zealand Police.

(c) Construction shall occur generally in accordance with plans marked Layout Plan 7/583/154/3704, Sheet 1, R2. **Please Note:** Road markings shown on this plan are indicative only.

#### 14. REASONS FOR RECOMMENDATION

It is my opinion that the designation for *DIS-2013-1* should be confirmed for the following reasons:

- a. The designation is necessary to assist in the continued management and operation of the Harbourside Arterial Link and its confirmation will enable the outstanding issues around the Frederick Street Intersection and Anzide Property Limited access to be resolved. It will also meet the NZ Transport Agency requirements prior to the road being handed over to become part of SH88. The objective of the Harbourside Arterial Link is to provide for the competitive movement of goods, services and people by investing in key routes that improve transportation flows.
- b. The environmental effects of the proposed designation will generally be positive.
- c. The proposed designation is consistent with relevant provisions in applicable policy statements and plans.
- d. The proposed designation is consistent with all relevant matters set out in Part 2 of the Act and promotes the sustainable management of natural and physical resources.

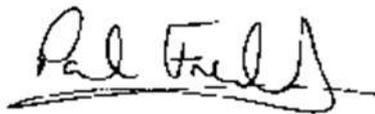
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**Date**

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**Date**