

BEFORE THE DUNEDIN CITY COUNCIL

IN THE MATTER OF of the Resource Management Act 1991

AND

IN THE MATTER OF A Notice of Requirement by the Otago Regional Council
for a designation pursuant to section 168 of the Resource
Management Act 1991 in relation to a Central City Bus
Hub (DCC Notice of Requirement: DIS-2017-1)

SUMMARY OF STATEMENT OF EVIDENCE BY MEGAN JUSTICE

24 OCTOBER 2017

1. UPDATE TO EVIDENCE OF MEGAN JUSTICE

1.1 Following the provision of my evidence to the Dunedin City Council on the 9th October, I have been in contact with Heritage New Zealand Pouhere Taonga ("Heritage New Zealand") advisor, Jane O'Dea in relation to the suggested designation conditions. Ms O'Dea has advised that she is satisfied with two of the three conditions I have suggested in my primary evidence to address the concerns identified by Heritage New Zealand in its submission. These two conditions being:

3) Heritage New Zealand Pouhere Taonga shall be consulted prior to any Outline Plan being submitted under section 176A of the RMA for proposed works immediately adjacent to any protected heritage façade identified in the District Plan.

4) Where any new structures are to be located adjacent to any heritage item scheduled in the District Plan, the structure shall be sited, designed and finished so as to be sympathetic to the heritage values of the Heritage item, taking into account the operational requirements of the bus hub. Although the preference is for structures to not be located in the road reserve in front of the heritage items, if there are operational requirements, then the structures should be designed to allow maintenance of the heritage item. For structures to be located beside a heritage item, the structures should be designed and/or sited to enable maintenance of the heritage item.

1.2 Ms O'Dea remains concerned with my alternative wording for the accidental discovery condition. She considered that this condition starts from the premise that an archeologically authority will not be required. I accept this concern, and therefore suggest the following wording for this condition, which is the wording suggested by Heritage New Zealand and Mr Buxton:

2) If an unidentified archaeological site is located during works, the find shall be managed in accordance with the conditions of the

relevant archaeological authority as granted by Heritage New Zealand Pouhere Taonga. Alternatively, if the works did not require archaeological authority pursuant to the Heritage New Zealand Pouhere Taonga Act 2014, then:....

- 1.3 I have attached the correspondence from Ms O'Dea to my Summary of Evidence statement, as **Attachment 1**.

2. SUMMARY OF EVIDENCE OF MEGAN JUSTICE

- 2.1 For this evidence summary, I have focused on the actual and potential environmental effects anticipated to arise from the proposed designation for the Central City Bus Hub, and how these effects can be appropriately managed.

DESCRIPTION OF THE SITE

- 2.2 The site for the proposed Bus Hub comprises the Great King Street road reserve, within the block bound by Moray Place and St Andrew Street, and a small part of Moray Place road reserve. Small parcels of privately owned land are also part of the notice of requirement.
- 2.3 The site is set a block back from Dunedin's primary retail and pedestrian Street, George Street. Landuses in proximity to the site include retail, hospitality, a supermarket, education activity, community uses within Community House, and the central Dunedin Police Station.
- 2.4 Of note, two protected heritage building facades are located at opposite ends of the Great King Street site, immediately adjacent to the site:
- › the Building Façade above the verandah, of the Refined Rig building; and
 - › the Stephen Inks Building Facade, which is Community House.

DESCRIPTION OF WORKS

- 2.5 The proposed Bus Hub will require changes to the road at the proposed designation site, and modifications to the intersections at either end of

the designation. The on-street parking within the designation site will be replaced with 11 bus bays and two loading bays.

- 2.6 The Preliminary Design Plans that were included with the Notice of Requirement depict one option for the landscaping, street graphics and structures proposed, at the bus hub. The Notice of Requirement also described the full-canopy design option, which Ms Cambridge has presented a preliminary plan for in her evidence. As you have heard from Mr Collings, the requiring authority is currently investigating this option.

ENVIRONMENTAL EFFECTS

- 2.7 I have considered the actual and potential environmental effects arising from the proposed bus hub designation, with a particular focus on the effects raised by submitters and the Council's recommending officer.
- 2.8 22 submissions supporting, neutral or opposing the proposal were received on the Notice of Requirement.
- 2.9 Several submitters expressed support for the establishment of the Bus Hub, including submissions from Public Health South, the University of Otago and Generation Zero. The main reason submitters support the Bus Hub is due to the improvement it is expected to make to the public transport service in Dunedin.

Heritage Matters

- 2.10 The submission from Heritage New Zealand Pouhere Taonga (Heritage New Zealand) sought changes to the location of bus bay 1, which is located immediately adjacent to Community House, the façade of which is a protected heritage feature. Further, Heritage New Zealand suggested a condition be included on the designation to ensure that the two protected heritage features immediately adjacent to the designation site are appropriately managed, for future works, if required.
- 2.11 As I have described in the update to my evidence, I have received correspondence from Ms O'Dea, Heritage adviser for Heritage New Zealand that they are happy with the conditions to manage potential

effects of heritage features, albeit with a change to the wording of the accidental discovery condition.

- 2.12 In my view, actual and potential effects on heritage values can be appropriately managed via the conditions suggested to be imposed on the proposed designation.

Transportation

- 2.13 Messer's Carr, Metherell and Lightowler's evidence is that the potential effects of the Bus Hub on the transportation network have been carefully considered. With the road layout proposed for the Bus Hub and the proposed modifications to some intersections, effects on the transportation network are found to be acceptable. I accept these conclusions.
- 2.14 I also consider that the conditions I have suggested, as set out in Appendix B to my evidence, will ensure that effects on the transportation networks, and effects on the Police Station access within the proposed designation will be appropriately managed. As you have heard from Mr Collings and Mr Logan, any changes to the road network within the proposed designation site will be made in conjunction with the Dunedin City Council, as the owner of the road. The condition recommended by Mr Buxton (refer Condition 7 in Appendix B of my evidence) will ensure that effects of the bus hub on the wider transport network are considered and changes to the road networks beyond the designation site are approved by the Dunedin City Council prior to the bus hub becoming operational.

Noise and Odour

- 2.15 The requiring authority is continuing to work with Community House to resolve potential noise and odour effects on this site. It is my view that that the requiring authority should mitigate noise effects arising from the Bus Hub that affect the established activities in this building, namely the community radio station, and possible odour effects. To ensure this occurs, I agree that the condition suggested by Mr Buxton (condition 7 in

Mr Buxton's report) would address this matter. However, I suggest that this condition is clarified so that it does not become a requirement for all subsequent outline plans, by including the words 'for the establishment of the bus hub' at the start of this condition (refer to the full set of suggested conditions in **Appendix B** of my evidence).

- 2.16 Mr Buxton has suggested including a condition to require a construction management plan¹, and I support this suggestion for works relating to the establishment of the Bus Hub. I suggest that the condition is amended to ensure that a construction management plan is not required for every subsequent outline plan submitted for works at the bus hub. My suggested wording for this condition is:²

As part of any outline plan for the establishment of the bus hub, a ...

- 2.17 I note that should future works, beyond the establishment of the bus hub, justify the need for a construction management plan, this would be provided via the Outline Plan process, as a measure to avoid, remedy or mitigated adverse effects arising from the works³.

Amenity

- 2.18 The Bus Hub proposal includes carefully designed canopies, kiosks, seating, landscaping and graphics to improve the amenity of the environment. Taken as a whole, the design of the Bus Hub infrastructure and landscaping is intended to improve the amenity of this streetscape. The evidence of Ms Cambridge and the comments from Dunedin City Council Urban Design Team Leader Dr Filep have not raised any concerns in relation to the effects of the Bus Hub on the character of this area, although Dr Filep seeks to have further input in the design of structures at the site as the design elements are finalised. In Ms Cambridge's view, the Bus Hub will have a positive effect on the overall streetscape and amenity for users of this part of Great King Street.

¹ Condition 8 of Mr Buxton's report.

² A full set of suggested conditions is included in **Appendix B** of my evidence.

³ RMA s176A(3)(f)

ASSESSMENT OF ALTERNATIVES

- 2.19 Section 171(1)(b) requires adequate consideration to be given to alternative sites, routes or methods if the requiring authority does not have an interest in the land or it is likely that the works will have a significant adverse effect on the environment. The requiring authority does not have an interest in the land.
- 2.20 The Notice of Requirement included consideration of alternative sites for the Bus Hub and alternative methods for providing the services facilitated by the Bus Hub and how the Great King Street site was arrived at. In my view this process was adequate.

RELEVANT POLICY STATEMENTS AND PLANS

- 2.21 An assessment of the proposed Bus Hub against the provisions of the relevant policy statements and plans was provided in the Notice of Requirement. I have reviewed this assessment and I agree with it.
- 2.22 My conclusion is that, subject to the inclusion of the conditions I have suggested, and adopting the assessment provided in Annexure 4 of the Notice of Requirement, it is my view that the proposal is not contrary to the relevant objectives and policies of the relevant policy statements and plans prepared under the RMA.

PART 2 RESOURCE MANAGEMENT ACT

- 2.23 Part 2 identifies the purposes and principles of the Act. I have considered these matters in my consideration of effects on the environment and the relevant objectives and policies of the relevant planning documents.
- 2.24 In my view, the most relevant section 6 matter of national importance to the proposed designation is the requirement to protect historic heritage from inappropriate subdivision, use and development.⁴ No changes to the two protected building facades are proposed as part of the proposal, and the effects of structures adjacent to Community House, if proposed,

⁴ RMA section 6(f).

can be carefully managed as the Bus Hub design progresses to ensure this heritage item is protected. I consider that the suggested conditions of consent will ensure this outcome.

- 2.25 Section 7(b) requires the efficient use and development of natural and physical resources. The use of the site for the Bus Hub is considered to be an efficient use of this central city site, particularly given the roads within the site will continue to effectively function as public roads. Locating the Bus Hub predominantly within road reserve will minimise the displacement of established commercial activities.
- 2.26 As Ms Cambridge has concluded, the proposal will enhance the amenity values of the Great King Street streetscape, aligning with section 7(c) which requires regard to be had of the maintenance and enhancement of amenity values.
- 2.27 Overall, I have not identified anything in Part 2 that the proposed designation is contrary to that cannot be managed with appropriate conditions.

CONCLUSION

- 2.28 Designating the site for the Bus Hub is a necessary part of the requiring authority's planned upgrades to the public transport system in Dunedin, and will provide a central and easily accessible location for a Bus Hub. The requiring authority has identified the Bus Hub as a key component of the city's new public transport system.
- 2.29 I have considered the environmental effects of the proposed designation. Positive effects identified include providing an improved public transport service and enhancing the streetscape of Great King Street. No significant adverse environmental effects have been identified. I consider that the requirements for information for outline plans, set out in s176A of the Act, in combination with the conditions I have suggested, which are specific to the proposed activity and the site, will ensure that the environmental effects of the designation are appropriately managed.

- 2.30 I have concluded that the proposed designation is consistent with the applicable objectives and policies of the relevant policy statements and plans.
- 2.31 I consider that the requiring authority has undertaken an adequate consideration of alternative sites and methods for providing the Central City Bus Hub.
- 2.32 I consider that the proposed designation is consistent with the relevant matters of Part 2 of the RMA and will assist in promoting the sustainable management of natural and physical resources.

ATTACHMENT 1

Megan Justice

From: Jane O'Dea <JODea@heritage.org.nz>
Sent: Monday, October 16, 2017 5:06 PM
To: Megan Justice
Cc: Jonathan Howard
Subject: RE: ORC Bus Hub - HNZPT suggested conditions

Hi Megan

Thanks for your emails and apologies for not getting back to you last week. Comments on the conditions are as follows:

In regards to the amendments you have suggested to condition 5 as recommended in Robert Buxton's report ie:

Where any new structures are to be located adjacent to any heritage item scheduled in the District Plan, the structure shall be sited, designed and finished so as to be sympathetic to the heritage values of the Heritage item, taking into account the operational requirements of the bus hub. Although the preference is for structures to not be located in the road reserve in front of the heritage items, if there are operational requirements, then the structures should be ~~separated from~~ designed to allow maintenance of the heritage item. For structures to be located beside a heritage item, the structures should be ~~separated and recessed form the street frontage~~ be designed and/or sited to enable maintenance of the heritage item.

The desire to provide slightly more flexibility within this condition is understood given that the bus hub will have operational requirements that need to be met. The key consideration from Heritage New Zealand's point of view is that the condition continues to promote sympathetic siting, design and finish of new structures adjacent to heritage buildings in addition to providing for maintenance of the heritage item. Accordingly we don't have an issue with your amendments when combined with your proposed condition below:

Heritage New Zealand Pouhere Taonga shall be consulted prior to any Outline Plan being submitted under section 176A of the RMA for proposed works immediately adjacent to a protected heritage façade identified in the District Plan.

Notwithstanding the above we are equally comfortable with condition 5 as set out in Robert Buxton's report, or the condition addressing the same matter as proposed in our submission dated 18 August 2017.

As discussed at the meeting with Gerard our preferred option would be the full canopy shelter design described at the meeting and which we understand is currently being worked up as an option.

Accidental discovery condition –

Regarding your proposed amendments to this condition - I am a bit unclear what the issue is that the amended wording is supposed to be addressing.

I consider the proposed wording set out in our submission for the accidental discovery condition is clear that there are two possible scenarios ie.

1. If an archaeological authority was needed and was obtained – in this case the conditions of the authority will determine how a find is managed (rather than the accidental discovery condition);
2. An alternative scenario where no authority was needed but something is unexpectedly discovered and the accidental discovery condition becomes the appropriate mechanism for dealing with the find.

I am concerned that the amended wording you have proposed suggests that a decision about whether an archaeological authority is needed can/should be made after an accidental discovery occurs, rather than prior to the commencement of the project. This could lead to difficulties and delays such as work stoppages while an

investigation is carried out and an authority obtained, and could simply lead to a situation where ORC or its contractors are in breach of the Heritage New Zealand Pouhere Taonga Act 2014 if an archaeological authority was not obtained (relying on the accidental discovery condition in the designation) when one should have been.

If there is going to be an accidental discovery condition in the designation then we would like to make sure that it doesn't lead to any confusion or unwitting breaches of the HNZPT 2014, as this is the primary legislation for managing archaeological sites and will ultimately override any such condition in a District Plan.

Based on this I prefer the amended wording for the accidental discovery condition as set out in our submission of 18 August or as recommended in section 10 of the DCC's Consultant Planner's Report.

Please feel free to come back to me if there's anything you'd like to discuss further.

Regards
Jane

Jane O'Dea | Heritage Advisor (Planning) | Heritage New Zealand *Pouhere Taonga* | PO Box 5467, Dunedin 9058 | Ph: (64 3) 477 9871 | DDI: 470 2366 | Visit www.heritage.org.nz and learn more about New Zealand's heritage places

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From: Megan Justice [mailto:megan.justice@mitchelldaysh.co.nz]

Sent: Friday, 13 October 2017 10:30 a.m.

To: Jane O'Dea

Subject: FW: ORC Bus Hub - HNZPT suggested conditions

Hi Jane, did you have any comments on the suggested conditions in my emails below?

Regards,
Megan

 **Megan Justice**
Senior Consultant

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From: Megan Justice

Sent: Monday, October 9, 2017 1:30 PM

To: 'jodea@heritage.org.nz' <jodea@heritage.org.nz>

Cc: 'Gerard Collings' <Gerard.Collings@orc.govt.nz>

Subject: RE: ORC Bus Hub - HNZPT suggested conditions

Hi Jane, thanks for the chat.

As discussed, below is Robert Buxton's conditions, with my suggested amendments.

Where any new structures are to be located adjacent to any heritage item scheduled in the District Plan, the structure shall be sited, designed and finished so as to be sympathetic to the heritage values of the Heritage item, taking into account the operational requirements of the bus hub. Although the preference is for structures to not be located in the road reserve in front of the heritage items, if there are operational requirements, then the structures should be separated from designed to allow maintenance of the heritage item. For structures to be located beside a heritage item, the structures should be separated and recessed from the street frontage be designed and/or sited to enable maintenance of the heritage item.

If you can let me know if you have any comments on the three conditions, that would be appreciated.

Regards,
Megan

From: Megan Justice
Sent: Friday, October 6, 2017 9:16 AM
To: jodea@heritage.org.nz
Cc: Gerard Collings <Gerard.Collings@orc.govt.nz>
Subject: ORC Bus Hub - HNZPT suggested conditions

Hi Jane, firstly, I apologies for not getting back to you sooner with suggested conditions to address Heritage NZ Pouhere Taonga's submission on the Bus Hub NoR. I have set out below a condition that requires consultation between the requiring authority and HNZPT as part of any Outline Plan relating to structures adjacent to protected heritage buildings, and have slightly tweaked the wording of your condition for the accidental discovery condition.

Can you please let me know if you have any comments on these conditions.

Furthermore, we will contact Matt shortly to see if an archaeological authority is required for the earthworks.

Regards,
Megan

Heritage New Zealand Pouhere Taonga shall be consulted prior to any Outline Plan being submitted under section 176A of the RMA for proposed works immediately adjacent to a protected heritage façade identified in the District Plan.

If an unidentified archaeological site is located during works, if an archaeological authority is required for the works, the find shall be managed in accordance with the conditions of the relevant archaeological authority as granted by Heritage New Zealand Pouhere Taonga. Alternatively, if the works did not require an archaeological authority pursuant to the Heritage New Zealand Pouhere Taonga Act 2014, then:

- a) Work shall cease immediately at that place and within 20m around the site.*
- b) The contractor must shut down all machinery, secure the area, and advise the requiring authority.*
- c) The requiring authority shall secure the site and notify the Heritage New Zealand Pouhere Taonga Regional Archaeologist.*
- d) If the site is of Maori origin, the requiring authority shall notify the Heritage New Zealand Pouhere Taonga Regional Archaeologist and the appropriate iwi groups or kaitiaki representative of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (Heritage New Zealand Pouhere Taonga Act, Protected Objects Act).*

- e) *If human remains (koiwi tangata) are uncovered the requiring authority shall advise the Heritage New Zealand Pouhere Taonga Regional Archaeologist, NZ Police and the appropriate iwi groups or kaitiaki representative and the above process under 4 shall apply. Remains are not to be moved until such time as iwi and Heritage New Zealand Pouhere Taonga have responded.*
- f) *Works affecting the archaeological site and any human remains (koiwi tangata) shall not resume until Heritage New Zealand Pouhere Taonga gives written approval for work to continue.*
- g) *Where iwi so request, any information recorded as the result of the find such as a description of location and content, is to be provided for their records.*
- h) *Heritage New Zealand will determine if an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 is required for works to continue.*
- i) *The requiring authority will carry out any archaeological assessment required by Heritage New Zealand Pouhere Taonga.*

Note: It is an offence under S87 of the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy an archaeological site without an authority from Heritage New Zealand irrespective of whether the works are permitted or a consent has been issued under the Resource Management Act.

Heritage New Zealand Regional archaeologist contact details:

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