

**Commissioners' Decision on Plan Change 7:
Dunedin Harbourside
under the First Schedule of the
Resource Management Act 1991**

DATE: 5 February 2008

COMMISSIONERS: Roger Tasker (Chair) and John Lumsden

Table of Contents

1.0 Introduction	3
2.0 Hearing	3
3.0 Decision Overview	5
4.0 Plan Change Overview	5
5.0 Submissions	8
6.0 Discussion of Submissions.....	10
6.1 Support Plan Change	10
6.2 Oppose Plan Change.....	13
6.3 Industry	16
6.4 Zone Extent and Character Area Boundaries	28
6.5 Introduction and Character Areas	32
6.6 Issues	34
6.7 Objectives	38
6.8 Policies	41
6.9 Methods of Implementation	46
6.10 Summary Activity Table	49
6.11 Character Area Rules	50
6.12 General Rules	64
6.13 Assessment Matters.....	73
6.14 Anticipated Environmental Results	75
6.15 Structure Plans	77
6.16 Design Code	81
6.17 Consequential Amendments.....	86
6.18 Schedule 25.1	91
6.19 Heritage Values	95
6.20 Transportation	99
6.21 Road Hierarchy	104
6.22 Kai Tahu	106
6.23 Miscellaneous	108
7.0 Conclusion.....	110

Appendices

A: District Plan Change 7 as Amended by the Decision

1.0 INTRODUCTION

- [1] We were appointed as Independent Commissioners by Dunedin City Council (the Council) and Otago Regional Council to hear Proposed District Plan Change 7: Dunedin Harbourside, three Notices of Requirement and Proposed Plan Change 1 (Harbourside) to the Otago Regional Plan: Coast for Otago. We were appointed by Dunedin City Council to make a decision on Proposed Plan Change 7 and this is our decision report. The decisions on the Notices of Requirement and the plan change to Otago Regional Council have been released as separate decisions.

2.0 HEARING

- [2] The hearing on Proposed Plan Change 7 commenced on 21 July 2008 and was adjourned on 31 July 2008. Dunedin City Council officers participating (in addition to Governance Support Officer, Ms Jenny Lapham) were Mr Paul Freeland (Acting Planning Policy Manager) and Ms Debbie Hogan (Planner – Policy). Otago Regional Council staff were also in attendance.
- [3] We were appointed as Commissioners alongside Dunedin City Councillor Colin Weatherall for the hearing and commenced the hearing as a panel of three. Due to ill health after the first day of the hearing, Councillor Weatherall could not participate in the hearing. After consulting counsel we determined that we would continue the hearing with two commissioners.
- [4] Mr Michael Garbett, Counsel for Dunedin City Council, provided an overall introduction to the various elements of the plan change and main points raised in submissions. Mr Garbett called the following witnesses: Mr Jim Harland (Chief Executive Officer, Dunedin City Council), Ms Janet Reeves (Consultant Urban Designer), Mr Dave Pearson (Consultant Heritage Architect), Mr Keith Ballagh (Consultant Acoustic Engineer) and Mr Don Hill (Transportation Planning Manager, Dunedin City Council).
- [5] Council Planner (Policy) Ms Debbie Hogan provided a summary of the main changes recommended in the Officer's Report, which was prepared by her under Section 42A of the Resource Management Act 1991 (the Act). Ms Hogan also highlighted the following minor corrections to her report:
- the changes recommended in Recommendation 6.8 to the explanation of Policy 26.3.4 were not transferred correctly to the marked up version of the amendments to the plan as contained in Appendix D to the Officer's Report. An amended page D29/30 was tabled at the hearing to replace the original agenda page D29/30.
 - Recommendation 6.17 on page 85 of the Officer's Report omitted reference to the Holcim submission. Reference to Holcim (PC-7-17/4) to be inserted into (iii) of Recommendation 6.17.
- [6] Submitters appearing at the hearing, in order of appearance, were:
- Port Otago Ltd represented by Mr Len Andersen (Counsel), Mr Geoff Plunkett (CEO of Port Otago Ltd) and Mr Don Anderson (Planner);
 - Polarcold Stores Ltd represented by Mr Don Anderson (Planner);
 - Bradken Group represented by Mr Roger Denston (Manufacturing Manager);
 - Mr Phil Page, Counsel for Kaan's Catering Supplies Limited, Crawford Glass Limited and Ors, Ferrum Engineering Limited and Action Engineering Limited. Witnesses were Mr Ian Kemp (General Manager, Ferrum Engineering Limited), Mr Mark Cameron (Managing Director Action Engineering), Mr Graeme Clark (Managing Director Crawford Glass Limited and Ors), Mr Lindsay Kaan (Managing Director Kaan's Catering) and Mr Don Anderson (Planner);
 - Christie Paper Limited represented by Mr Steve Rodgers;
 - Botry-Zen Ltd represented by Mr John Scandrett (CEO);
 - Otago Regional Council represented by Mr Alistair Logan (Counsel), Megan Justice (Planner), Mr Gerard Collings (Manager Support Services), Ms Sarah Valk (Resource Planner - Liaison Officer);

- IPENZ Engineering Heritage Group – Otago/Southland Chapter represented by Mr Darrel Robinson and Mr Lloyd Smith;
- Transit New Zealand represented by Mr Bruce Richards (acting Regional Manager);
- Progressive Plastics Ltd represented by Peter and Paula Anstey;
- Southern Branch New Zealand Institute of Architects represented by Mr Nick Baker and Mr Michael Ovens;
- Mr Michael Ovens;
- Barnett Properties Ltd represented by Mr Neville Marquet (Counsel), Mr Tim Barnett, Mr David Gamble (Traffic Engineer), Mr Barry Chamberlain (Civil Engineer) and Mr Don Anderson (Planner);
- Ms Geraldine Tait;
- Mr Alasdair Morrison;
- Farra Engineering represented by Mr John Whittaker (CEO);
- The Pines Otago Limited represented by Mr David Ehlers;
- Mr Peter Nicholls, who also represented the Otago Sculpture Trust;
- New Zealand Historic Places Trust represented by Mr Owen Graham (Otago/Southland Area Manager), Ms Heather Bauchop (Heritage Advisor – Registration), Mr Jonathon Howard (Heritage Advisor – Conservation), Dr Matthew Schmidt (Regional Archaeologist), Mr Doug Bray (Heritage Advisor - Planning);
- Mr Simon Gilmour;
- Wilson Brothers Limited represented by Mr Mick Wheeler (Branch Manager);
- Mr Barry Simpson;
- Otago Chamber of Commerce represented by Mr Mark Willis (Chairperson), Mr John Christie (CEO) and Mr Doug Hall;
- Mr Craig Ross;
- Department of Conservation represented by Mr Jim Fyfe (Coastal Biodiversity Assets Ranger) and Mr Bruce Hill (Conservation Officer – Resource Management Act Planning);
- Fonterra New Zealand Inc represented by Dr Joan Forret (Counsel), Mr Ben Coleman (Property Manager) and Mr Richard Graham (Supply Chain Manager);
- Holcim (New Zealand) Ltd represented by Mr Warren Gregory (Environmental Consultant) and Mr Richard Stock (Business Development Manager);
- Chalmers Properties Ltd represented by Mr Robert Makgill (Counsel), Mr Andrew Duncan (CEO), Mr Antony Penny (Traffic Engineer), Mr Alan McMahon (Property Consultant), Mr John Long (Retail Consultant), Dr Clinton Bird (Urban Designer), Mr Lou Robinson (Structural Engineer), Mr Dave Pearson (Heritage Architect), Mr Phillip Donnelly (Economist) and Ms Christine Ralph (Planner).

[7] Evidence was also tabled at the hearing from Te Rununga o Otakau, Ms Elizabeth Kerr and Mr Nicol MacArthur, who no longer wished to speak to their submissions.

Closing Submissions

[8] Mr Garbett, Counsel for Dunedin City Council, provided closing submissions with further evidence by Mr Don Hill and Mr Mark Tansley (Marketplace New Zealand Limited).

[9] Ms Hogan provided a summary of changes to the recommendations in the Officer's Report as a result of evidence heard. These included amendments to minimum wharf heights, provision for activities on 41 Wharf Street, and Contaminated Sites rules and definition.

Site Visits

[10] On the morning of 21 July 2008 we undertook a brief drive around the harbourside accompanied by Mr Paul Freeland (Acting Planning Policy Manager, Dunedin City Council). The purpose of the drive around was to familiarise ourselves with the area. Subsequent to adjournment of the hearing, we undertook a more thorough walk around the harbourside area on 4 August 2008.

3.0 DECISION OVERVIEW

Overall Decision

- [11] Overall, giving consideration to submissions received, the Officer's Report and evidence presented at the hearing, it is our decision that, subject to the amendments contained in this decision report, to accept Plan Change 7 as notified. That is, both Stage 1 and Stage 2 are rezoned as Harbourside. Appendix A contains the amended Plan Change documentation referred to throughout the decision.
- [12] We have made our decision on the basis that rezoning both Stage 1 and Stage 2 of the Harbourside Zone provides certainty for occupiers and developers as to the vision for the wider area. We are satisfied that the objectives, policies, methods and rules will manage the effects of establishing a mixed use environment, which includes existing industrial activities, in close proximity to the working Dunedin Port.
- [13] On the basis of our decision (PC-7/6.11(iii)(a)) we have amended all references in the Plan Change documentation from 'Inner Basin' to 'Steamer Basin'. To ensure consistency, we refer to 'Steamer Basin' throughout our decision.

Decision Format

- [14] To facilitate the decision on the submissions to this plan change and to ensure that all the issues raised in submissions are examined, submissions have been grouped in relation to the specific policies and rules, or by the common themes they are concerned with. For this decision report, we have retained the format as presented in the Officer's Report to ensure that we consider all the submissions. Where submissions have raised points that are relevant to a number of themes, these points have been included in relevant sections of the decision. This decision report considers submissions in the following themes:
- Support
 - Oppose
 - Industry
 - Zone Extent and Character Area Boundaries
 - Introduction and Character Areas
 - Issues
 - Objectives
 - Policies
 - Methods
 - Summary Activity Table
 - Character Area Rules
 - General Rules
 - Assessment Matters
 - Anticipated Environmental Results
 - Structure Plans
 - Design Code
 - Consequential Amendments
 - Schedule 25.1
 - Heritage Values
 - Transportation
 - Roading Hierarchy
 - Kai Tahu
 - Miscellaneous

4.0 PLAN CHANGE OVERVIEW

- [15] Proposed District Plan Change 7 to the Dunedin City District Plan (the Plan) re-zones the area encompassed by the harbour edge, Thomas Burns Street, Mason Street, Birch

Street, French Street and Buller Street. The area consists of approximately 13.7 hectares. The land is to be re-zoned from Port 2 and Industrial 1 to Harbourside. The objectives of the proposed Harbourside Zone seek to ensure that the harbourside:

- is easily accessible with strong visual and safe physical connections to the city centre, harbour and surrounding areas
- is a vibrant and attractive place to visit, work and live, with public open spaces along the harbour edge creating a high quality waterfront environment.
- supports a range of compatible land uses that enable the continued operation of Dunedin Port and complement, but do not compete with the vibrancy and vitality of the city centre.
- built form of development creates a liveable environment that reflects and enhances the industrial, maritime and port heritage.

4.1 New Harbourside Zone Provisions

[16] Proposed Plan Change 7 introduces the Harbourside Zone, which responds to the resource management issues related to the demand for greater access to land closer to the harbour. In achieving this the Harbourside Zone takes a design-based approach, which consists of the following main elements:

- (a) Character Areas: The Harbourside Zone is divided into six character areas – Fryatt Street North, Steamer Basin North, Steamer Basin South, Steamer Basin North East, Mixed Use and Mason Street. The Character Areas are shown in the map below. The Character Areas are intended to represent distinctive blocks of development that will build upon or create a particular character based upon the activities provided for, the degree of people orientated activity encouraged, the built form and its relationship to the provision of public open space. The Character Areas integrate both the design of buildings and spaces, and the activities taking place within them.

Figure 1: Harbourside Character Areas



- (b) Harbourside Design Code: The Harbourside Design Code forms an integral part of the Harbourside Zone, appended to Section 26: Harbourside. The design code will give effect to the New Zealand Urban Design Protocol, to which Council is a signatory, and the principles of Crime Prevention through Environmental Design (CPTED). The performance standards of the Harbourside Zone set the minimum requirements for development while the code will influence the quality of the outcome.

The Harbourside Design Code sets out eight urban design principles, which will establish the built form and character envisaged for harbourside. The code then lists design criteria that can be used to guide and assess development.

All new buildings, structures, and additions/alterations to existing structures visible from a public place, will require consent as a controlled activity and assessment against the design code. The design code will also be used to assess all other applications.

- (c) Activities: Each Character Area has a particular function or focus with the range of activities permitted reflecting this. The Character Areas will enable the nature and scale of activities to be managed to ensure compatibility between activities with performance standards managing effects. People orientated activities will be the focus around the Steamer Basin and Fryatt Street Character Areas including retail, restaurants, cafes, licensed premises, commercial offices, commercial residential, tourist and entertainment activities. While the Mixed Use and Mason Street Character Areas provides for industrial and service activities and eventually residential activities.

[17] To manage effects, the proposed Harbourside Zone contains two stages. Staging is designed to manage the impacts upon existing port, industrial and service activities in Steamer Basin North East, Mixed Use and Mason Street Character Areas. These areas are identified for redevelopment in the longer term. Staging serves to focus initial development upon Fryatt Street and Steamer Basin while enabling continuation as a working area with industrial and port related activities. The trigger point to release Stage 2 is when 70% of the building platforms identified for Steamer Basin North and South Character Areas are established and occupied by activities proposed within the Character Areas.

[18] The Steamer Basin wharves are integral to the provision of access to the water edge for the public and have an important relationship with adjoining buildings and activities. The provisions of the Harbourside Zone require that the rebuilt or refurbished Fryatt Street and Birch Street wharves must be completed before commencement of development and activities on the adjoining areas. Provision has been made for the development of the wharf and adjoining activities in segments.

4.2 Consequential Amendments

[19] A number of consequential amendments are also made to the Plan to take account of the proposed Harbourside Zone, including:

- the addition of twenty items to Schedule 25.1: Townscape and Heritage Buildings and Structures. Originally ten items were notified as part of the Plan Change, with an additional ten items requested through the submission process and confirmed in our decision.
- rezoning of the block bounded by French Street, Roberts Street and Buller Street from Port 2 to Industrial 1. This rezoning is necessary as the area is outside that considered as part of harbourside and would have resulted in an isolated block of Port 2, having no connection to the harbour edge. An Industrial 1 zone is appropriate and relates to the activities currently undertaken in the block.

- [20] Proposed Plan Change 7 was developed in light of best practice and a number of improvements for the second generation Dunedin City District Plan. This includes ensuring consistency of issues, objectives, policies and rules with the *Dunedin City District Plan Drafting Guidelines (July 2006)*, improved linkages between rules and policies and between anticipated environmental results and objectives.

5.0 SUBMISSIONS

- [21] The plan change provisions as notified on 26 January 2008 consisted of the following amendments to the Plan:

Volume 1

- Section 1: Introduction
- Section 3: Definitions
- Section 13: Townscape
- Section 18: Subdivision
- Section 20: Transportation
- Section 19: Signs
- Section 22: Utilities
- Inserts new Section 26: Harbourside

Volume 2 Schedules and Maps

- Schedule 25.1
- Maps 35, 35A, 49, 64, 73 and 74

- [22] Fifty-three submissions were received on Proposed Plan Change 7. Of the primary submissions received, nine supported the plan change, twenty-four conditionally supported the plan change in part or its entirety, and twenty opposed the entire plan change. The submissions were concerned with a number of different points. There was a strong focus upon issues relating to industries and their ability to continue to operate; recognition of and provision for heritage values; with the remainder considering specific provisions of the plan change.

- [23] In respect of the further submissions, 118 were received from nine different submitters supporting or opposing the original submissions. Of these nine further submitters, seven were also original submitters.

5.1 Late Submissions

- [24] One submission was received outside of the notified time frame for further submissions on Proposed Plan Change 7. Section 37 and 37A of the Resource Management Act 1991 (hereon referred to as 'the Act') gives the Council the power to waive the time limit after taking into account:

- (i) *The interests of any person who may be directly affected by the extension,*
- (ii) *The interests of the community in achieving adequate assessment of the effects of the proposal, and*
- (iii) *Its duty to avoid unreasonable delay.*

In extending the time period the Council must not extend it more than twice the maximum specified by the Act.

- [25] The further submissions of **Nicol MacArthur (PC-7-F-97 to PC-7-F-107)** were received on 1 May 2008. Submissions closed on 30 April 2008. While the submissions were received late, they were received with sufficient time to be considered with the remainder of submissions in the Officer's Report. A waiver of the time period would have no effect on any process related to this plan change.

- [26] All remaining submissions and further submissions were received within notified time frames and are considered to be valid as they are in accordance with the requirements of the Act.

Decision PC-7/5.0

Pursuant to Section 37(1)(b) of the Resource Management Act 1991, the time limit for receiving submissions on Proposed Plan Change 7 is waived and the late further submissions of **Nicol MacArthur (PC-7-F-97 to PC-7-F-107)**, received on 1 May 2008, are accepted as valid submissions.

Reason for Decision

- (i) The further submissions were received on the day following the closing date for further submissions and with sufficient time to be considered in the Officer's Report. No interests are unduly affected by accepting the late submissions and the extension is within the time period provided for under the Resource Management Act 1991.

6.0 DECISIONS ON SUBMISSIONS

6.1 SUPPORT PLAN CHANGE

Submitter	Decision sought from Dunedin City Council	Further Submissions
Sundrum Farm Ltd PC-7-8	Uphold Proposed Plan Change 7	
Lindsay D Bennet PC-7-40	Consider passing the proposal	
Jessica Bennet PC-7-44	Pass the proposed rezoning.	
Alfred J Ross PC-7-46	Just get on with it and pass this proposal.	
David Bennet PC-7-36	Pass this brilliant concept!	
Adam S Parata PC-7-37	Support the rezoning of the Dunedin Harbourside and wish for the Council to concur.	
Suzanne Bennet PC-7-38	Pass the proposal.	
New Zealand Defence Force PC-7-9	Support plan change. Did not indicate decision requested.	
Otago Chamber of Commerce PC-7-47/1	Supportive of initiative to provide a visionary framework within which development of a harbourside area may occur.	
Rhonda J Ross PC-7-39	Pass the project with protection for existing buildings.	
John Melburn for Monarch Wildlife Cruises Ltd PC-7-2	Granting of Plan Change 7 with the proviso that access to the Otago Harbour basin across the railway line at Rattray Street (ideally vehicular but at the very least pedestrian) be established as a matter of priority.	Elizabeth Kerr PC-7-F-2 support Peter C Nicholls PC-7-F-72 support Otago Sculpture Trust PC-7-F-76 support Chalmers Properties Limited PC-7-F-37 support
Chalmers Properties Limited PC-7-14/1	Approve the Plan Change subject to the adoption of the matters listed below and the typographical errors in the referencing of Issues, Objectives, Policies and Methods.	
Simon R Gilmour PC-7-15/1	The implementation of the proposed district plan change 7 with strong proviso for sound proofing of new premises and the provision for heavy vehicle access for existing businesses. This doesn't necessarily mean through access, or the number of existing through roads must be monitored.	Chalmers Properties Limited PC-7-F-44 support
Transit New Zealand PC-7-18/2	That the Council endorse proposed Plan Change 7 as proposed in principle, but subject to more details on the following matters: <ul style="list-style-type: none"> - Identify two key strategic vehicular accesses into the Harbourside precinct - Include rules and in the associated Structure Plan relating access, parking and the Harbour Arterial Route - Key opportunities for pedestrian and cyclist access relating to the Harbour Arterial Route are identified in the Structure Plan 	Chalmers Properties Limited PC-7-F-47 support
North Dunedin Holdings Limited PC-7-21/4	With the exception of the amendments sought, support the Plan Change	
Craig W D Ross PC-7-24/1	Pass the plan with amended noise level limits for already built premises, or at least altered to accommodate existing premises.	Chalmers Properties Limited PC-7-F-50 oppose amended noise levels
Director-General of Conservation PC-7-31/1	That proposed Plan Change 7 to the operative Dunedin City District Plan be retained or amended as set out under the headings Decision sought in Attachment One, or to like effect, so that the Director General's concerns are remedied.	Fonterra Co-Operative Group Ltd PC-7-F-3 oppose
Port Otago Limited PC-7-34/10	Amend Harbourside Zone to adequately provide for the reverse sensitivity issues that arise as a result of the working port.	Fonterra Co-Operative Group Ltd PC-7-F-2 oppose Nicol A MacArthur PC-7-F-103 support Chalmers Properties Limited PC-7-F-58 support in part
Elizabeth J Kerr PC-7-50/1	Critical revision of all provisions of the Plan Change to include the results of full consultation with New Zealand Historic Places Trust and the New Zealand Institute of Architects Southern Branch, as well as affected harbourside businesses. The submitter supports the proposed Plan Change <u>subject to the Dunedin City Council</u> : <ol style="list-style-type: none"> 1. undertaking a critical revision of the methodology to give greater recognition to heritage values for the Dunedin Harbourside; and full consultation with New Zealand Historic Places Trust; 	Nicol A MacArthur PC-7-F-107 support

Submitter	Decision sought from Dunedin City Council	Further Submissions
	<ol style="list-style-type: none"> 2. providing an archaeological assessment for the proposed Harbourside Zone; 3. consultation with the Southern Branch of the New Zealand Institute of Architects to review the proposal as a whole; 4. undertakes to establish a <i>multi-disciplinary</i> Urban Design Panel, including knowledgeable lay people, to review the Proposal as a whole; 5. urgently reviews the transportation planning aspects of the Proposal within the context and hierarchy of wider urban design principles; and 6. further consultation is undertaken with affected businesses located within or near the proposed Harbourside Zone in view of the points above. 	
Te Runanga o Otakou PC-7-54/1	Support the plan change subject to amendment of provisions to better reflect the cultural, spiritual, historical and traditional association of Kai Tahu with Te Tai O Arai Te Uru (Otago Coastal Marine Area), and to safeguard the mauri and life-supporting capacity of the Otago Harbour.	Chalmers Properties Limited PC-7-F-70 support in part

Discussion

- [27] The submissions of **Sundrum Farm Ltd (PC-7-8)**, **New Zealand Defence Force (PC-7-9)**, **Lindsay D Bennet (PC-7-40)**, **Jessica Bennet (PC-7-44)**, **Alfred J Ross (PC-7-46)**, **David Bennet (PC-7-36)**, **Adam S Parata (PC-7-37)** and **Suzanne Bennet (PC-7-38)** support approval of Plan Change 7 without conditions. We accept these submissions.
- [28] The submissions of **John Melburn (PC-7-2)**, **Rhonda Ross (PC-7-39)**, **Chalmers Properties Limited (PC-7-14/1)**, **Simon Gilmour (PC-7-15/1)**, **Transit New Zealand (PC-7-18/2)**, **North Dunedin Holdings Limited (PC-7-21/4)**, **Craig WD Ross (PC-7-24/1)**, **Director-General of Conservation (PC-7-31/1)**, **Port Otago Ltd (PC-7-34/10)**, **Otago Chamber of Commerce (PC-7-47/1)** and **Te Runanga o Otakou (PC-7-54/1)** are supportive of Plan Change 7 subject to the relief sought on the issues identified in their submissions. We have considered such issues under common themes discussed elsewhere in this decision.
- [29] **John Melburn (PC-7-2)** supports Plan Change 7 with the proviso that access across the railway line at Rattray Street is established as a matter of priority. With respect to this matter, the evidence of Mr Don Hill (Transportation Planning Manager, Dunedin City Council) stated that "*Council recognises the need for good connectivity between the Central City and Harbourside and will be pursuing options for restoration of an at grade rail crossing*". We accept the Council's on-going commitment to achieving a Rattray Street crossing and discuss this matter further in section 6.20 of this decision.
- [30] **Rhonda J Ross (PC-7-39)** supported Plan Change 7 with provisions for existing buildings. We do not consider that the submission is clear as to whether such provisions relate to new activities within existing buildings or the continuation of existing activities within the area. We note that the submitter did not speak to her submission to clarify. Regardless, the plan change contains rules relating to both aspects, along with existing use rights under the Act.
- [31] **Elizabeth Kerr (PC-7-50/1)** is supportive of the broad harbourside vision but not the content of Plan Change 7, requesting that it be revised in respect of heritage with further consultation. We consider that the request of the submitter in effect would require withdrawal of the plan change to enable such revision to be undertaken and to follow due process. Further consultation and assessment would also require further analysis under Section 32 of the Act as it may differ to that contained in the notified documentation. The consultation undertaken on the harbourside vision and the plan change was outlined in evidence presented by Mr Jim Harland and Ms Christine Ralph. We are satisfied that adequate consultation was undertaken by the Council in developing the plan change over the last five years through the visioning documents and submissions, which is also stated in the Section 32 documents.

Decision PC-7/6.1

It is our decision to:

- (i) **accept** the submissions of **Sundrum Farm Ltd (PC-7-8)**, **New Zealand Defence Force (PC-7-9)**, **Lindsay D Bennet (PC-7-40)**, **Jessica Bennet (PC-7-44)**, **Alfred J Ross (PC-7-46)**, **David Bennet (PC-7-36)**, **Adam S Parata (PC-7-37)** and **Suzanne Bennet (PC-7-38)**.
- (ii) **accept in part** the submissions of **John Melburn (PC-7-2)**, **Rhonda Ross (PC-7-39)**, **Chalmers Properties Limited (PC-7-14/1)**, **Simon Gilmour (PC-7-15/1)**, **Transit New Zealand (PC-7-18/2)**, **North Dunedin Holdings Limited (PC-7-21/4)**, **Craig WD Ross (PC-7-24/1)**, **Otago Chamber of Commerce (PC-7-47/1)**, **Director-General of Conservation (PC-7-31/1)**, **Port Otago Ltd (PC-7-34/10)**, **Te Rununga o Otakou (PC-7-54/1)**, **Elizabeth Kerr (PC-7-50/1 & PC-7-F-2)**, **Peter Nichols (PC-7-F-72)**, **Otago Sculpture Trust (PC-7-F-76)**, **Chalmers Properties Ltd (PC-7-F-37, PC-7-F-44, PC-7-F-47, PC-7-F-50, PC-7-F-58, PC-7-F-69, PC-7-F-70)** and, **Nicol A MacArthur (PC-7-F-103, PC-7-F-107)**.
- (iii) **reject** the further submissions of **Fonterra Co-operative Group Ltd (PC-7-F-3 and PC-7-F-2)**.

Reasons for the Decision

- (i) Subject to the amendments recommended throughout this decision, re-zoning of the Dunedin harbourside area as Harbourside Zone is assessed as being the most appropriate method to recognise and provide for the sustainable management of the resource in accordance with the provisions of the Act, including Part 2, and appropriate to meet the objectives identified for improved connections and greater access to the harbour edge.
- (ii) Consultation on Proposed Plan Change 7 has been undertaken during its development and as part of the harbourside vision. The request for the plan change to be revised in respect of heritage values with further consultation effectively requires withdrawal of the plan change, and is not necessary or appropriate.

6.2 OPPOSE PLAN CHANGE

Submitter	Decision Sought	Further Submission
Stephen W Todd for EJ, EA, SW & JN Todd PC-7-33/1	The abandonment of this plan change	Chalmers Properties Limited PC-7-F-57 oppose
Progressive Plastics Ltd PC-7-1/1	Opposed for reasons outlined in submission, including parking availability, existing use rights and economic effects on business.	Fonterra Co-Operative Group Ltd PC-7-F-116 support Elizabeth Kerr PC-7-F-2 supports Geraldine Tait PC-7-F-84 supports Chalmers Properties Limited PC-7-F-36 oppose the submission but support in part relating to free parking
Fonterra Co-Operative Group Limited ("Fonterra") PC-7-10/1	That Proposed Plan Change 7 be declined or amended as per the submission.	Port Otago Ltd PC-7-F-94 oppose the submission in seeking to clarify Chalmers Properties Limited PC-7-F-42 oppose
Mark G Cameron PC-7-43	Complete abandonment of the Plan Change; or That further consultation with affected land and business owners should be carried out to try and seek more workable solutions that will maintain and enhance the feasibility of the harbourside for those parties. Until such consultation is carried out, there should be no further decisions made on the proposed plan change.	Fonterra Co-Operative Group Ltd PC-7-F-112 support Chalmers Properties Limited PC-7-F-62 oppose
New Zealand Historic Places Trust (NZHPT) PC-7-49/1	Consistent with the points raised in the submission, the NZHPT recommends that Council withdraws Proposed Plan Change 7 (Dunedin Harbourside) to the Dunedin City District Plan in its entirety. The NZHPT requests that this be done until their serious concerns in relation to historic heritage perspective have been properly addressed.	Fonterra Co-Operative Group Ltd PC-7-F-114 support Peter C Nicholls PC-7-F-79 support Otago Sculpture Trust PC-7-F-80 support Nicol A MacArthur PC-7-F-106 support
Michael Ovens PC-7-51/1	- To review the proposed change - To consider the wider impact and implications of the change	Chalmers Properties Limited PC-7-F-68 oppose
Graeme Worland (Managing Director) Newlcast Pty Ltd PC-7-13	This area to remain as an industrial use area only.	Elizabeth Kerr PC-7-F-8 support Chalmers Properties Limited PC-7-F-43 oppose
Kaan's Catering Supplies ("Kaan's") PC-7-45/1	Complete abandonment of the Harbourside Plan Change	Chalmers Properties Limited PC-7-F-63 oppose
Barry J Cameron PC-7-35/2	(a) Withdraw the Plan Change in its entirety or (b) Delay the Plan Change until a comprehensive weather study is completed to determine whether or not the harbourside area is a viable location for the proposed uses within the Plan Change.	Nicol A MacArthur PC-7-F-104 support
John Whittaker, Farra Engineering Ltd PC-7-16/1	This area to remain as an industrial use area only. Or: Very strong protection measures put in place for the existing and new industries within the zone so they can run their businesses in a manner consistent with an industrial zone and without the hindrance of complaints from non-industrial users.	Fonterra Co-Operative Group Ltd PC-7-F-118 support Geraldine Tait PC-7-F-87 supports Nicol A MacArthur PC-7-F-97 supports Chalmers Properties Limited PC-7-F-45 oppose
Ferrum Engineering Limited PC-7-25/1	(a) Delete the Plan Change entirely; or (b) Delete the Plan Change on the south side of the basin; and (c) Reduce the size of the Plan Change of the north side to allow for sustained industrial activities in the area.	Fonterra Co-Operative Group Ltd PC-7-F-1 supports Geraldine Tait PC-7-F-88 supports Nicol A MacArthur PC-7-F-100 supports Chalmers Properties Limited PC-7-F-51 oppose

Submitter	Decision Sought	Further Submission
Action Engineering Limited PC-7-26/2	(a) The Plan Change is abandoned in its entirety. (b) The Plan Change stage 1 stays west of Fish Street and retains separation between Industrial zone and the mixed use zone and occupies the inner basin south, which sees more sun and is therefore is a more hospitable environment.	Geraldine Tait PC-7-F-89 supports Nicol A MacArthur PC-7-F-101 supports Chalmers Properties Limited PC-7-F-52 oppose
Geoffrey A Martin PC-7-42/1	(a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Elizabeth Kerr PC-7-F-23 supports
Crawford Glass Dunedin Limited, Crawford Glass Limited trading as Novus Dunedin, CWC 2005 Limited and Eccotech Limited PC-7-41/1	The Plan change is abandoned in its entirety. If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-60 oppose

Discussion

- [32] Submissions in opposition to Proposed Plan Change 7, as notified, sought that it be rejected in its entirety, declined, reviewed or amended as per submissions. We discuss the amendments sought elsewhere in this decision under the common themes raised.
- [33] Submissions seeking complete abandonment or withdrawal of Plan Change 7 include **Kaan's (PC-7-45/1)**, **Graeme Worland Newlcast Pty Ltd (PC-7-13)**, **NZHPT (PC-7-49/1)**, **Stephen W Todd (PC-7-33/1)**, **Progressive Plastics Ltd (PC-7-45/1)**, **Fonterra (PC-7-10/1)**, **Action Engineering (PC-7-26/2)**, **Ferrum Engineering Limited (PC-7-25/1)**, **John Whittaker Farra Engineering Limited (PC-7-16/1)**, **Crawford Glass & Ors (PC-7-41/1)**, **Geoffrey Martin (PC-7-42/1)** and **Mark G Cameron (PC-7-43)**.
- [34] In opposing Plan Change 7, **Mark G Cameron** submitted that there has been insufficient consultation between Council and affected land and business owners. As previously stated in this decision, the Section 32 Summary Report documents the consultation process and we are satisfied that adequate consultation was undertaken. The impacts upon existing activities in the area are discussed in Section 6.3 of this decision.
- [35] In opposing Plan Change 7, the **New Zealand Historic Places Trust (NZHPT)** considered that it does not adequately take account of the issues surrounding historic heritage within the harbourside and that it will not deliver the heritage outcomes required under the Act. NZHPT requested that the plan change be withdrawn and further consultation undertaken until their concerns are addressed. We heard evidence from the NZHPT witnesses elaborating on their concerns with regard to heritage values, which we fully consider in Section 6.19 of this decision.
- [36] Overall we consider that the issues raised by the submitters opposing Proposed Plan Change 7 do not provide sufficient reasons to reject the plan change in its entirety or withdraw it. Subject to the changes contained in our decision, we consider the plan change to be the most appropriate method to achieve the objectives to reconnect the city centre to the harbour and provide public access to the water.

Decision PC-7/6.2

It is our decision to:

- (i) **reject in part** the submissions of **Kaan's (PC-7-45/1), Graeme Worland Newlcast Pty Ltd (PC-7-13), New Zealand Historic Places Trust (PC-7-49/1), Stephen W Todd (PC-7-33/1), Progressive Plastics Ltd (PC-7-45/1), Action Engineering (PC-7-26/2), Ferrum Engineering Limited (PC-7-25/1), John Whittaker Farra Engineering Limited (PC-7-16/1), Mark G Cameron (PC-7-43), Fonterra Co-Operative Limited (PC-7-10/1, PC-7-F-112, PC-7-F-114), Michael Ovens (PC-7-51/1), Barry J Cameron (PC-7-35/2), Crawford Glass & Ors (PC-7-41/1), Geoffrey Martin (PC-7-42/1), Elizabeth Kerr (PC-7-F-2), Geraldine Tait (PC-7-F-84), Peter C Nicholls (PC-7-F-79), Otago Sculpture Trust (PC-7-F-80) and Nicol A MacArthur (PC-7-F-106 & PC-7-F-104).**
- (ii) **accept in part** the further submissions of **Chalmers Properties Ltd (PC-7-F-57, PC-7-F-36, PC-7-F-42, PC-7-F-62, PC-7-F-68, PC-7-F-63) and Port Otago Limited (PC-7-F-94).**

Reasons for the Decision

- (i) Subject to the amendments contained in this decision, re-zoning of the Dunedin Harbourside area is assessed as being the most appropriate method to recognise and provide for the sustainable management of the resource in accordance with the provisions of the Act, including Part 2.
- (ii) Re-zoning of the Dunedin Harbourside area will achieve the objectives to reconnect the city centre to the harbour and provide public access to the water.

6.3 INDUSTRY

Submission	Decision sought from Dunedin City Council	Further Submission
Graeme Worland (Managing Director) Newlcast Pty Ltd PC-7-13	This area to remain as an industrial use area only.	Elizabeth Kerr PC-7-F-8 supports Chalmers Properties Limited PC-7-F-43 oppose
Stephen W Todd for EJ, EA, SW & JN Todd PC-7-33/3	The abandonment of this plan change	Elizabeth Kerr PC-7-F-19 supports the submission
Kaan's Catering Supplies ("Kaan's") PC-7-45/1	Complete abandonment of the Harbourside Plan Change	Chalmers Properties Limited PC-7-F-63 oppose
Progressive Plastics Ltd PC-7-1/3	Action on the matters in submission: <ul style="list-style-type: none"> - Existing use rights recognised and protected - Assurances (compensation) for economic effects of increased land values and rents - Economic effects on business competitiveness of Dunedin and keeping business in the city 	
Peter Nicholls PC-7-5/1	The submitters main concern is for the retention of existing harbourside and port industrial/factory premises: that they must not be relocated into some industrial estate out of town.	Elizabeth Kerr PC-7-F-5 supports Geraldine Tait PC-7-F-85 supports Chalmers Properties Limited PC-7-F-39 support
Peter Nicholls, Chairman Otago Sculpture Trust PC-7-6/1	The main concern is for the retention of existing harbourside and port industrial/factory premises; they must not be relocated into some industrial estate out of town.	Elizabeth Kerr PC-7-F-5 supports Chalmers Properties Limited PC-7-F-40 support
Fryatt Street Properties Ltd PC-7-3/1	<ul style="list-style-type: none"> - That the Proposed Plan Change 7 be withdrawn in its entirety; or - In the alternative that Proposed Plan Change 7 be amended so that its extent is reduced so that it does not apply to 95/97 Fryatt Street, the adjoining property, or adjacent properties in Fryatt Street or Willis Street that are currently being used for an Industrial or Service Activity; or - In the alternative that Proposed Plan Change 7 be amended so that the existing permitted activities in the Port 2 zone retain that status and are able to expand onto adjoining or adjacent land as a permitted activity under the current conditions that are applicable to permitted activities in the Port 2 zone 	Fonterra Co-Operative Group Ltd PC-7-F-116 support Chalmers Properties Limited PC-7-F-38 oppose
Christie Paper Ltd PC-7-7/1	<ul style="list-style-type: none"> - That the Proposed Plan Change 7 be withdrawn in its entirety; or - In the alternative that Proposed Plan Change 7 be amended so that its extent is reduced so that it does not apply to 85 Fryatt Street, the adjoining property, or adjacent properties in Fryatt Street that are currently being used for an Industrial or Service Activity; or - In the alternative that Proposed Plan Change 7 be amended so that the existing permitted activities in the Port 2 zone retain that status and are able to expand onto adjoining or adjacent land as a permitted activity under the current conditions that are applicable to permitted activities in the Port 2 zone 	Geraldine Tait PC-7-F-90 supports the submission Chalmers Properties Limited PC-7-F-41 oppose
Fonterra Co-Operative Group Limited ("Fonterra") PC-7-10/3	That Proposed Plan Change 7 be declined or amended as per the submission on the basis that the: <ul style="list-style-type: none"> - The plan change will have significant adverse effects on the existing port and industrial activities and does not promote efficient use and development, inconsistent with s 5(c), 5(2) and 7(b) of the Act. - The proposal to change the Inner Basin in function from an operational port area to a recreational people place could have a range of adverse effects on existing port and industrial users - The performance standards proposed are not sufficient to address the effects upon residential and commercial residential activities and therefore will not diminish the potential for reverse sensitivity. 	Elizabeth Kerr PC-7-F-7 supports Geraldine Tait PC-7-F-91 supports Port Otago Ltd PC-7-F-94 oppose the submission in seeking to clarify

Submission	Decision sought from Dunedin City Council	Further Submission
John Whittaker, Farra Engineering Ltd PC-7-16/1	This area to remain as an industrial use area only. Or: Very strong protection measures put in place for the existing and new industries within the zone so they can run their businesses in a manner consistent with an industrial zone and without the hindrance of complaints from non-industrial users.	Fonterra Co-Operative Group Ltd PC-7-F-118 support Geraldine Tait PC-7-F-87 supports Nicol A MacArthur PC-7-F-97 supports Chalmers Properties Limited PC-7-F-45 oppose
Ferrum Engineering Limited PC-7-25/1	(a) Delete with Harbourside Plan Change entirely; or (b) Delete the Harbourside Plan Change on the south side of the basin; and (c) Reduce the size of the Plan Change of the north side to allow for sustained industrial activities in the area.	Fonterra Co-Operative Group Ltd PC-7-F-1 supports Geraldine Tait PC-7-F-88 supports Nicol A MacArthur PC-7-F-100 supports Chalmers Properties Limited PC-7-F-51 oppose
Action Engineering Limited PC-7-26/2	(a) The Plan Change is abandoned in its entirety. (b) The Plan Change stage 1 stays west of Fish Street and retains separation between Industrial zone and the mixed use zone and occupies the inner basin south, which sees more sun and is therefore is a more hospitable environment.	Geraldine Tait PC-7-F-89 supports Nicol A MacArthur PC-7-F-101 supports Chalmers Properties Limited PC-7-F-52 oppose
Roger Denston (Bradken Foundry) PC-7-29/2	Abandon the Mason Street Character Area and leave the current zoning. Reduce the Harbourside project to the immediate fringes of the Inner Basin and not rezone any area north of Fryatt Street.	Elizabeth Kerr PC-7-F-16 supports Peter C Nicholls PC-7-F-74 supports Otago Sculpture Trust PC-7-F-78 supports Nicol A MacArthur PC-7-F-102 supports Chalmers Properties Limited PC-7-F-54 oppose
Port Otago Limited PC-7-34/1	Amend the Harbourside Zone to adequately provide for the reverse sensitivity issues that arise as a result of the working port.	Fonterra Co-Operative Group Ltd PC-7-F-2 opposes Craig WD Ross PC-7-F-83 opposes the submission in relation to Rule 26.1(b) and 26.3.6 Chalmers Properties Limited PC-7-F-58 support in part
Barry J Cameron PC-7-35/2	(a) Withdraw the Plan Change in its entirety or (b) Delay the Plan Change until a comprehensive weather study is completed to determine whether or not the harbourside area is a viable location for the proposed uses within the Plan Change.	Nicol A MacArthur PC-7-F-104 supports
Geoffrey A Martin PC-7-42/1	(a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Elizabeth Kerr PC-7-F-23 supports
Alasdair Morrison PC-7-53/2	Have greater regard for industry's needs as this harbourside vision is developed.	Chalmers Properties Limited PC-7-F-69 oppose
Crawford Glass Dunedin Limited, Crawford Glass Limited trading as Novus Dunedin, CWC 2005 Limited and Eccotech Limited PC-7-41/1	The Plan change is abandoned in its entirety. If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-60 oppose
Holcim New Zealand Ltd PC-7-19/1	Holcim considers the success of the Harbourside Zone will depend very much on users of the zone having a clear understanding that there is an operating port immediately adjacent and that the environment will be of a lower quality than can be expected in a normal residential or commercial zone.	Chalmers Properties Limited PC-7-F-48 oppose

Submission	Decision sought from Dunedin City Council	Further Submission
Polarcold Stores Limited PC-7-32/1	<ul style="list-style-type: none"> - Retain the existing Port 2 zoning on the block bounded by Kitchener Street/ White Street/ Buller Street/ French Street or - Extend the proposed adjoining Industrial 1 zone into the block bounded by Kitchener Street/ White Street/ Buller Street/ French Street 	Fonterra Co-Operative Group Ltd PC-7-F-110 oppose Chalmers Properties Limited PC-7-F-56 oppose

Discussion

- [37] A significant number of submissions sought the rejection or amendment of the plan change due to the adverse impact upon existing and future industry within the area subject to rezoning and beyond. The majority of submissions were from current business operators or owners within the harbourside and vicinity, with many presenting evidence at the hearing.
- [38] In this section we consider the impacts upon industry, with submissions grouped together below, and followed by a discussion of the concerns raised. We consider the requests to amend the extent of the zone and on specific sites in the following Section 6.4 of this decision.
- [39] Proposed Plan Change 7 re-zones the defined harbourside area from Port 2 and Industrial 1 to Harbourside. The current zoning provides for industrial and service activities, with few controls and limited ability to establish a mixed-use environment that provides for residential activities. In addition to activities of the Industrial 1 Zone, the Port 2 Zone also recognises and provides for port related activities. We note that the definition of industrial activity under the Plan does not distinguish between types of industry.

6.3.1 Submissions

Impact upon Industrial and Port Zoned Land

- [40] **Action Engineering (PC-7-26/2), Geoffrey A Martin (PC-7-42/1) and Kaan's (PC-7-45/1)** were concerned that there is a significant shortage of centrally located industrial land in Dunedin particularly in light of Proposed Plan Change 7 and the pending Awatea stadium development. The submitters stated that the importance of this central location is not recognised by the plan change with respect to its current occupants and economic well-being of the city. The submitters considered that as a result of rezoning the area for mixed use, the area will no longer be functional for most existing activities. The submitters further considered that the zone does not adequately address the nature of existing activities, or recognise the synergies between activities and will result in an erosion of business and activities in the area.
- [41] The submitters considered that the Council has made no effort to find alternative land, which is a direct implication of the proposed plan change. While greenfield industrial land is available, the submitters considered that its location at Mosgiel is not suitable to most occupiers in the harbourside, regardless of relocation costs.
- [42] Evidence presented by Mr Mark Cameron, on behalf of Action Engineering, stated that approximately 60-70% of the businesses within the harbourside are related to the engineering industry, which works together and in many cases are each other's major clients. Mr Cameron went on to state that common ties that link engineering companies include close proximity to specialist trade suppliers, bulk material merchants and professional service providers such as design engineers and software developers. Mr Cameron considered that the area was viable to industry including the possibility as a location for support to any potential oil exploration in the southern basin. Mr Cameron considered that the proposed plan change would hinder the ability to capitalise upon this opportunity.
- [43] **Ferrum (PC-7-25/1), Action Engineering (PC-7-26/2), Geoffrey A Martin (PC-7-42/1) and Kaan's (PC-7-45/1)** stated that many activities are not in a position to relocate, or have a desire to, and would lose business efficiencies, which they have in their current location. The submitters questioned the adequacy of the Section 32 report in addressing the matter in terms of relocation and impacts on business.
- [44] Mr Ian Kemp, on behalf of **Ferrum**, explained that the company is involved in the marine repair industry and the harbourside location was selected due to their links

with the marine servicing industry and the need for this synergy. Mr Kemp explained that one of the attractions of the Dunedin marine facility is the efficient slipway operation and the close proximity of marine and engineering-related services and suppliers. The concentration of commercial operations is a draw card for an out-of-town vessel operator. Mr Kemp explained that Ferrum employ many of the businesses on the north side of the harbour basin and if they are required to move away the additional costs will erode competitive edge and overall viability.

- [45] **Kaan's** acknowledged that while they are not necessarily reliant upon a coastal location for their business, it is a location that is central to their customer base and commercial suppliers. The evidence of Mr Lindsay Kaan stated that approximately 70% of their Dunedin customers are within a 3.5km radius of their Willis Street site and this central location provides customers with a high quality service. Mr Kaan stated that three years ago they investigated possible relocation to Kaikorai Valley, however this would have resulted in a product price increase of 73% due to increased travelling costs and wages.
- [46] **Action Engineering** and **Barry J Cameron (PC-7-35/2)** commented on the role of the harbourside area for small niche market industry and that it provides for small business start up. The submitters considered that this is not provided for within other zoned areas in the city, particularly the large greenfield areas where sites and developments are expected to be larger.
- [47] **Fonterra (PC-7-10/3)** considered that the loss of land dedicated to industry and port activities is inconsistent with Section 7(b) of the Act in that it does not promote efficient use and development of natural and physical resources.
- [48] **Ferrum, Action Engineering, Geoffrey A Martin, Kaan's** and **Crawford Glass & Ors (PC-7-41/1)** believed that the Port 2 Zone is an essential and irreplaceable resource for Dunedin, their business and the marine servicing industry.
- [49] **Graeme Worland of Newlcast Pty Ltd (PC-7-13)** predicted that if the plan change proceeds there would be a significant reduction in the industrial sector of the local economy in five to ten years as operations relocate outside of Dunedin. If this does occur, the submitter considered that it would have adverse effects on economic and social well being of the city including the loss of jobs and skill base.

Functionality of the Port, Wharves and Slipway

- [50] **Fonterra (PC-7-10/3)** outlined their concerns relating to the potential impacts of redevelopment of the Steamer Basin, which include higher compliance costs on development, higher lessee costs, restrictions on activities due to conflicts arising between port and industrial activities and people orientated activities. The site currently occupied by the Fonterra cool stores is not located within the proposed Harbourside Zone, but to the south along Kitchener Street (at numbers 6 & 17) and is zoned Industrial 1.
- [51] **Fonterra** referred to the proposal to change the function of Steamer Basin from operational port to recreational area. In response to the submitters comment, Proposed Plan Change 7 is not in itself changing the function of the port, but reflects an operational decision by Port Otago Limited. This was clarified in the further submission by **Port Otago Limited (PC-7-F-94)** and stated that the removal of Steamer Basin from the port operations has no effect upon the operations of the port.
- [52] **Holcim (PC-7-19/1)** queried their ability to continue to use the wharf areas (T&U Wharf) that are included in the Steamer Basin North East Character Area (SBNECA). The submitter considered that there was serious health and safety risks due to the encouragement of public access along working wharf areas. We note that the plan change recognises such risks through the inclusion of SBNECA within Stage 2 and the intention that this wharf area will continue to be part of the port operations until it is no longer required. This is confirmed through the request from Port Otago Limited to allow port activities to continue, which we consider in Section 6.11 of this decision.
- [53] **Ferrum** were concerned with impacts upon the operation of the port and wharf areas around Birch and Kitchener Streets, particularly with regard to the slipway and public safety concerns. The submitter stated that the slipway yard is home to dangerous heavy machinery, equipment and hazardous substances. With people encouraged in the areas surrounding the slipway, the submitter considers that they will inevitably be

burdened with the responsibility to manage such risks.

- [54] In relation to the concerns of **Ferrum**, the Officer's Report noted that during the hearing on the Otago Regional Council office building Notice of Requirement (now beyond appeal), it was stated that there is no intention to reduce the operations of the slipway and that it will be accommodated in a safe manner. This is reflected in a condition on the confirmed designation requiring development of a site operation plan that addresses the ongoing management and operations of the slipway alongside the new office premises. The designation is now beyond appeal. It is expected that such a condition is an appropriate mechanism to address some of the concerns of the submitter relating to safety issues.

Existing Use

- [55] A number of submitters considered that Proposed Plan Change 7, as notified, does not adequately provide for existing use rights. It is noted that, as with any plan change, activities that are no longer provided for through proposed provisions have to rely upon existing use rights, including any consents they hold under Section 10 of the Act. In the case of the Harbourside Zone, existing use rights would apply to the continued operation of any existing industrial activities located in the Fryatt Street North or Steamer Basin Character Areas, and industrial activities that hold discharge consents within the Mixed Use and Mason Street Character Areas.
- [56] **Progressive Plastics Ltd (PC-7-1/3)** did not consider reliance upon existing use rights adequate, as it does not provide certainty for operators wanting to expand. **Christie Paper Ltd (PC-7-7/1)** and **Fryatt Street Properties Ltd (PC-7-3/1)** commented that it is absurd that the proposed rules effectively cocoon their current activities on their relevant sites in Fryatt Street.
- [57] **Mr Roger Denston, Bradken Foundry (PC-7-29/2)** commented that a foundry has been operating on the site in Mason Street and Tewsley Street for 100 years. The submission stated that Bradken requires an air discharge consent (which they currently hold), and that would prevent them establishing in the Mason Street Character Area as of right. The submitter indicated that the other rules are not sufficient to ensure they can continue their operations. In the case of Bradken, existing use rights would enable their continued operation on site provided they did not increase their scale, character or intensity of operations. The evidence of Mr Denston explained the operations of the foundry.
- [58] **Alasdair Morrison (PC-7-53/2)** did not consider that adequate regard has been had to the needs of the marine servicing industry. We heard from Mr Morrison at the hearing who considered that harbours are for ships, the area is inhospitable for much of the year and would be unpleasant for recreational activities.

Reverse Sensitivity

- [59] **Ferrum, Action Engineering, Port Otago Ltd, Fonterra, Graeme Worland Newlcast Pty Ltd, Holcim and John Whittaker Farra Engineering (PC-7-16/1)** raised concerns regarding the potential increase of people orientated activities into the area. The submitters considered that the performance standards proposed are not sufficient to address the effects of existing industrial activities upon residential and commercial residential activities. In turn, the submitters considered, this will limit their operations and the current flexibility they have to respond to business demands. We note that only Port Otago Ltd and Fonterra suggested additional performance standards.
- [60] **Action Engineering** stated that as a port/industrial area, operators currently operate generally unhindered in terms of constraints on hours of operation, noise, dust and odours. The submitter considered that this is a result of no incompatible activities, which will change with the introduction of residential and other activities.
- [61] We accept that there may be a perception that activities can operate with few constraints in the harbourside area. We highlight that there are performance standards within the Plan, that activities, including industrial activities, are expected to comply with along with the general duty under Section 16 of the Act to avoid excessive noise. The Officer's Report stated that in reality, the enforcement of these rules generally occurs when complaints are received. We accept that as people

orientated activities are introduced into the area it is likely that there will be a subsequent increase in complaints, as acknowledged by the submitter. An increase in complaints is likely to increase the enforcement undertaken by Council.

- [62] **Port Otago Ltd** sought various amendments to provide for reverse sensitivity issues related to the port, based upon their experience at Port Chalmers. We consider that the provisions within Proposed Plan Change 7, as notified, recognise reverse sensitivity through objectives, policies and rules. We consider the specific amendments requested by the submitter under the relevant sections of this decision.
- [63] **Ferrum** considered that while the proposed Harbourside Zone identifies the issues that will arise, the policy framework and methods are inadequate to deal with the issues. The submitter stated that they will have to increase consideration of health and safety liability concerns with respect to operations of the slipway.
- [64] **Polarcold Stores Limited (PC-7-32/1)** raised concerns in relation to the block bounded by Kitchener Street/White Street/Buller Street/French Street. The concerns related to the incompatibility of the activities proposed and their cold store business which operates 24 hours and has heavy vehicle movements.
- [65] The **Otago Chamber of Commerce (PC-7-47/4)** commented on the need to be realistic on how well residential and industrial activities can co-exist and allow for buffer zones accordingly. Evidence presented by Mr Mark Willis, on behalf of the **Otago Chamber of Commerce**, raised concerns with the plan change relating to the availability of land for industrial use, the use of the area for marine related industries, synergies and relationships between businesses in the harbourside.

6.3.2 Discussion

- [66] The submissions, outlined above, along with the evidence presented at the hearing, raise valid concerns in terms of the potential impacts of Proposed Plan Change 7 upon existing industry within the harbourside. These concerns were considered in development of the plan change. As discussed in the Section 32 Summary Report, the main principles used in developing the harbourside vision, and subsequently the plan change, included:
- maintaining an efficient working port;
 - protecting existing industries within the harbourside; and
 - protecting the vibrancy and vitality of the central city.
- [67] The submissions question the adequacy of the methods used in Proposed Plan Change 7 in addressing the issues, and ultimately their concerns.

Provision for Industrial Activities

- [68] The Officer's Report said Proposed Plan Change 7, as notified, seeks to achieve the principles outlined above through the following methods:
- (a) Managing the location of compatible activities through the Character Areas in the Harbourside Zone. To reduce potential conflict and effects the zone does not provide for industrial activities in the Fryatt Street North and Steamer Basin Character Areas, as these areas are to be the focus for people orientated activities. In the Mixed Use and Mason Street Character Areas, industrial and service activities that do not require discharge consents from the Otago Regional Council are permitted. The restriction upon activities to those without discharge consents provides a simple tool to distinguish between industrial and service activities that may generate effects which may not be appropriate in a mixed use environment, as opposed to establishing a comprehensive list of activities. The Mixed Use and Mason Street Character Areas provide a total area of 8.6 hectares within the Harbourside Zone over which industrial and service activities, that do not require discharge consents are permitted.
 - (b) Performance standards are imposed upon residential and other sensitive activities to mitigate effects including: acoustic insulation for noise sensitive activities; separation distances from hazardous substances or buildings containing hazardous substances; screening of outdoor storage; and the location of amenity space.

- (c) The resource consent process provides an opportunity to assess new industrial activities and expansion of existing industrial activities requiring discharge consents. The evidence of Mr Jim Harland advised that there are currently only three discharge consents operating within the proposed Harbourside Zone.
 - (d) The extent of the Harbourside Zone would be managed across two stages. Staging seeks to manage the impact upon existing activities and to ensure that the focus of development is retained in the Steamer Basin. The rules restrict the establishment of sensitive activities (such as residential activities) within the Stage 2 area until the pre-determined trigger point has been reached involving development of the Steamer Basin North and South Character Areas.
- [69] As outlined, the Harbourside Zone provides for both the continuation of a range of existing and new industrial activities, while seeking to manage the introduction of new activities through performance standards.
- [70] We acknowledge that the harbourside area, particularly north of Steamer Basin, contains a number of historic and well-established engineering industrial activities, some of which hold discharge consents. The nature of these activities may present difficulties in reconciling with the mixed-use environment that is proposed. We accept these activities may face a substantial transition from the current flexible operating environment. We also understand the difficulties for these activities to relocate, particularly with the specialised and large plant used in some cases. We do recognise that these activities, such as Farra and Bradken, are mainly located within Stage 2.
- [71] In addition, new activities are being introduced that may result in further restrictions upon industrial activities. Currently, the Industrial 1 and Port 2 zones enable business to be flexible and meet changing demands with few restrictions. Given the changes to the operating environment proposed, many submitters perceive the plan change as a threat to their business operations, with the view that they will have to leave the area within a certain amount of time. To a degree the plan change framework accepts that some industrial activities will be displaced over time as the operating environment changes. However, the plan change does not require business to leave the area but establishes the mechanism and rules for enabling change to occur. We consider that such change will not occur overnight but will evolve over a number of years which will enable the Council and existing business to manage and adapt.

Characteristics of the Harbourside Industrial Land

- [72] The submissions highlighted that the harbourside area has particular characteristics, in that it is not just industrial land, but also includes centrally located industrial land with small sites. The harbourside area, particularly on the northern side, has characteristics that are different to other industrial areas within the city, reflecting its vintage, role and pattern of development.
- [73] Buildings are developed to the full extent of their boundaries, generally on small sites, with little or no room for on-site parking, storage or loading. As we heard in evidence from a number of submitters, the adjoining streets have become an extension of each site where loading and unloading of vehicles occurs, and in some cases places for additional storage. Activities often occupy a number of sites, which can be separated by roads, requiring movement between sites. The wide streets enable this to occur without major inconvenience to traffic or to pedestrians. The Officer's Report considered that it would be difficult to find another area within the city that would have the same characteristics and efficiencies it presently offers to its existing industrial occupiers. In these aspects, the argument that the area is a finite physical resource has merit.
- [74] On the other hand, it is these characteristics and proximity to the harbour edge that also make the area attractive for redevelopment associated with improved connections from the city centre to the harbour edge. Wharf developments within close proximity to the city centre are also a limited resource, and indeed within the city of Dunedin they are a finite resource. This then raises the need to balance the competing demands upon the harbourside resource.
- [75] We heard from various submitters at the hearing as to how their businesses operate and how they utilise the adjoining streets for parts of their businesses. We questioned

submitters on whether they need to be in a harbourside location. With the exception of the marine service industry, we consider that many of the businesses do not need to be in a harbourside location. While many businesses have developed synergies, we consider that these could be developed if the businesses that share these synergies relocated.

- [76] We do consider that a number of businesses appear to have outgrown their premises and, although constrained by their sites, accept utilisation of the adjoining road as a normal part of business operations, which appears to be tolerated by other users in the harbourside area. We consider that the use of the roads as an extension of site activities has become a 'common practice', it is not a right. While such a practice may be a characteristic of the harbourside it is not an accepted practice in other industrial areas throughout the city where parking and loading are normally provided on site. As outlined in the Officer's Report, rules within the Plan require activities to provide on-site parking and transfer of goods although we do acknowledge that existing practices are not always consistent with these requirements.
- [77] We also consider that businesses that have outgrown their existing premises would be more efficient if they moved to purpose built modern premises, which do not currently exist but could be established in the harbourside area and elsewhere in the city.

Capacity of Industrial Land

- [78] A number of submissions raised concerns about the loss of industrial land and, in their view, the significant shortage of centrally-located industrial land in Dunedin. The Section 32 Summary Report referred to the Harbourside Industrial Land Study by Market Economics (2005) (Appendix G(i) Section 32 Volume 2). In considering a potential change to a mixed-use environment within the harbourside, the Market Economics report concluded:
- *The limited size of the Harbourside area means that around 7 hectares of industrial activity is likely to be displaced and this will have only a small impact on overall industrial land stocks.*
 - *Vacant land stocks will be exhausted by around 2021 based upon growth predictions and limited amount of industrial land available. Provision of additional industrial land will be required in the next 20 years regardless of the harbourside proposals. The effect of the harbourside proposals will be to bring forward the date when land stocks are used up.*
 - *Harbourside industries are generally not reliant on their coastal location but the zones proximity to major transportation routes benefit business by minimising transport costs.*
 - *Given the small average size of industrial uses many can be relocated without affecting their operating futures.*
 - *Large business and those with significant plant would be more adversely affected should rezoning of the harbourside area necessitate relocation of these businesses.*
- [79] In terms of the capacity of industrial land stocks within the city, the Market Economics report relied upon a number of data sources including vacant land data supplied by Dunedin City Council, largely based upon the *Vacant Industrial Land in Dunedin May 2003* monitoring report. The Officer's Report advised that this report was updated in February 2006 and concluded that Dunedin City has a total of 576 hectares of usable land zoned for industrial purposes. Of this, 191.4 hectares (33%) was vacant, 144.7 hectares is greenfield land, and 46.7 hectares is brownfield. Forty-nine percent of vacant industrial land is located in Mosgiel, which includes the land rezoned by Variation 9B in 2003. The Officer's Report states that not all vacant land is available or suitable for development as it may be of steep topography; held in small parcels; not for sale or lease; or otherwise precluded by the current leasing arrangement and usage. Useable land refers to industrial-zoned land available for industrial activity.
- [80] The Officer's Report stated that the February 2006 Monitoring Report concluded that the Dunedin Central industrial zones, defined as being from Ravensbourne to South Dunedin, included 179 hectares of useable land of which 5.7 hectares was vacant industrial land. The Monitoring Report also concluded that areas of higher density industrial development, such as the Dunedin Central, Industrial 2 and Port 2 Zones,

generally have a lower proportion of vacant industrial land relative to useable industrial land. Essentially, the majority of vacant useable land is located outside of Dunedin Central in areas such as Mosgiel and Green Island.

[81] The Officer's Report noted that, since February 2006, a number of other factors may influence the viability and capacity of industrial land:

- 15.5 hectares of land at Dunedin Airport has been re-zoned from Industrial 1 and incorporated into an extensive Airport Zone, which provides for industrial and service activities subject to limitations of the airport operations.
- There have been a number of announcements of industrial business closures or reductions, however it will be some time before these sites can be considered available.
- The proposed stadium development in Awatea Street may remove approximately 5.5 hectares of Industrial 1 zoned land.
- Greenfield land in Mosgiel is yet to be connected to water and waste infrastructure.
- Wider sustainability issues such as increasing costs of transportation may reduce the viability of greenfield areas as an option.

[82] We accept the conclusion of the Market Economics Report that any displacement of industrial activities from the harbourside area will not have a significant impact upon the total industrial land stocks, although additional industrial land will be required regardless of the harbourside proposal. In terms of area, Proposed Plan Change 7 will result in a reduction in the total amount of land available for industrial purposes by 5.0 hectares, consisting of the area covered by the Steamer Basin North, Steamer Basin South and Fryatt Street North Character Areas which do not permit industrial activities. The remaining area of 8.6 hectares (being the Mixed Use and Mason Street Character Areas) would still be available for industrial purposes although it is recognised that the types of industrial activities would be limited and they will need to compete for land with other activities.

[83] We acknowledge that Proposed Plan Change 7 does not involve a consequential rezoning of other land for industrial purposes and that there is reliance upon the existing capacity of industrial land stocks to cater for any displaced activities. As demonstrated above, while there is a supply of available land throughout the city, the supply of centrally located industrial land is limited and under pressure for other activities. Submitters indicated that the provision of greenfield industrial land is not satisfactory to meet the demands of those located in the harbourside.

[84] It is apparent to us that Plan Change 7 would not significantly impact upon the total useable industrial land stock, but we do acknowledge the benefits and the need for centrally located industrial land. As highlighted by the Market Economics Report, additional industrial land is required regardless of the harbourside development and we do not consider that declining the plan change or only accepting Stage 1 affects this. There is an expectation that ensuring sufficient provision for industrial activities is a part of the Council's on-going monitoring and resource management responsibilities, although we do consider that it would have been prudent to initiate this work alongside the harbourside project.

[85] Evidence presented at the hearing by Mr Mark Cameron representing Action Engineering Ltd and Mr John Whittaker representing Farra Engineering referred to alternative visions for the harbourside that related to a role the area could have in the event of oil exploration off the Otago Coast. We note that this would be an exciting and important opportunity for the city, but that it is far from certain as to when and where an oil servicing port might be based, if at all. While we were not presented with evidence as to how much land would be required to support the oil exploration activities, we note that the area bound by Wickliffe Street to the north, Fryatt Street to the east, the railway corridor to the west and the northern boundary of the Mason Street Character Area contains approximately 16 hectares of Industrial 1 and Port 2 zoned land. We also do not consider that the Harbourside Zone would be inconsistent with or prevent the possibility of supporting the oil industry. Industrial and service activities are provided for in the Mixed-Use and Mason Street Character Areas. The Fryatt Street and Steamer

Basin Character Areas would provide opportunities for development of offices, apartments, food and entertainment activities that could support workers associated with the oil industry.

Staging

- [86] The Officer's Report explained that the use of staging within Proposed Plan Change 7 was intended as a method to manage the transition and the effect upon industry within the area, and to ensure initial development is focused upon Steamer Basin and the provision of the desired people place around the harbour edge. The proposed staging rule (Rule 26.10.2) limits the full range of activities in the Mixed Use, Mason Street and Steamer Basin North East Character Areas until 70% of the building footprint of Steamer Basin North and South has been established and occupied by activities provided for within these Character Areas.
- [87] The Section 32 Summary Report outlined the costs and benefits of the staging provisions. Other options considered included rezoning the entire area, staged plan changes (two or more) and staged plan changes/deferred zoning.
- [88] The Officer's Report raised a number of concerns regarding staging and its effectiveness, with the potential to lead to significant costs. These concerns related to the possibility of 'urban blight' and 'break out', resulting in the recommendation that only Stage 1 should proceed. While we acknowledge the risks raised in the Officer's Report, we do not agree that they are sufficient to cause us to reject Stage 2 of the Harbourside Zone. The onus is upon the Council to ensure that it effectively enforces the provisions of Plan Change 7, which includes the staging rule.
- [89] The evidence of Ms Janet Reeves was also concerned with the extent and staging of the Harbourside Zone. Ms Reeves provided a thorough analysis of the plan change against the seven principles of the New Zealand Urban Design Protocol, concluding that *"the initiative is good urban design and could not support the abandonment of the Plan Change in its entirety"*. However, Ms Reeves was concerned with the ability to ensure that development is concentrated so as to act as a nucleus for regeneration and, while she acknowledged that staging addresses this problem, she considered that the inclusion of the second stage could be detrimental.
- [90] We preferred the evidence of Ms Christine Ralph in regard to staging. She told us that it is usual for a 20-year planning horizon to be provided for in plan provisions to ensure that the public and market are aware of the development strategy. Ms Ralph continued that, in the case of the harbourside, there is a need to make it clear how the regeneration will move into the next stage with certainty to encourage investment. We also note that Mr Geoff Plunkett (POL) in his evidence preferred zoning both Stage 1 and 2 to ensure a longer term view is taken, which enables the port to plan.
- [91] It is our view, that although staging can be used in any location, it is more effectively used in greenfield situations where development can be linked to installation of infrastructure, thus enabling orderly expansion. We consider that the trigger and focus of the staging rule upon Steamer Basin North and South Character Areas, has been designed appropriately and will be effective.

Stage 1 Demand and Supply

- [92] The Officer's Report considered that the extent of Stage 1 of the Harbourside Zone is sufficient to cater for 10-15 years of demand. The supply timeframe may vary depending upon economic conditions and other factors such as the availability of development sites. Figures in the following table were extrapolated from the growth estimates contained in the Marketplace New Zealand Limited report 2005 (Appendix F(i) Section 32 Volume 2) as follows:

Land Use	Anticipated Citywide Demand 2005-2015	Anticipated Inner City Demand (as % of Citywide Demand) 2005-2015	Anticipated Harbourside Demand (as % of Inner City Demand) (low-high range) 2005-2015
Retail	20,000m ²	15,840m ² (60-66% of demand)	2640-6600m ² (20-50% of Inner City demand)
Bars, Cafes & Restaurants	8000m ²	13,200m ² (60-66% of demand)	1056-2640m ² (20-50% of Inner City demand)
Commercial Office	24,000m ²	15,280m ² (60-66% of demand)	3168-7920m ² (20-50% of Inner City demand)
<i>Sub Total</i>	<i>52,000m²</i>	<i>44,320m²</i>	<i>6864-17,160m²</i>
Residential	4725 units	42,450-70,500 283-470 units (6-10%)	21,150-35,250 141-235 units (3-5%)
Commercial Residential	71,500m ²	47,190m ²	4719-11,798m ² (10-25%)
Tourist & Recreational			2500-5000*
<i>Total</i>		<i>133,960-162,010m²</i>	<i>35,233-69,208m²</i>

* Not based upon projections from Marketplace New Zealand

[93] In terms of supply it was estimated in the Officer's Report that Stage 1 has the ability to provide up to 70,000m² of developable gross floor area. This estimate was calculated on the following assumptions:

- 70% of sites in the Fryatt Street Character Area are developed, with the large engineering sites of Farra and Holgate not available for redevelopment.
- 100% of the building platforms around the Steamer Basin North and Steamer Basin South Character Areas are developed.
- Floor area per site is established upon the maximum bulk and location permitted under the proposed rules, less the area required for rear setback for residential activities (this has been deducted from the floor area to which the residential activity will occur) and the area required for parking to meet rules.
- Heritage buildings their retain existing floor areas based upon 100% being developed.

[94] The Officer's Report went on to say that the area covered by Stage 1 provides sufficient supply to meet expected demand for a range of activities that are provided for in the Harbourside Zone over the next 10 to 15 years. While this may be an appropriate timeframe to manage the resource and anticipated development, we consider that excluding Stage 2 at this time may create difficulties in future where incompatible activities may establish, and the need to send a clear signal to the existing and future occupants of the area as to the objectives and desired vision for the harbourside.

6.3.3 Conclusion

[95] The Dunedin harbourside area has characteristics and qualities that make it attractive to both existing industry and redevelopment associated with improved public access to the Steamer Basin.

[96] The framework of Proposed Plan Change 7 makes provision for industrial and service activities within certain character areas in the Harbourside Zone and applies performance standards to new activities that may be sensitive to the effects of industrial activities operating in the surrounding area. We consider that this framework provides appropriate mechanisms for management of effects of a mixed use environment.

[97] We are satisfied that any potential displacement of industrial activities and the loss of 5 hectares of land suitable for industrial activities will not significantly affect the overall industrial land stocks within the city. The majority of businesses within the harbourside area do not require a harbourside location and although the synergies developed by existing activities are important, we do not consider that it would necessarily be fatal if businesses were to relocate in the fullness of time.

[98] The primary focus for Proposed Plan Change 7, and the community desire for improved harbour access, is the area surrounding Steamer Basin. In discussing the various triggers such as staging, the Section 32 Summary Report confirms the importance of Stage 1 stating that *"Steamer Basin forms an integral part of the vision and the*

provision of access to the harbour edge. Essentially it is the focus of the zone and it is important that development occurs here in an integrated manner that enables the area to maintain and sustain itself as a people orientated environment. If development within the Harbourside Zone were to only occur in one place then it should be Steamer Basin."

[99] The extent of the proposed zone is linked to the vision for the harbourside. The vision is a 50-year vision, which extends beyond the statutory life of a District Plan. Rezoning the full extent of the area provides certainty to existing and future occupants of the area as to the redevelopment that is expected. We recognise that the staging provision is essential to manage the development of the zone, and to ensure that the initial focus of development is around Steamer Basin, and to manage change as the area develops.

[100] After consideration of the submissions, the objectives of the harbourside, and the various options available to achieve the objectives, we are satisfied that it is appropriate to rezone both Stage 1 and Stage 2 of the proposed Harbourside Zone.

Decision PC-7/6.3

It is our decision to:

- (i) **Reject in part** the submissions of **Graeme Worland Newlcast Pty Ltd (PC-7-13)**, **Stephen W Todd (PC-7-33/3)**, **Kaan's (PC-7-45/1)**, **Progressive Plastics Ltd (PC-7-45/3)**, **Peter C Nicholls (PC-7-5/1, PC-7-F-74)**, **Otago Sculpture Trust (PC-7-6/1, PC-7-F-78)**, **Fryatt Street Properties Ltd (PC-7-3/1)**, **Christie Paper Ltd (PC-7-7/1)**, **Fonterra Co-Operative Limited (PC-7-10/3, PC-7-F-116, PC-7-F-118, PC-7-F-1)**, **John Whittaker Farra Engineering Limited (PC-7-16/1)**, **Ferrum Engineering Limited (PC-7-25/1)**, **Action Engineering (PC-7-26/2)**, **Roger Denston (PC-7-29/2)**, **Barry J Cameron (PC-7-35/2)**, **Geoffrey Martin (PC-7-42/1)**, **Alasdair Morrison (PC-7-53/2)**, **Port Otago Limited (PC-7-34/1)**, **Elizabeth Kerr (PC-7-F-8, PC-7-F-19, PC-7-F-5, PC-7-F-7, PC-7-F-16, PC-7-F-23)**, **Geraldine Tait (PC-7-F-85, PC-7-F-90, PC-7-F-91, PC-7-F-87, PC-7-F-88, PC-7-F-89)**, and **Nicol A MacArthur (PC-7-F-101, PC-7-F-102, PC-7-F-104)** by rezoning both Stage 1 and Stage 2 of the Harbourside Zone.
- (ii) **Accept in part** the submissions of **Chalmers Properties Limited (PC-7-F-43, PC-7-F-63, PC-7-F-38, PC-7-F-40, PC-7-F-41, PC-7-F-45, PC-7-F-51, PC-7-F-52, PC-7-F-54, PC-7-F-69)** and **Craig Ross (PC-7-F-83)** by rezoning both Stage 1 and Stage 2 of the Harbourside Zone.
- (iii) **Accept** the submission of **Port Otago Limited (PC-7-F-94)** to the extent that it clarifies that changing the function of Steamer Basin does not impact upon port operations.

Reasons for the Decision

- (i) One of the underlying principles in developing Proposed Plan Change 7 was to ensure the protection of existing industry within the harbourside. Provision has been made within 8.6 hectares of the Harbourside Zone for industry along with performance standards to ensure compatibility of new activities. The loss of 5 hectares of land suitable for industrial activities will not significantly affect the overall industrial land stocks within the city, which is acknowledged to require additional stock regardless of the Harbourside Zone.
- (ii) The rezoning of both Stage 1 and Stage 2 of the Harbourside Zone in the manner proposed will ensure sustainable management of the finite resource of the Dunedin harbourside area, in a way that will meet the demands of industry, new activities, and improved connections and public access to the harbour.
- (iii) Rezoning both Stage 1 and Stage 2 of the Harbourside Zone sends a clear signal to existing and future occupants of the area as to the objectives and desired vision for the harbourside.

6.4 ZONE EXTENT AND CHARACTER AREA BOUNDARIES

Submission	Decision sought from Dunedin City Council	Further Submission
Fryatt Street Properties Ltd PC-7-3/2	That the Proposed Plan Change 7 be withdrawn in its entirety; or - In the alternative that Proposed Plan Change 7 be amended so that its extent is reduced so that it does not apply to 95/97 Fryatt Street, the adjoining property, or adjacent properties in Fryatt Street or Willis Street that are currently being used for an Industrial or Service Activity; or - In the alternative that Proposed Plan Change 7 be amended so that the existing permitted activities in the Port 2 zone retain that status and are able to expand onto adjoining or adjacent land as a permitted activity under the currently conditions that are applicable to permitted activities in the Port 2 zone	Chalmers Properties Limited PC-7-F-38 oppose
Christie Paper Ltd PC-7-7/2	That the Proposed Plan Change 7 be withdrawn in its entirety; or - In the alternative that Proposed Plan Change 7 be amended so that its extent is reduced so that it does not apply to 85 Fryatt Street, the adjoining property, or adjacent properties in Fryatt Street that are currently being used for an Industrial or Service Activity; or - In the alternative that Proposed Plan Change 7 be amended so that the existing permitted activities in the Port 2 zone retain that status and are able to expand onto adjoining or adjacent land as a permitted activity under the currently conditions that are applicable to permitted activities in the Port 2 zone	Chalmers Properties Limited PC-7-F-41 oppose
Fonterra Co-Operative Group Limited ("Fonterra") PC-7-10/2	Land bound by Birch Street and Kitchener Street subject to the proposed zone change should remain as Port 2 and Industrial 1. The proposal to change this location's function from an operational port area to a recreational people place is incompatible with existing port and industrial users both in and neighbouring this area.	Elizabeth Kerr PC-7-F-6 is neutral Chalmers Properties Limited PC-7-F-42 oppose
Arthur Barnett Properties Limited PC-7-12/1	That the rezoning of 41 Wharf Street Dunedin Harbourside on planning map 49, and its inclusion within the Inner Basin North Character Area on Appendix 26.3 both be confirmed.	
Roger Denston (Bradken Foundry) PC-7-29/1	Abandon the Mason Street Character Area and leave the current zoning. Reduce the Harbourside project to the immediate fringes of the Inner Basin and not rezone any area north of Fryatt Street.	Peter C Nicholls PC-7-F-74 supports Otago Sculpture Trust PC-7-F-78 supports Nicol A MacArthur PC-7-F-102 supports Chalmers Properties Limited PC-7-F-54 oppose
Heather Rudd & Anthony J Chedderton PC-7-30	Scrap the proposed Harbourside zone Change 7 from Willis Street to Mason/ Thomas Burns St	Chalmers Properties Limited PC-7-F-55 oppose
Ferrum Engineering Limited PC-7-25/2	(a) Delete with Harbourside Plan Change entirely; or (b) Delete the Harbourside Plan Change on the south side of the basin; and (c) Reduce the size of the Plan Change of the north side to allow for sustained industrial activities in the area.	Fonterra Co-Operative Group Ltd PC-7-F-1 supports Nicol A MacArthur PC-7-F-100 supports Chalmers Properties Limited PC-7-F-51 oppose
Action Engineering Limited PC-7-26/1	(a) The Plan Change is abandoned in its entirety. (b) The Plan Change stage 1 stays west of Fish Street and retains separation between Industrial zone and the mixed use zone and occupies the inner basin south, which sees more sun and is therefore is a more hospitable environment.	Nicol A MacArthur PC-7-F-101 supports Chalmers Properties Limited PC-7-F-52 oppose
Polarcold Stores Limited PC-7-32/1	- Retain the existing Port 2 zoning on the block bounded by Kitchener Street/ White Street/ Buller Street/ French Street or - Extend the proposed adjoining Industrial 1 zone into the block bounded by Kitchener Street/ White Street/ Buller Street/ French Street	Fonterra Co-Operative Group Ltd PC-7-F-110 opposes Chalmers Properties Limited PC-7-F-56 oppose
Crawford Glass Dunedin Limited, Crawford Glass Limited trading as Novus Dunedin, CWC 2005 Limited and Eccotech Limited PC-7-41/1	The Plan change is abandoned in its entirety. If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-60 oppose

Submission	Decision sought from Dunedin City Council	Further Submission
Geoffrey A Martin PC-7-42/1	(a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-61 oppose
Otago Chamber of Commerce PC-7-47/4	DCC must be extremely realistic in its assessment of how well residential and industrial activities can co-exist, and allow for adequate buffer zones accordingly.	Nicol A MacArthur PC-7-F-105 supports Chalmers Properties Limited PC-7-F-64 oppose
Elizabeth J Kerr PC-7-50/7	The proposed Harbourside Zone should include the block bounded by Roberts, French, Buller and Birch Streets, and all maps, references and descriptions for the zone should be amended to show this.	Fonterra Co-Operative Group Ltd PC-7-F-115 opposes Nicol A MacArthur PC-7-F-107 supports
Barry Simpson PC-7-28/1	Delete the Mason Street UCA totally Becomes Mixed Use CA	Chalmers Properties Limited PC-7-F-53 oppose
North Dunedin Holdings Limited PC-7-21/3	Alternatively: We propose extending the Mixed Character Area Zone (drawing attached). This would enable more flexible planning and utilisation of the property at 47 Cresswell Street.	
Elizabeth J Kerr PC-7-50/22	This map should be revised following further consultation with affected parties including property owners, tenants, stakeholders and the New Zealand Historic Places Trust.	Nicol A MacArthur PC-7-F-107 support
Otago Regional Council (ORC) PC-7-20/6	The submitter's preference is that the plan is amended in relation to Lot 2 DP22365 being the Otago Regional Council owned land on the corner of Birch and Kitchener Streets. The amendment to show on Appendix 26.3 as Harbourside, Inner South Basin Character Area in order to align the zoning with property boundaries.	Chalmers Properties Limited PC-7-F-49 oppose

Discussion

- [101] A number of submissions sought a reduction in the extent of the Harbourside Zone and arrangement of Character Area boundaries, relating both to individual sites and to the wider area.
- [102] **Arthur Barnett Properties (PC-7-12/1)** sought confirmation of rezoning of 41 Wharf Street as Harbourside Zone. We accept this.
- [103] We have considered the costs and benefits of the various requests to amend the zone extent sought by submitters in the table below, bearing in mind the purpose of the zone, coherence and effects along the zone boundary:

Relief Sought	Stage 1 or Stage 2	Costs	Benefits	Appropriate for Achieving the Objectives
95/97 Fryatt Street (and adjoining sites) not included in zone PC-7-3/2	Stage 1	<ul style="list-style-type: none"> - Spot zoning - Effects along boundaries - Loss of coherent zone 	Enables existing activities to continue to operate under Port 2 Zone provisions	Difficult to achieve compatibility in terms of Objective 26.2.3
85 Fryatt Street (and adjoining sites) not included in zone PC-7-7/2	Stage 1			
Fryatt Street becomes a Mixed Use Zone PC-7-41/1 PC-7-42/1	Stage 1	Does not provide for the full range of people orientated activities adjacent to water edge	Limits impact upon industry	Not appropriate for achieving Objectives 26.2.1 and 26.2.2.
Stay west of Fish Street and keep proposed zoning on the Inner Basin South PC-7-26/1	Stage 1 and 2	Not all of Steamer basin area included, or fully achieve pedestrian access along Fryatt Street	<ul style="list-style-type: none"> - Reduced extent of zone - Focus still retained on Steamer Basin - Limits impact upon industry 	Appropriate for achieving Objectives 26.2.1-26.2.3
Delete the south side of the basin PC-7-25/2	Stage 1 and 2	Does not fully achieve harbour access around the Steamer Basin for pedestrians	Limits impacts upon existing activities	May not fully achieve Objective 26.2.1 or 26.2.2 as it relates to loss of the Steamer Basin South.
Reduce extent on north side of basin PC-7-30 PC-7-25/2	Stage 2	<ul style="list-style-type: none"> - Limits extent available for potential development - May not achieve vision 	<ul style="list-style-type: none"> - Limits impact upon industry - Reinforces the focus upon Steamer basin - Reduces incompatibility effects between activities 	Appropriate for achieving Objectives 26.2.1-26.2.3
Delete Mason Street PC-7-29/1 PC-7-28/1	Stage 2	<ul style="list-style-type: none"> - Entrance area to harbourside compromised 	<ul style="list-style-type: none"> - Limits impact upon industry - Mixed Use Character Area provides a more effective buffer to the Industrial 1 and Port 2 Zone 	Appropriate for achieving Objectives 26.2.1-26.2.3

Relief Sought	Stage 1 or Stage 2	Costs	Benefits	Appropriate for Achieving the Objectives
Kitchener Street/White Street/Buller Street/French Street block retains its existing Port 2 zone or alternatively Industrial 1 zone PC-7-32/1	Stage 2	- Limits extent available for potential development - May not achieve vision	Limits impact upon adjoining industry	Appropriate for achieving Objective 26.2.3
47 Cresswell Street included in Mixed Use CA PC-7-21/3	Stage 2	Is not consistent with the adjoining site on corner of Cresswell and Mason Streets, which would create a spot zone.	Greater choice for the site in terms of its use Negates the split zone on the site, which has frontage to Cresswell and Mason Street.	Appropriate for achieving Objectives 26.2.1-26.2.3
Retain Port 2 zoning on block (French Street, Roberts Street and Buller Street) going to Industrial 1 PC-7-32/1	Not currently in any stage	Isolated block of Port 2 that has is not immediately linked to harbour	No benefits as generally same activities provided	Does not relate to the objectives for the harbourside
Include the block (French Street, Roberts Street and Buller Street) going to Industrial 1 as Harbourside PC-7-50/7	Not currently in any stage	Further extends the extent of the zone southwards and impacts upon industry	Provides additional development area	Appropriate for achieving Objectives 26.2.1-26.2.3
Include all of Lot 2 DP22365 (ORC building) within Harbourside Zone and Inner Basin South Character Area PC-7-20/6	Stage 1 with slipway part of lot zoned Port 2	Loss of the recognition of the slipway as legitimate part of operating Port 2 zone activities	Administrative efficiencies of zone matching lot boundary	Not appropriate for achieving Objectives 26.2.1 and 26.2.3.

[104] With regard to the request by **ORC (PC-7-20/6)** to amend the zone boundary, in closing submissions Ms Debbie Hogan highlighted that there was a difference in the boundaries as shown on the proposed zone map amendments and within the structure plans as it relates to the slipway. Ms Hogan recommended that the request by ORC be accepted in part to the extent that the Harbourside Zone boundary is amended to fully exclude the slipway, which would retain its Port 2 zoning as originally intended. We accept this recommendation and consider that it will clarify the situation.

Conclusion

[105] The amendments sought to the zone extent and character areas are not considered to be efficient or effective in achieving the objectives identified for the harbourside. With the minor amendment along the zone boundary adjoining the slipway, the extent of the Harbourside Zone and delineation of the Character Areas as notified is accepted.

Decision PC-7/6.4

It is our decision to:

- (i) **Accept** the submission of **Arthur Barnett Properties Limited (PC-7-12/1)** by confirming the rezoning of 41 Wharf Street as Harbourside.
- (ii) **Accept in part** the submission of the **Otago Regional Council (PC-7-20/6)** to the extent that the boundary of the Harbourside Zone is amended to fully exclude the extent of the slipway.
- (iii) **Accept in part** the submissions of **Chalmers Properties Limited (PC-7-F-38, PC-7-F-41, PC-7-F-42, PC-7-F-54, PC-7-F-55, PC-7-F-51, PC-7-F-52, PC-7-F-56, PC-7-F-60, PC-7-F-61, PC-7-F-64, PC-7-F-53, PC-7-F-49)**.
- (iv) **Reject in part** the submissions of **Fonterra Co-Operative Group Limited (PC-7-10/2, PC-7-F-1, PC-7-F-110, PC-7-F-115), Roger Denston (PC-7-29/1), Ferrum Engineering Limited (PC-7-25/2), Action Engineering Limited (PC-7-26/1), Polarcold Stores Limited (PC-7-32/1), Crawford Glass & Ors (PC-7-41/1), Geoffrey A Martin (PC-7-42/1), Otago Chamber of Commerce (PC-7-47/4), Barry Simpson (PC-7-28/1), Heather Rudd & Anthony J Chedderton (PC-7-30), Elizabeth Kerr (PC-7-50/22), Peter Nicholls (PC-7-F-74), Otago Sculpture Trust (PC-7-F-78), Nicol MacArthur (PC-7-F-102, PC-7-F-101, PC-7-F-100, PC-7-F-105, PC-7-F-107)**.

- (v) **Reject** the submissions of **Elizabeth Kerr (PC-7-50/7)** and **Barry Simpson (PC-7-28/4)**.

Reasons for the Decision

- (i) The extent and delineation of the Zone and Character Area boundaries within Stage 1 and Stage 2 of the Harbourside Zone is appropriate in achieving the objectives for the harbourside. It is not necessary to further amend these boundaries.
- (ii) It is appropriate to amend the boundary of the Harbourside Zone to exclude the full extent of the slipway site on the Steamer Basin South Character Area.

6.5 INTRODUCTION AND CHARACTER AREAS

Submission	Decision sought from Dunedin City Council	Further Submission
Port Chalmers Yacht Club (Inc.) PC-7-22/1	That the following items in the Proposed District Plan Change 7 are adopted: Ch 26 Harbourside, Character Area Descriptions, Inner Basin Character Area	
Barry Simpson PC-7-28/8	<ul style="list-style-type: none"> - Para 3 1 2 DELETE live - Para 4 14 DELETE liveable. - Character Area Descriptions <ul style="list-style-type: none"> - Fryatt St. C. A 6, 7, 8 DELETE - Inner Basin CA 18 DELETE residential - The Mason St. CA DELETE completely - Consequently DELETE the reference to the Mason Street CA 	Chalmers Properties Limited PC-7-F-53 oppose
Director-General of Conservation PC-7-31/2	Amend Introduction (pg 26.1) second paragraph as follows: This presents an opportunity to improve and enhance public access to the waterfront, reconnect the heart of the city to the harbour <u>and the indigenous wildlife that uses this area such as sealions, seals, shags and terns</u> and rejuvenate the harbourside with a mix of land uses, public spaces and amenity areas that maximise its waterfront location and complement the city centre.	Peter C Nicholls PC-7-F-120 supports Otago Sculpture Trust PC-7-F-82 supports
Director-General of Conservation PC-7-31/3	Amend the following new sentence to Character Area Descriptions (pg 26.2), Inner Basin Character Areas: <ul style="list-style-type: none"> • <i>Inner Basin Character Areas – North, South, and North East</i> include the areas adjoining the Inner Basin, currently occupied by the existing wharf buildings and wharf, the Customhouse plus the Cross Wharf area. The area will be the focus of people activities within harbourside, through an enhanced public realm with quality open spaces along the harbour edge providing a promenade, event spaces and access to maritime activities, pontoons and jetties. <u>This is the Character Area which is most frequently used by indigenous wildlife and this natural coastal element will be respected.</u> 	Peter C Nicholls PC-7-F-120 supports Otago Sculpture Trust PC-7-F-82 supports
Elizabeth J Kerr PC-7-50/7	(Introduction: paragraph 1, sentence 1) The proposed Harbourside Zone should include the block bounded by Roberts, French, Buller and Birch Streets, and all maps, references and descriptions for the zone should be amended to show this. (Introduction: paragraph 4) This paragraph, in particular, does not adequately recognise the existing heritage values of the harbourside area.	Fonterra Co-Operative Group Ltd PC-7-F-115 oppose Nicol A MacArthur PC-7-F-107 support
Elizabeth J Kerr PC-7-50/8	See typo in Fryatt Street North Character Area description: "1860's" should read "1860s" [no apostrophe]. Strongly oppose Character Area descriptions. Further consultation is required and the adoption of appropriate methodology(s).	Nicol A MacArthur PC-7-F-107 support Chalmers Properties Limited PC-7-F-67 oppose

Discussion

- [106] The Introduction and Character Area Descriptions are contained in the first two pages of proposed Section 26 to the Plan, providing a brief overview of the zone.
- [107] **Port Chalmers Yacht Club (PC-7-22/1)** sought the adoption of the descriptions relating to the Steamer Basin Character Area. We accept this.
- [108] The **Director General of the Department of Conservation (PC-7-31/2)** sought additions to the "Introduction and description of the Steamer Basin Character Area" to recognise the intrinsic values of wildlife in relation to the harbourside and future development. The evidence of Mr Jim Fyfe illustrated the variety of species of indigenous wildlife in the Otago Harbour, including Steamer Basin and the adjoining Harbourside Zone. We recognise the importance of such wildlife to the harbour and consider that the request sought by the submitter to provide formal recognition within the Plan Change is appropriate.
- [109] **Barry Simpson (PC-7-28/8)** sought the removal of references to 'live' and 'liveable', which relates to the submitter's wider concerns with the extent of the Harbourside Zone. We do not consider the removal of these terms appropriate given that this is one of the central tenets of the zone and relates to the activities that are provided for in the zone.
- [110] We accept the punctuation error in the description for the Fryatt Street North Character Area as highlighted by **Elizabeth Kerr (PC-7-50/8)**.
- [111] **Elizabeth Kerr (PC-7-50/7)** sought amendments to both the Introduction and

Character Area Descriptions on the basis that it does not adequately recognise existing heritage values, which follows on from the general intent of the submission. We discuss heritage values in detail in Section 6.19 of this decision.

- [112] **Elizabeth Kerr** also sought the inclusion of reference to the block bounded by Roberts, French, Buller and Birch Streets as part of the harbourside. This relates to the submitter's request to include this block within the Harbourside Zone, which we discussed and rejected under Section 6.4 of this decision.

Decision PC-7/6.5

It is our decision to:

- (i) **Accept in part** the submissions of **Elizabeth Kerr (PC-7-50/8)** and the **Director General of Conservation (PC-7-31/2 & PC-31/3)** by making the following amendments to the Introduction and Character Area Descriptions:
 - (a) Insert the following at the end of the second paragraph of the Introduction:
It will also encourage access to view the indigenous wildlife that frequent the area.
 - (b) Insert the following to the Character Area Descriptions: Steamer Basin Character Area:
Steamer Basin Character Areas – North, South, and North East include the areas adjoining Steamer Basin, currently occupied by the existing wharf buildings and wharf, the Customhouse plus the Cross Wharf area. The area will be the focus of people activities within harbourside, through an enhanced public realm with quality open spaces along the harbour edge providing a promenade, event spaces and access to maritime activities, pontoons and jetties. The harbour edge is also frequently used by indigenous wildlife and this natural coastal element will be respected.
 - (c) Amend the fourth line of the Character Area Description for Fryatt Street North Character Area to correct the reference from 1860's to 1860s.
- (ii) **Accept in part** the further submissions of **Chalmers Properties Limited (PC-7-F-53, PC-7-F-67)**, **Port Chalmers Yacht Club (PC-7-22/1)**, **Peter C Nicholls (PC-7-F-120)**, **Otago Sculpture Trust (PC-7-F-82)**, **Nicol A MacArthur (PC-7-F-107)** and **Fonterra Co-Operative Group Ltd (PC-7-F-115)**.
- (iii) **Reject** the submissions of **Barry Simpson (PC-7-28/8)** and **Elizabeth Kerr (PC-7-50/7)**.

Reasons for the Decision

- (i) It is appropriate to amend the '*Introduction and Character Area Descriptions*' to recognise the relationship of indigenous wildlife that utilise the area around the harbour and the harbourside.
- (ii) The '*Introduction and Character Area Descriptions*' provide an overview of District Plan Section 26 Harbourside and reflects the intent of the section.

6.6 ISSUES

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/2	Insert four new issues as detailed in submission	Transit New Zealand PC-7-F-35 partially supports
Port Otago Limited PC-7-34/1	The issues as detailed in submission should be added.	Fonterra Co-Operative Group Ltd PC-7-F-111 supports
Holcim New Zealand Ltd PC-7-19/1	Holcim considers the success of the Harbourside Zone will depend very much on users of the zone having a clear understanding that there is an operating port immediately adjacent and that the environment will be of a lower quality than can be expected in a normal residential or commercial zone. For this reason, Holcim requests the wording of Issue 26.1.3 and the associated objectives, policies and rules be reviewed and amended to more effectively highlight this very important issue.	Chalmers Properties Limited PC-7-F-48 oppose
Director-General of Conservation PC-7-31/4	26.1 Significant Resource Management Issues – amend <u>Issue 26.1.2</u> (pg 26.3) by adding an additional sentence: <ul style="list-style-type: none"> Improving accessibility to the Dunedin harbourside will create greater public interest and presence in the area, with demand for enhanced recreational opportunities, a wider variety of land uses and improved amenity values. <u>The increased public use of the area should respect the use of it by indigenous wildlife.</u> <p>Amend Issue 26.1.2 (pg 26.3), Explanation, by adding the following sentence: <u>Such pressures and expectations should respect the use of the area by indigenous wildlife.</u></p>	
New Zealand Historic Places Trust (NZHPT) PC-7-49/4	Consistent with the points raised in the submission, the NZHPT recommends that Council withdraws Proposed Plan Change 7 (Dunedin Harbourside) to the Dunedin City District Plan in its entirety. The NZHPT requests that this be done so until such time as the serious concerns in relation to historic heritage perspective have been properly addressed.	Fonterra Co-Operative Group Ltd PC-7-F-114 supports Peter C Nicholls PC-7-F-79 supports Otago Sculpture Trust PC-7-F-80 supports Nicol A MacArthur PC-7-F-106 supports

Discussion

- [113] Section 26.1 contains the six significant resource management issues identified for the Dunedin harbourside area that need to be addressed to achieve improved connections and access to the harbour edge. We note issues are no longer a mandatory requirement of a District Plan under the Act. The Officer's Report considers that they establish the basis for the course of action proposed in the Plan section and there is a desire to retain them within the Plan. The issues have been developed and written in a manner consistent with the *Dunedin City District Plan Drafting Guidelines (July 2006)*. The issues are generally linked with one being a consequence of the other.

Chalmers Properties Limited (CPL) PC-7-14/2

- [114] In supporting the Proposed Plan Change, **CPL** sought the addition of four new issues, which we discuss below:

Issue 26.1.7

There are areas of under utilised land, buildings and wharves within the Harbourside Zone.

Explanation

Dunedin's Harbourside area is used for port related activities, with a range of more general activities (warehousing, yard space, engineering and vehicle repairs) in the area between the harbour edge and the railway station. Part of the area has been released from port operational use and the opportunity exists to regenerate the inner basin and former port service area into a mix of land uses that will capitalise on the harbour location, enhance the public realm, and improve public access to the harbour and the recreational opportunities that it offers. There is currently limited provision for apartment living in the central city. It is recognised that in the coming years there will be an increasing demand for such housing types and it is appropriate for the Council to facilitate such provision.

- (a) *Proposed Issue 26.1.7:* The Officer's Report did not agree that the area occupied by the harbourside is under-utilised and considered that it was not necessary to have a separate issue to deal with the under-utilisation. The Officer's Report noted that the existing Port 2 and Industrial 1 zoning caters for a range of activities that utilise the existing resources, as confirmed through the submissions. We also heard evidence from a number of submitters who operate successful businesses within the proposed Harbourside Zone and it was apparent to us that the area is utilised for a variety of industrial activities. The evidence of Ms Christine Ralph highlighted the fact that the wharf sheds are largely vacant and that, based upon a Council land use survey, ten out of 37 sites in the Stage 1 area were listed as vacant/residential/unknown. We do not consider that this is significant in terms of under-utilisation and focuses upon the Stage 1 Steamer Basin area. Overall, we accept the opinion in the Officer's Report that it is not a matter of under-utilisation of the harbourside, but rather a desire to utilise the amenities of the area in a different manner directly linked to the community desire to improve the connections between the harbour and city centre. We consider that the existing issues appropriately reflect this.

Issue 26.1.8

Land use change in the Harbourside area may generate adverse effects including:

- Consequential effects on vibrancy and viability of existing commercial centres
- Economic impacts arising from the loss of industrial land
- Reverse sensitivity particularly to the noise and visual effects of existing industrial activity
- Reduced transportation efficiency and safety from increased traffic and a different mix of land uses within the Harbourside area
- Increased parking pressure

Explanation

Unless appropriate safeguards are put in place, there is potential for conflict to arise within any new mixed land use areas, due to the effects of new uses or the sensitivity of new uses to existing activities.

- (b) *Proposed Issue 26.1.8:* We consider that the current Issue 26.1.3, as notified, is a succinct version of the requested new issue and meets the intent of the submitter. The requested issue is an unnecessary duplication of the existing issue.

Issue 26.1.9

Vehicle and pedestrian access to the Harbourside area is restricted by railway shunting facilities and the arterial roading system.

Explanation

Vehicle and pedestrian access to the Harbourside and port areas has been restricted to specific locations in order to facilitate the traffic flow of the north/south Cumberland and Castle arterial streets.

- (c) *Proposed Issue 26.1.9:* We agree with the Officer's Report that this issue is adequately covered by current Issue 26.1.1, as notified, in a more concise and inclusive manner, with the explanation to the issue making specific reference to Rattray Street. We accept the importance of achieving a crossing at Rattray Street, but it is beyond the ability of the Plan to achieve this. We discuss this further in section 6.20 of this decision.

Issue 26.1.10

A failure to adequately provide esplanade reserves and other public spaces will result in an environment that lacks connection to the waterfront and is not pleasant, convenient

Explanation

Sufficient levels of well-developed open space that is appropriately designed for the climate and provided with safe linkages will ensure the harbourside area, particularly the harbour edge develops as a people place.

- (d) *Proposed Issue 26.1.10:* We agree with the Officer's Report that the current Issue 26.1.4 adequately covers the intent of the submission in the wider sense of the need to balance the esplanade reserve, public space and access along the wharves/harbour edge with development potential.

Port Otago Limited PC-7-34/1

[115] Port Otago Limited (POL) sought the addition of the following three new issues, related to the operation of the port, noise sensitive development and reverse sensitivity:

- (a) *Land use change in the harbourside area may generate adverse effects including reverse sensitivity, particularly as to the noise and visual effects of the port operations and existing industrial activity with an explanation that port operations include:*
- a. *Loading and unloading vessels including associated vehicle movements;*
 - b. *Ships at berth;*
 - c. *Vehicles travelling to and from the wharves;*
 - d. *Container depot activities;*
 - e. *The slipway;*
 - f. *Dry and cold storage;*
- (b) *Noise sensitive development including residential and commercial residential uses will require special measures to ensure indoor living is protected from the high ambient noise levels experienced in the zone;*
- (c) *Inappropriate redevelopment of the Harbourside area may impact on the ongoing efficient operation of the port and/or result in complaints about the normal operation of the port.*

[116] Mr Len Andersen outlined the position of POL in that each new use must be established in a manner that is compatible with the existing port to prevent future conflicts. Mr Andersen stated that the amendments sought are intended to achieve this, including recognising within issues, the need for co-existence of new activities with the existing port and industrial uses. Mr Andersen did not agree that Issue 26.1.3 makes it clear as to how the new land uses are able to co-exist with the port without imposing constraints.

[117] We accept the concerns of POL and fully understand the concept of reverse sensitivity. All three issues requested directly relate to the port and its ability to continue to operate, essentially repeating the same concept within each issue. We note that requested issue (a) is similar to Issue 26.1.8 requested by CPL, but with a different emphasis upon the port operations, and we refer to that discussion where we did not accept the new issue requested.

[118] Existing Issue 26.1.3 highlights the issue that arises with the introduction of new land uses into an area with existing industrial and port activities, which may lead to reverse sensitivity. We do not consider it is necessary to explicitly include all details of port operations since these are sufficiently contained within the Port and Environmental Issues sections of the Plan.

Holcim PC-7-19/1

[119] Holcim sought amendments to Issue 26.1.3 (and its related objective and policy) relating to concerns over reverse sensitivity. The submitter considered this is necessary to ensure that users of the zone have a clear understanding that there is an operating port in the vicinity with a lower quality of amenity than would be the case in a residential area. The evidence of Mr Warren Gregory outlined the operations of Holcim related to unloading of cement ships at Victoria Wharf, which is a 24 hour / 7 day per week operation. Mr Gregory outlined the safety issues arising out of increased recreational use in the vicinity of cement handling activities. As discussed above in relation to POL the intent of the submission is adequately contained in current Issue 26.1.3.

[120] The submitter is also concerned that residents could unduly restrict future development in the Port 2 zone by opposing resource consents. With the exception of the proposed yard on the Holcim site in Fryatt Street, the Port 2 Zone has very few restrictions, including no yards and no height limit. The Officer's Report stated that it is therefore highly unlikely that any related activity would require resource consent within the Port 2

zone.

Director-General of Conservation PC-7-31/4

- [121] The ***Director-General of Conservation*** sought additions to Issue 26.1.2 and its explanation relating to the presence of wildlife in the area. We do not consider additions to the issue appropriate, however we accept that it is appropriate to include an addition to the explanation.

New Zealand Historic Places Trust (NZHPT) PC-7-49/4

- [122] With respect to Issue 26.1.5, ***NZHPT*** commented that it envisages development will definitely impact upon heritage values as it changes from a port/industrial area to commercial/residential. We note the comments and discuss the wider concerns of the submitter in Section 6.19 of this decision.

Decision PC-7/6.6

It is our decision to:

- (i) **Reject** the submissions of **Chalmers Properties Limited (PC-7-14/2)**, **Port Otago Ltd (PC-7-34/1)**, **New Zealand Historic Places Trust (PC-7-19/1)**, **Holcim New Zealand (PC-7-19/1)**, and **Transit New Zealand (PC-7-F-35)**.
- (ii) **Reject in part** the submissions of **Fonterra Co-Operative Group Ltd (PC-7-F-114 & PC-7-F-111)**, **Peter C Nicholls (PC-7-F-79)**, **Otago Sculpture Trust (PC-7-F-80)**, **Nicol A MacArthur (PC-7-F-106)**
- (iii) **Accept in part** the submission of **Chalmers Properties Ltd (PC-7-F-48)**
- (iv) **Accept in part** the submission of the **Director General of Conservation (PC-7-31/4)** by amending the explanation to Issue 26.1.2 as follows:
 - (a) Insert the following sentence at the end of the Explanation to Issue 26.1.2:

...Such pressures and expectations should have regard to the use of the area by indigenous wildlife.

Reasons for the Decision

- (i) The significant resource management issues of Section 26: Harbourside, as notified, provide a concise and adequate identification of the issues that need to be addressed in relation to the harbourside. Unnecessary duplication or explanations that do not enhance Section 26: Harbourside are inappropriate.
- (ii) Enhancing the explanation to Issue 26.1.2 will enable inclusion of reference to the identification of issues in relation to indigenous wildlife within the harbourside area.

6.7 OBJECTIVES

Submitter	Decision Sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/3	Amend as follows: Objective 26.2.1 Efficient access to the The Dunedin Harbourside is easy, and provides easily accessible with strong visual and safe physical connections to the city centre, harbour and surrounding areas and the effective provision of car parking.	Transit New Zealand PC-7-F-33 partially support
Chalmers Properties Limited PC-7-14/4	Amend as follows: Objective 26.2.2 <i>The Dunedin Harbourside area is a vibrant and attractive place to visit, work and live, with public open spaces along the harbour edge creating a high quality waterfront environment, supporting increased visitor and recreational use.</i>	
Barry Simpson PC-7-28/9	26.2.2 delete 'live'. 26.2.4 delete 'and live' 1 8	Chalmers Properties Limited PC-7-F-53 oppose
Port Otago Limited PC-7-34/2	An objective should be added providing that reverse sensitivity impacts on port operations and port related industrial and service activities are to be avoided, remedied or mitigated.	Fonterra Co-Operative Group Ltd PC-7-F-111 supports Nicol A MacArthur PC-7-F-103 supports
Elizabeth J Kerr PC-7-50/9	Revise the objective to read: <i>"The built form of development creates a liveable environment that reflects and enhances the industrial, maritime and port heritage in the Dunedin harbourside."</i> With this revision the Objective should guide the proposed Plan Change as a whole.	Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose
New Zealand Historic Places Trust (NZHPT) PC-7-49/4	Consistent with the points raised in the submission, the NZHPT recommends that Council withdraws Proposed Plan Change 7 (Dunedin Harbourside) to the Dunedin City District Plan in its entirety. The NZHPT requests that this be done so until such time as the serious concerns in relation to historic heritage perspective have been properly addressed.	Fonterra Co-Operative Group Ltd PC-7-F-114 supports Peter C Nicholls PC-7-F-79 supports Otago Sculpture Trust PC-7-F-80 supports Nicol A MacArthur PC-7-F-106 supports

Discussion

[123] Section 26.2 contains four objectives for Section 26: Harbourside, developed and written in a manner that is consistent with the *Dunedin City District Plan Drafting Guidelines (July 2006)*. An objective is a statement of what will be achieved through the resolution of an issue or issues, in specific and measurable terms where possible.

Chalmers Properties Limited PC-7-14/3 & PC-7-14/4

[124] The submitter requested amendments to Objectives 26.2.1 and 26.2.2 which we consider below:

- (a) **Objective 26.2.1:** ~~Efficient access to the The Dunedin Harbourside is easily accessible with strong visual and safe physical connections to the city centre, harbour and surrounding areas and the effective provision of car parking.~~

We do not consider these amendments necessary and they do not add any value to the objective as notified. We consider that the reference to 'easily accessible' is intended to include more than just vehicles, and is inclusive of all modes of transport and the different needs of users, and also encompasses efficiency. Although we consider that sufficient parking in the harbourside is important, the additional reference to car parking within the objective creates an unnecessary narrow focus on one aspect of improved connections to the harbourside. It is also unnecessary for parking to take precedence over other forms of transportation, resulting in inconsistency with the Council's Transportation Strategy and wider sustainable management of the transportation network.

- (b) **Objective 26.2.2:** *The Dunedin Harbourside area is a vibrant and attractive place to visit, work and live, with public open spaces along the harbour edge creating a high quality waterfront environment, supporting increased visitor and recreational use.*

The submitter stated that the reference to a high quality waterfront is unclear and uncertain, and that emphasis should be upon the function of these spaces to increase visitor and recreational use. We do not consider the amendment sought relating to increased visitor and recreational use is a necessary addition when the objective already refers to 'visit, work and live'. We note that the evidence of Ms Christine Ralph did not comment on this objective.

Port Otago Limited PC-7-34/2

- [125] **POL** sought the inclusion of a new objective relating to reverse sensitivity impacts on port operations and industrial activities to be avoided, remedied or mitigated.
- [126] We consider that, although it does not explicitly include the words 'reverse sensitivity', existing Objective 26.2.3 meets the intent and outcome sought by the submitter. Objective 26.2.3 seeks a 'harbourside that supports a range of compatible land uses that enable the continued operation of Dunedin Port'. Compatibility between land uses, achieved through the use of a suitable range of activities and performance standards, also includes an expectation that there would be no reverse sensitivity issues. Therefore, as the objective seeks compatibility with enabling the port to operate, it follows that effects will have been avoided, remedied or mitigated.
- [127] In his evidence, Mr Len Andersen was of the opinion that while Objective 26.2.3 describes the outcome (the continued operation of the port) it does not make it clear how the outcome will be achieved. The Officer's Report noted that the objective is written in a manner consistent with the *Dunedin City District Plan Drafting Guidelines (July 2006)* and refers to an objective as being a statement of what will be achieved through the resolution of an issue or issues, in specific and measurable terms where possible. We do not consider it necessary to amend Objective 26.2.3.
- [128] We note that in relation to concerns raised by Mr Don Anderson in his evidence, he requested that a new rule is included to cover reverse sensitivity in respect of glare and light spill. These rules currently exist within the Plan in Section 21: Environmental Issues and apply to all zones, except the Industrial 1 and Port zone.

Elizabeth Kerr PC-7-50/9

- [129] The submitter sought amendment to Objective 26.2.3 to delete the reference to 'reflect', shifting the focus to enhancement of built form and values of the harbourside as opposed to 'reflect and enhance'. We accept the evidence of Ms Janet Reeves, who did not agree with the submitter commenting as follows:
- The built form will be a mix of new and existing buildings. In some cases it will reproduce (or reflect) the existing heritage (what is inherited) while in others it may be built upon (enhanced).*

Barry Simpson PC-7-28/9

- [130] The submitter requested the removal of reference to 'live' within Objective 26.2.2 and within the explanation to Objective 26.2.4. We do not accept the deletion of this reference as the objective would no longer provide the necessary support for residential activities or achieve the intent of the zone.

New Zealand Historic Places Trust (NZHPT) PC-7-49/4

- [131] In opposing Proposed Plan Change 7, the submitter argued that Objective 26.2.4 will be difficult to attain with the focus of changing the area to a commercial and residential emphasis. We note the submitters comment.

Decision PC-7/6.7

It is our decision to:

- (i) **Accept in part** the further submissions of **Chalmers Properties Limited (PC-7-F-53 & PC-7-F-67)**.
- (ii) **Reject** the submissions of **Chalmers Properties Limited (PC-7-14/3 & PC-7-14/4)**, **Barry Simpson (PC-7-28/9)**, **Port Otago Ltd (PC-7-34/2)**, **NZHPT (PC-7-49/4)**, **Elizabeth Kerr (PC-7-50/9)**, **Transit New Zealand (PC-7-F-53)**.
- (iii) **Reject in part** the submissions of **Fonterra Co-Operative Group Ltd (PC-7-F-111 & PC-7-F-114)**, **Nicol A MacArthur (PC-7-103 & PC-7-F-107 & PC-7-F-106)**, **Peter C Nicholls (PC-7-F-79)** and **Otago Sculpture Trust (PC-7-F-80)**.

Reasons for Decision

- (i) The objectives of Section 26: Harbourside, as notified, provide a concise statement of what will be achieved through resolution of the significant resource management issues identified for the harbourside.
- (ii) The objectives, as notified, are developed and written in a manner that is consistent with the *Dunedin City District Plan Drafting Guidelines (July 2006)*. The amendments and additions to the objectives sought by submissions do not add clarity or value to the objectives.

6.8 POLICIES

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/5	Reword policies, including 26.3.2, 26.3.3, 26.3.5, 26.3.6, 26.3.7, 26.3.8, 26.3.12, and 26.3.13 to define the environmental outcome that the Council will be seeking and not the rule of the Plan. For example reword policies as follows: Policy 26.3.3 <u>Provide public access and clear visual connections to the harbour, pleasant open spaces and safe key pedestrian frontages.</u> Policy 26.3.6 <u>Residential and commercial residential activities are not adversely affected by new industrial or service activities which use hazardous substances or require site decontamination and conversely residential and commercial residential activities are to avoid, remedy or mitigate creating a potential non-compliance of an existing industry with the appropriate separations for hazardous substances.</u>	
Chalmers Properties Limited PC-7-14/6	Include reference to the Rattray Street railway crossing link in a new policy.	Transit New Zealand PC-7-F-32 partially supports
Chalmers Properties Limited PC-7-14/7	Policy 26.3.1 and 26.3.5(i): Give examples of these activities in the explanation to the policies and enable their establishment there.	
Chalmers Properties Limited PC-7-14/8	Insert in Policy 26.3.10 the word " <u>refurbishment</u> " after the word " <u>redevelopment</u> ", Or similar wording to like effect.	
Chalmers Properties Limited PC-7-14/9	Policy 26.3.11: Define within the Policy the meaning of " <u>individual</u> "	
Chalmers Properties Limited PC-7-14/10	Policy 26.3.11: Revise the limits on scale of footprint and cumulative limit overall such that a destination which complements the Central Activity Area can be established.	
Chalmers Properties Limited PC-7-14/11	Insert additional policy 26.3.15 as follows:	
Barry Simpson PC-7-28/10	26.3 Delete 'and live' put and between visit and work. Refer 26.2.2	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/11	26.3.2 Delete (vi) Mason Street	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/12	26.3.11 Delete entirely.	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/13	26.3.13 Delete entirely.	Chalmers Properties Limited PC-7-F-53 oppose
Port Otago Limited PC-7-34/3	A policy should be added providing that all new activities must be compatible with the nearby port and industrial zones and the industrial and service activities within the zone to ensure that existing and future port operations and industrial activities within the zone are not constrained by more sensitive land uses.	Fonterra Co-Operative Group Ltd PC-7-F-111 supports Nicol A MacArthur PC-7-F-103 supports
Port Otago Limited PC-7-34/4	Policy 26.3.6 needs to be amended to specify there is a high ambient noise level within the Zone that is inevitable with the continued efficient operation of existing industrial activities and Dunedin port activities.	Fonterra Co-Operative Group Ltd PC-7-F-111 supports
Elizabeth J Kerr PC-7-50/10	Policy 26.3.3: The term 'view shafts' should be deleted from all pages of the proposed Plan Change. This is jargon. Their intended use will have adverse effects on heritage values; they may not give the anticipated visual connection to the waterside due to the effect of perspective and lack of site gradient.	Nicol A MacArthur PC-7-F-107 supports
Elizabeth J Kerr PC-7-50/11	What is "good urban design"? Despite the Explanation the use of this phrase is very abstract and noncommittal. Revise the Policy to provide definition.	Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose
Elizabeth J Kerr PC-7-50/13	Policy 26.3.11: Fryatt Street North contains a number of buildings of heritage value with facades that should not be broken up to provide 'boutique' shopfronts.	Otago Sculpture Trust PC-7-F-75 supports Nicol A MacArthur PC-7-F-107 supports
Elizabeth J Kerr PC-7-50/14	Policy 26.3.14: Stage 1 needs to be reworked subject to further consultation. The economic model poses considerable issues for heritage values and their protection. Stage 2 is less of a concern due to the lesser extent of heritage values it contains.	Nicol A MacArthur PC-7-F-107 supports

Submission	Decision sought from Dunedin City Council	Further Submission
New Zealand Historic Places Trust (NZHPT) PC-7-49/4	Consistent with the points raised in the submission, the NZHPT recommends that Council withdraws Proposed Plan Change 7 (Dunedin Harbourside) to the Dunedin City District Plan in its entirety. The NZHPT requests that this be done so until such time as the serious concerns in relation to historic heritage perspective have been properly addressed.	Fonterra Co-Operative Group Ltd PC-7-F-114 supports Peter C Nicholls PC-7-F-79 supports Otago Sculpture Trust PC-7-F-80 supports Nicol A MacArthur PC-7-F-106 supports

Discussion

[132] Section 26.3 contains 14 policies for Section 26: Harbourside, developed and written in a manner that is consistent with the *Dunedin City District Plan Drafting Guidelines (July 2006)*. A policy indicates a general course of action used to achieve an objective. Submitters requested a number of amendments and additions to the policies, as notified. We consider these below.

Chalmers Properties Limited PC-7-14/5 to PC-7-14/11

[133] The submitter requested a number of amendments and additions to the policies, which we consider below.

- (a) Rewording of the policies to define the environmental outcome rather than the rule (PC-7-14/5). The Officer's Report stated that the policies have been developed and written in a manner that is consistent with the *Dunedin City District Plan Drafting Guidelines*, which defines that policies are not intended to describe the environmental outcome, which is the role of objectives. The Officer's Report went on to say that, in drafting the objectives and policies for the harbourside, the intention was to make them specific in terms of the effects, rather than generic, and provide strength and justification to the methods, which includes zoning and rules. We accept the comment in the Officer's Report that any amendments requested in submissions that do not achieve this are clearly not improvements to the Plan.

- (b) The addition of the following policy:

Manage activity to avoid, remedy or mitigate adverse effects on the three key vehicle, cycle and pedestrian access points at St Andrew, Rattray and Jetty Streets. (Or similar wording to like effect.)

We do not consider the request is necessary. Management of effects upon the transportation network are sufficiently covered by Section 20: Transportation of the Plan, including the roading hierarchy. The Transportation section applies across all zones within the City.

- (c) Examples of activities referred to in Policies 26.3.1 and 26.3.5(i) are sought within the explanation and to enable their establishment. The submitter considered this necessary on the basis that *compatible activities should include retail, convenience retail and associated activities such as tourism, marine and aquatic lifestyle, water based recreation etc, which are better located in this special place, and which attract pedestrians.*

The Officer's Report stated that it was not clear if the submitters request referred to these as being the only compatible activities appropriate in the area or whether they are additional activities. The difficulty in starting a list in an explanation is where to stop it, particularly in relation to the harbourside where there is a range of other activities that are expected to be compatible including residential and industrial. We agree with the Officer's Report that the existing wording relating to '*live, work and visit*' provides sufficient flexibility to enable a broad range of activities without the need for further detail.

- (d) The addition of the word 'refurbishment' in Policy 26.3.10, which relates to the Fryatt Street and Birch Street wharves. We accept that this is an appropriate addition reflecting the rules.

- (e) Define the meaning of 'individual' in Policy 26.3.11, which relates to limiting the scale and extent of retail and commercial office. The Officer's Report clarified the point that *individual* refers to each individual retail activity that may form part or all of a building and to which floor area limits will apply. The Officer's Report accepted that this term is not currently defined in the Plan, and could lead to interpretation issues. We consider that the term does not enhance the meaning of the policy and therefore should be removed. In terms of revising the limits upon scale and extent, the submitters request **(PC-7-14/10)** is considered in detail in Section 6.11 of this decision.
- (f) Insert additional Policy 26.3.15 as follows:

Policy 26.3.15

Ensure compatibility of new activities with the nearby port and industrial zones and service activities within the Harbourside Zone.

Explanation

A primary objective of Harbourside redevelopment is to facilitate the greater use of the waterfront by people. This will include the use of the area for a range of activities, which attract people in a social capacity. Activities that exclude people and developments that hinder access to open space and water access structures are not appropriate within the Inner Basin Character Area – North, South and North East. In addition the buildings that are located in this highly visible and public place should have a maritime quality in a human scale that attracts people to enjoy them.

Such a policy deals with cross zone boundary issues. The evidence of Ms Christine Ralph considered that no policy has been included that deals with reverse sensitivity of new activities on the ongoing operations of the Port of Otago. We note that Ms Ralph's evidence contained a different version of the policy adding '*With the implementation of rules, ensure ...*' and a more appropriate explanation.

Objective 26.2.3 seeks to ensure that activities within the harbourside are compatible to allow the continued operation of Dunedin Port, which clearly operates beyond the extent of the proposed Harbourside Zone. The objective is supported by a number of policies including Policies 26.3.1, 26.3.2, 26.3.5 and 26.3.6. Section 26: Harbourside is also supported by Section 4: Sustainability and Section 21: Environmental Issues of the Plan, which also seek to manage cross boundary effects. These sections would be considered when assessing a non-complying activity. We also note that the assessment matters in 26.11 refer to impacts upon the Port operations.

We consider that this package of objectives and policies are designed to ensure compatibility within and beyond the proposed Harbourside Zone. We do not consider it necessary to have a policy specifically dealing with cross zone effects.

Port Otago Limited PC-7-34/3

- [134] The submitter requested the addition of a policy similar to that requested by CPL in (f) above. As discussed above we do not consider it necessary to have such a policy and that the existing package of objectives and policies will ensure consideration of compatibility of activities within and beyond the proposed Harbourside Zone.
- [135] The submitter also sought an amendment to Policy 26.3.6, which relates to acoustic insulation of noise sensitive activities, to include reference to the high ambient noise level that exists within the area. We accept that such an amendment could be undertaken in terms of the explanation, the policy, or both. It is important that this policy does not override the requirement under Section 16 of the Act with respect to the duty to avoid excessive noise or the noise standards in the Plan that apply to activities.

Barry Simpson PC-7-28/10 to PC-7-28/13

- [136] The submitter requested a number of changes related to the general tenant of his submission seeking deletion of the Mason Street Character Area. Each is considered below:
- (a) Delete references to 'live' in Policy 26.3.1. We do not consider the removal of this reference to be appropriate as it refers to one of the main activities encouraged within the proposed Harbourside Zone, which are residential

activities.

- (b) Delete reference to the Mason Street Character Area in Policy 26.3.2. It is our decision to rezone both Stage 1 and Stage 2 of the Harbourside Zone and therefore it is necessary to retain the reference to Mason Street as it establishes the character area method.
- (c) Delete Policy 26.3.11. This policy relates to management of the scale and location of commercial office and retail activities. We consider the retention of this policy is appropriate and important to manage effects upon the vitality and vibrancy of the city centre. The policy also provides the necessary link to the relevant method.
- (d) Delete Policy 26.3.13. This policy provides the basis for the collection of financial contributions through the rules. This policy framework is necessary to meet statutory requirements of the Act and must be retained.

Elizabeth Kerr PC-7-50/10 to PC-7-50/14

[137] The submitter requested a number of changes to and clarification on policies. We consider each below:

- (a) Policy 26.3.3: delete 'view shafts' reference. The submitter considered the term to be jargon and that view shafts will affect heritage values and will not obtain the visual connections sought. We accept the evidence of Ms Janet Reeves who commented "*that view shaft is a commonly used, self explanatory term and is rightly used in this context.*" The reference to the term also provides the necessary link to the methods of the rules and structure plans.
- (b) Policy 26.3.4: explain the reference to 'good' urban design. The explanation to the policy expands on what good urban design is in the harbourside context. The evidence of Ms Janet Reeves commented that "*any definition of good urban design should be contained in the explanation rather than the policy itself. The definition elaborates on the term but might be improved by the re-wording of the first sentence as follows: Good urban design encourages and facilitates the making of sustainable, safe and enjoyable places through responsive design in relation to its control.*" We accept the recommendation of Ms Reeves.
- (c) Policy 26.3.11: This policy relates to the limitations on retail and commercial activities. The submitter commented that Fryatt Street North contains a number of buildings of heritage value with facades that should not be broken up to provide 'boutique' shopfronts. The evidence of Ms Janet Reeves responded that "*boutique shops are more likely to take advantage of the existing fenestration pattern as a 'point of difference' than larger premises. To encourage this I suggest the addition of a bullet point to the design code at HDC3 as follows:*
 - o Respecting existing fenestration"We accept the recommendation of Ms Reeves.
- (d) Policy 26.3.14: This policy relates to staging and is necessary. The wider concerns of the submitter relate to the inclusion of heritage values as it relates to Stage 1, and is more a comment.

NZHPT PC-7-49/4

[138] In opposing Proposed Plan Change 7 the submitter supported Policy 26.3.4, which encourages good urban design and quality development, provided it is supported by a design code with greater heritage focus. Likewise, the submitter supported Policy 26.3.9, which encourages adaptive reuse of scheduled buildings with reduced standards for parking and acoustic insulation. The submitter believes that there needs to be a greater commitment to adaptive reuse generally within the zone along with more scheduled buildings. We discuss heritage matters further in sections 6.18 and 6.19 of this decision.

Decision PC-7/6.8

It is our decision to:

- (i) **Reject** the submissions of **Chalmers Properties Limited (PC-7-14/5, PC-7-14/6 PC-7-14/7, PC-7-14/10 & PC-7-14/11)**, **Port Otago Limited (PC-7-34/3 & PC-7-34/4)**, **Barry Simpson (PC-7-28/10, PC-7-28/11, PC-7-28/12 & PC-7-28/13)**, **Elizabeth Kerr (PC-7-50/10 , PC-7-50/13 & PC-7-50/14)**, **Transit New Zealand (PC-7-F-32)**, **New Zealand Historic Places Trust (PC-7-49/4)**.
- (ii) **Reject in part** the submissions of **Chalmers Properties Limited (PC-7-F-53, PC-7-F-67)**, **Nicol MacArthur (PC-7-F-103, PC-7-F-106 & PC-7-F-107)**, **Otago Sculpture Trust 9PC-7-F-75, PC-7-F-80)**, **Peter Nicolls (PC-7-F-79)**.
- (iii) **Accept** the submissions of **Chalmers Properties Limited (PC-7-14/8 & PC-7-14/9)** as it relates to the following amendments:
 - (a) Amend Policy 26.3.10 as follows:

Require refurbishment or redevelopment of the Birch Street and Fryatt Street wharf structures to be integrated with the design and development of adjacent buildings and activities.
 - (b) Amend Policy 26.3.11 as follows:

~~Individual~~ Retail and commercial office activities are limited in scale and location to the Fryatt Street North and the Steamer Basin North Character Areas.
- (iv) **Accept in part** the submissions of **Port Otago Limited (PC-7-34/4)**, **Fonterra Co-Operative Group Ltd (PC-7-F-111)**, and **Elizabeth Kerr (PC-7-50/11)** as it relates to the following amendments:
 - (a) Amend the first line of the Explanation to Policy 26.3.4 as follows:

~~Good urban design encourages use, creativity and vitality of an area, and supports a variety of activities and creates a safe public environment, and facilitates the making of sustainable, safe and enjoyable places through responsive design in relation to its control.~~
 - (b) Amend Policy 26.3.6 and its Explanation as follows:

Require residential and commercial residential activities in the Dunedin harbourside area to provide adequate measures, such as acoustic insulation, to mitigate the potential noise effects, including high ambient levels, of a mixed-use environment and the Dunedin Port operations.

Explanation

The existing environment in the harbourside area is adjacent to the working Dunedin Port, and has a high ambient noise level, which is different to that normally expected in a residential area. Requiring acoustic insulation for residential and commercial residential activities will ensure compatibility of activities in a mixed-use environment and mitigate adverse effects of noise. These measures are necessary for the health and well-being of residents and visitors to the Dunedin harbourside. This will also enable the continued efficient operation of existing industrial and Dunedin Port activities.
 - (c) As a consequential amendment, insert the following bullet point into HDC3 of the Harbourside Design Code:
 - o Respecting existing fenestration

Reasons for Decision

- (i) The policies for Section 26: Harbourside, as notified, were drafted to be consistent with the *Dunedin City District Plan Drafting Guidelines (July 2006)*, providing the necessary link to both the objectives and the methods. Policies are not intended to include the environmental outcome sought. Amendments that are not consistent with the *Drafting Guidelines* are not considered to be an improvement on the Plan.
- (ii) The accepted amendments to policies clarify the links to the rules and reduce potential interpretation issues that may arise through their implementation.

6.9 METHODS OF IMPLEMENTATION

Submitter	Decision sought from Dunedin City Council	Further Submission
New Zealand Institute of Architects Southern Branch PC-7-23	Propose that the Dunedin City Council initiates the formation of an Urban Design Panel for Dunedin. The panel would play a key role in facilitating and promoting quality urban design projects, and quality urban environments similar to those now operating in Auckland and Queenstown.	Peter C Nicholls PC-7-F-73 supports Otago Sculpture Trust PC-7-F-77 supports
Chalmers Properties Limited PC-7-14/12	Method 26.4.1: Insert reference as follows: <i>5 Building platforms and minimum wharf widths <u>and heights</u> along the Inner Basin.</i>	
Chalmers Properties Limited PC-7-14/13	Method 26.4.6: Rephrase the method to state that the Council will operate a Design Panel.	
Barry Simpson PC-7-28/14	26.4.2 Liaison....Ontrack delete 'vehicle' refer above. Note for 'pedestrian' add liaise with the DCC Transport Section to obtain consent to erect two pedestrian footbridges to cross both Wharf St and Thomas Burns St.	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/15	26.4.9 Delete entirely.	Chalmers Properties Limited PC-7-F-53 oppose
Otago Chamber of Commerce PC-7-47/3	There could be individual businesses that will be adversely affected by changes to the indicated Harbourside area and the Chamber asks that DCC help arrange for appropriate alternative sites for these businesses before they are asked or required to move. This arrangement should also extend to businesses immediately surrounding the area which, as we have found in the past, will be pressured by new residents to reduce noise and other emissions to a point at which operating becomes very difficult.	Geraldine Tait PC-7-F-93 supports
Elizabeth J Kerr PC-7-50/1	Critical revision of all provisions of the Plan Change to include the results of full consultation with New Zealand Historic Places Trust and the New Zealand Institute of Architects Southern Branch, as well as affected harbourside businesses. The submitter supports the proposed Plan Change <u>subject to the Dunedin City Council</u> : - undertakes to establish a <i>multi-disciplinary</i> Urban Design Panel, including knowledgeable lay people, to review the Proposal as a whole	Nicol A MacArthur PC-7-F-107 supports Peter C Nicholls PC-7-F-71 supports
Elizabeth J Kerr PC-7-50/15	Method 26.4.1 – Structure Plans will identify items 1-8, as listed. All structure plans should be revised. The range and scope of important sites or areas where specific provisions are appropriate should be revised after appropriate assessment of heritage values in the proposed Harbourside Zone.	Peter C Nicholls PC-7-F-71 supports Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose
Michael Ovens PC-7-51/2	Consider who may 'judge' design based approach to issues (eg. urban design panel?)	
Te Runanga o Otakou PC-7-54/7	Method 26.4.2 Liaison: Add the following paragraph: "Liaise with Kai Tahu to ensure that the development of the Harbourside Area reflects the cultural, spiritual, historical and traditional association of Kai Tahu with Te Tai O Arai Te Uru (Otago Coastal Marine Area)."	
New Zealand Historic Places Trust (NZHPT) PC-7-49/4	Consistent with the points raised in the submission, the NZHPT recommends that Council withdraws Proposed Plan Change 7 (Dunedin Harbourside) to the Dunedin City District Plan in its entirety. The NZHPT requests that this be done until such time as the serious concerns in relation to historic heritage perspective have been properly addressed.	Fonterra Co-Operative Group Ltd PC-7-F-114 supports Peter C Nicholls PC-7-F-79 supports Otago Sculpture Trust PC-7-F-80 supports Nicol A MacArthur PC-7-F-106 supports

Discussion

[139] In addition to zoning, the methods to be used in the implementation of Section 26: Harbourside are specified in 26.4. We discuss the submissions below grouped in relation to the specific methods.

Method 26.4.1 Structure Plans

[140] **CPL (PC-7-14/12)** sought an addition to bullet point 5 in Method 26.4.1 to include reference to wharf heights along Steamer Basin. The structure plan relating to

Steamer Basin, as contained in Appendix 26.1.4 to Section 26: Harbourside, does not specify any wharf heights. The wharf heights are specified in Rule 26.7.2(ii). We do not accept the requested amendment.

- [141] **Elizabeth Kerr (PC-7-50/15)** submitted that all the structure plans should be revised in terms of their effects upon heritage values. The wider considerations of heritage values are discussed in Section 6.19 of this decision. The submitter did not appear opposed to the method of structure plans, but rather the content of those structure plans.

Method 26.4.2 Liaison

- [142] **Barry Simpson (PC-7-28/14)** sought the deletion of the reference to a vehicle crossing at Rattray Street in favour of a reference to the DCC Transportation Section establishing pedestrian bridges over Wharf Street and Thomas Burns Street. We consider the reference to on-going liaison with respect to Rattray Street is appropriate and reflects the intention of the Council to pursue both vehicle and pedestrian connections where possible. The Officer's Report noted that should the Council wish to establish additional pedestrian bridges, Method 26.4.4(iii) would adequately cover such works.
- [143] **Te Rununga o Otakou (PC-7-54/7)** requested an addition to Method 26.4.2 that relates to liaison with Kai Tahu with respect to development and the Statutory Acknowledgement area. The Council is bound by statutory requirements that apply to iwi and statutory acknowledgements. In addition we understand that the Council has a protocol with Kai Tahu ki Otago Ltd in terms of resource consents. We accept the recommendation in the Officer's Report and consider it is appropriate to include the requested reference to Kai Tahu in Method 26.4.2. In the evidence tabled at the hearing, Te Rununga accepted the wording and inclusion of the method.

Method 26.4.5 Design Code

- [144] **NZHPT (PC-7-49/4)** is supportive of this method. However, the Trust believes that an urban design panel should be established to inform the development of the Design Code. We note the submitter's comment.

Method 26.4.6 Urban Design Panel

- [145] The **New Zealand Institute of Architects Southern Branch (PC-7-23)**, **CPL (PC-7-14/12)**, **Elizabeth Kerr (PC-7-50/1)**, **NZHPT (PC-7-49/4)** and **Michael Ovens (PC-7-51/2)** support the establishment of an urban design panel to oversee development within the Harbourside Zone. Method 26.4.6 states that Council '*will consider*' establishing an urban design panel in relation to the harbourside. The submitters sought to amend this to '*will establish*'.
- [146] Both the **NZIA Southern Branch** and **Elizabeth Kerr** submitted that the urban design panel should review the whole plan change. Such a review would necessitate the withdrawal of this plan change and further Section 32 analysis undertaken.
- [147] We consider that the inclusion of Method 26.4.6 based upon '*will consider*', provides the Council with the ability to undertake the necessary assessment as to whether establishing and administering such a panel for the harbourside is appropriate. We note the Officer's Report indicated that the Council has been considering the establishment of an urban design panel for the city in the wider sense.

Method 26.4.8 Advice and Education

- [148] The **Otago Chamber of Commerce (PC-7-47/3)** requested that the Council help arrange for appropriate alternative sites for businesses that may be affected and require relocation. The Chamber also submitted that this should be extended to businesses immediately surrounding the area. Method 26.4.8 states that the *Council will provide advice on potential relocation of industrial and service enterprises to other appropriate locations within Dunedin City*. This method satisfies the relief sought in the submission.

Method 26.4.9 Financial Contributions

- [149] **Barry Simpson (PC-7-28/15)** requested that this method be deleted. The retention of this method is necessary as it links to rules requiring financial contributions and is a

legal method under the Act.

Decision PC-7/6.9

It is our decision to:

- (i) **Accept in part** the submission of **Te Rununga o Otakou (PC-7-54/7)** by inserting the following sentence into Method 26.4.2 Liaison:
Liaise with Kai Tahu to ensure that development in the harbourside area reflects the cultural, spiritual, historical and traditional association of Kai Tahu with Te Tai O Arai Te Uru (Otago Coastal Marine Area).
- (ii) **Accept in part** the submissions of **Chalmers Properties Limited (PC-7-F-53 & PC-7-F-67)**, **Michael Ovens (PC-7-51/2)**, **Otago Chamber of Commerce (PC-7-47/3)**, **New Zealand Institute of Architects Southern Branch (PC-7-23)**, **Peter Nicholls (PC-7-F-73)**, **Otago Sculpture Trust (PC-7-F-77)**, **Geraldine Tait (PC-7-F-93)** to the extent that the Methods are retained.
- (iii) **Reject** the submissions of **Barry Simpson (PC-7-28/14 & PC-7-28/15)**, **Elizabeth Kerr (PC-7-50/1 & PC-7-50/15)**, **Chalmers Properties Limited (PC-7-14/12, PC-7-14/13, PC-7-F)**, **NZ Historic Places Trust (PC-7-49/4)**.
- (iv) **Reject in part** the submissions of **Nicol MacArthur (PC-7-F-107, PC-7-F-106)**, **Peter Nicholls (PC-7-F-71, PC-7-F-79)**, **Otago Sculpture Trust (PC-7-F-80)**, **Fonterra Co-Operative Group Ltd (PC-7-F-114)**.

Reasons for Decision

- (i) The methods of implementation for Section 26: Harbourside, as notified, are considered appropriate to achieve the objectives and policies for the harbourside.
- (ii) Method 26.4.6, as notified, provides the Council with the ability to undertake the necessary investigation and, if appropriate, establish an urban design panel for the Harbourside Zone.
- (iii) Liaison with Kai Tahu is both a statutory requirement and part of the Council's on-going working relationship with iwi. It is appropriate that this relationship is recognised through Method 26.4.2 of Section 26: Harbourside.

6.10 SUMMARY ACTIVITY TABLE

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/14	Change the NC entry to <i>NA</i> for the construction of a wharf in the three character areas where no wharf will exist. and Qualify the entry referring to activity prior to the redevelopment/refurbishment of the wharf with " <u><i>exclusive of temporary occupational agreements not exceeding a 12 month period</i></u> ". Or similar wording to like effect.	

Discussion

- [150] The summary activity table is contained in Section 26: Harbourside as 26.5. The Officer's Report stated that, due to the complexity of the zone, the table is designed to serve as a summary of activities in all character areas within the Harbourside Zone. Rules must be referred to, however the summary table should also reflect the rules.
- [151] **CPL** highlighted that the notation in the table relating to construction of a wharf should refer to 'NA' (not applicable), and not 'NC' (non complying), for the three character areas not adjacent to a wharf. We accept that amending the table as requested would more clearly reflect the rules.
- [152] **CPL** also sought the addition of wording relating to interim uses of the existing wharf sheds within the activity table. We did turn our mind to provision of such activities, however we do not consider it appropriate to provide for such activities in the Steamer Basin North and South Character Areas as these areas are contained in Stage 1. We consider that this is appropriate for the Steamer Basin North East and note that Port Otago Limited has requested similar provision for on-going port operations, which is discussed in Section 6.11 of this decision.

Decision PC-7/6.10

It is our decision to:

- (i) **Accept in part** the submission of **Chalmers Properties Limited (PC-7-14/14)** to the extent that the following entry in 26.5 Summary Activity Table is amended as follows:

Construction of a rebuilt or refurbished wharf structure along Fryatt Street and Birch Street	NC	DR	DR	DR	NC	NC
	<u>NA</u>				<u>NA</u>	<u>NA</u>

Reasons for Decision

- (i) Amending the 26.5 Summary Activity Table corrects a typographical error that will correctly reflect the activity status for construction of the wharf structures where it is not applicable to three Character Areas.

6.11 CHARACTER AREA RULES

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/15	Revise rules as follows: Rule 26.6.1 Permitted Activities (ix) Retail Activity with a gross floor area of up to and including <u>2500m²</u> (inclusive of floors below ground level) Rule 26.6.4 Discretionary Activities (Restricted) (iii) Retail Activity with a gross floor area between <u>2501</u> and <u>1500m²</u> (inclusive of floors below ground level)... Rule 26.6.5 Discretionary Activities (Unrestricted) (iv) Retail Activity with a gross floor area of <u>greater than 1500m²</u> 501m²—1000m² (inclusive of floors below ground level)... Rule 26.6.6 Non-Complying Activities (iii) Retail Activity with a gross floor area exceeding 1000m² (inclusive of floors below ground level). Rule 26.7.3(i) Permitted Activities (h) Retail Activity with a gross floor area of up to and including <u>2500m²</u> (inclusive of floors below ground level) Rule 26.7.7(i) Discretionary Activities (Restricted) (c) Retail Activity with a gross floor area between <u>2501</u> and <u>1500m²</u> (inclusive of floors below ground level)... Rule 26.7.8(i) Discretionary Activities (Unrestricted) (d) Retail Activity with a gross floor area of <u>greater than 1500m²</u> 501m²—1000m² (inclusive of floors below ground level)... Rule 26.7.9 Non-Complying Activities (v) Retail Activity with a gross floor area exceeding 1000m² (inclusive of floors below ground level).	
Chalmers Properties Limited PC-7-14/16	Rule 26.6.2(iii)(e): Revise rule to require glazing of a minimum of 50% of ground floor frontages.	
Chalmers Properties Limited PC-7-14/17	Add to rules 26.6.2 (ii)(c), 26.7.4 (ii)(a)(iii), 26.7.4 (ii)(b)(ii), 26.7.4(ii)(c)(ii), 26.8.2 (ii)(c), and 26.9.2 (ii)(b) " <u>levels below ground including basement car parks shall not be included as part of the maximum number of floor levels</u> ".	
Chalmers Properties Limited PC-7-14/19	Amend rules (26.7.1, 26.7.2 and 26.7.6) to replace reference to discretionary activity (restricted) with controlled activity. Amend Rule 26.7.6 as follows: Rule 26.7.6 Performance Standards for Controlled Activities <u>activities identified as controlled by Rule 26.7.5</u> <i>In addition to the performance standards in Rule 26.7.4, the following apply to controlled those activities identified as controlled activities in Rule 26.7.5:</i>	
Chalmers Properties Limited PC-7-14/20	Amend Rule 26.7.6(ii)(c)(i) as follows: <i>Viewshafts/pedestrian access-ways from Willis Street and Mason Street to the harbour edge wharf...</i>	
Otago Regional Council (ORC) PC-7-20/3	Rule 26.7.2 (ii) Performance Standards for Wharf Construction: a. The submitter seeks that the Datum is clarified. b. That the restrictive wharf levels are aligned to existing wharf heights and provide an effective range to provide activities such as re-decking and general maintenance.	Chalmers Properties Limited PC-7-F-49 supports
Otago Regional Council (ORC) PC-7-20/4	Rule 26.7.3 (i) (b) Permitted Activities - That it is reworded to read "Commercial Office in the Inner Basin North and South Character Areas." The submitter considers that the provisions that should apply to the Inner Basin South. Commercial Office activities should be consistent with similar activities that will occur in the area such as Restaurant Activity.	Chalmers Properties Limited PC-7-F-49 oppose
North Dunedin Holdings Limited PC-7-21/1	Amend rule to allow permitted retail activity be added to the Mason Street Character Area Rules as per Rule 26.8.1(viii) (Retail Activity in conjunction with an industrial activity, industrial tourist activity...etc).	
North Dunedin Holdings Limited PC-7-21/2	Amend Rule 26.9.2 (i) to allow flexibility regards yard allowance on Mason Street Character Area Rules.	
Otago Regional Council (ORC) PC-7-20/6	The submitter's preference is that the plan is amended in relation to Lot 2 DP22365 being the Otago Regional Council owned land on the corner of Birch and Kitchener Streets. The amendment to show on Appendix 26.3 as Harbourside, Inner South Basin Character Area in order to align the zoning with property boundaries. The submitter considers that port activities should therefore be allowed in the Inner South Basin Character Area as a permitted activity in order to allow for existing activities to continue (by altering Rule 26.7.3).	Chalmers Properties Limited PC-7-F-49 oppose
Arthur Barnett Properties Limited PC-7-12/2	That the exclusion of 41 Wharf Street from Rule 26.7.3(i) be <u>deleted</u> .	

Submission	Decision sought from Dunedin City Council	Further Submission
Arthur Barnett Properties Limited PC-7-12/3	That Rule 26.7.3(ii) be <u>deleted</u> .	
Arthur Barnett Properties Limited PC-7-12/4	That Rule 26.7.4(ii)(a)(i) be <u>amended</u> to provide for the maximum height to be measured from the finished ground level at 41 Wharf Street	
Port Chalmers Yacht Club (Inc.) PC-7-22/2	That the following items in the Proposed District Plan Change 7 are adopted: 26.7 Inner Basin (North, South, and North East) Character Area – Rules and in particular, Rule 26.7.1(i)(e) "The provision of public access...is maintained."	
Barry Simpson PC-7-28/16	26.6.2(iv) Delete entirely. See above.	Chalmers Properties Limited PC-7-F-53 oppose
Elizabeth J Kerr PC-7-50/16	Oppose proposed Character Areas subject to holding wider consultation and Dunedin City Council providing impact assessments for heritage values in light of proposed changes of use. All rules associated with the character areas should be revised in view of the Council's obligation to protect and sustain heritage values; and to support (morally and ethically) existing industry and service clusters on the harbourside.	Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose
Elizabeth J Kerr PC-7-50/17	<u>Inner Basin:</u> Reject use of the term "Inner Basin"; substitute with "Steamer Basin" as it is commonly referred to. Assess, retain and refurbish wharf structures, wharf sheds and heritage features (see adaptive reuse), to enhance the unique character, features, qualities and identity of the waterside. Setting rules for the immediate area surrounding the Steamer Basin requires further consultation.	Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose
Te Runanga o Otakou PC-7-54/8	26.7.1 Wharf Construction in the Inner Basin: The Dunedin City Council has restricted its discretion to the matters set out in paragraphs a-e.	
Te Runanga o Otakou PC-7-54/9	26.7.1 Wharf Construction in the Inner Basin: Include, as an assessment matter, the effects of the proposal on the cultural, spiritual, historical and traditional association of Kai Tahu with Te Tai O Arai Te Uru (Otago Coastal Marine Area).	
New Zealand Historic Places Trust (NZHPT) PC-7-49/5	Recommend the following amendments: - Rules 26.6.3(i), 26.7.5(i)(a), 26.8.3(i) and 26.9.3(i) providing for construction of new buildings or additions or alterations where such activity is publicly visible as a controlled activity should be a restricted discretionary activity. Because Council must grant consent to a controlled activity, such status affords little, if any, protection. - Rule 26.6.4(iv) applying to demolition of buildings in the Fryatt Street North Character Area needs to make it clear that this does not apply to buildings listed on Schedule 25.1. It is then clear from the outset that such activity is a non-complying one in accordance with the present Townscape Rule 13.7.4. Similar clarification needs to be provided with respect to demolitions in all other character areas.	Nicol A MacArthur PC-7-F-106 supports Chalmers Properties Limited PC-7-F-66 oppose
Port Otago Limited PC-7-34/8	Berthing of ships and embarkation and disembarkation of passengers be specifically stated as a permitted use in IBNECA (Inner Basin North East Character Area).	Chalmers Properties Limited PC-7-F-58 support
Port Otago Limited PC-7-34/9	Activities permitted by the Port 2 Zone rules be permitted in IBNECA until the earlier of: redevelopment of the zone commences or the land is transferred from Port Otago Ltd's ownership.	Chalmers Properties Limited PC-7-F-58 support in part
Polarcold Stores Limited PC-7-32/2	Amend Rule 26.8.1(iii), (v) and (viii) by the addition of the following words in each rule <i>"except in the block bounded by Kitchener Street/ White Street/ Buller Street/ French Street"</i>	Fonterra Co-Operative Group Ltd PC-7-F-110 oppose
Barry Simpson PC-7-28/17	26.9 Delete entirely have redesignated as Mixed Use CA as per 26.8.	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/4	Retain the individual commercial focus of this land area for wealth creation purposes rather than weaken the George St/Stuart St focus/cluster area for shopping and tourists by allowing these activities in the proposal other than on the seaward side of Fryatt and Birch Sts.	Chalmers Properties Limited PC-7-F-53 oppose
Action Engineering Limited PC-7-26/3	General Rule – Access and Parking (a) The Plan Change is abandoned in its entirety. (b) The Plan Change stage 1 stays west of Fish Street and retains separation between Industrial zone and the mixed use zone and occupies the inner basin south, which sees more sun and is therefore is a more hospitable environment.	Nicol A MacArthur PC-7-F-101 support Chalmers Properties Limited PC-7-F-52 oppose

Submission	Decision sought from Dunedin City Council	Further Submission
Kaan's Catering Supplies ("Kaan's") PC-7-45/2	General Rule – Access and Parking: Complete abandonment of the Harbourside Plan Change	Chalmers Properties Limited PC-7-F-63 oppose
Crawford Glass Dunedin Limited, Crawford Glass Limited trading as Novus Dunedin, CWC 2005 Limited and Eccotech Limited PC-7-41/2	General Rule – Access and Parking (a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-60 oppose
Geoffrey A Martin PC-7-42/2	General Rule – Access and Parking (a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-61 oppose

Discussion

- [153] The rules specific to each Character Area are contained in 26.6 to 26.9 of proposed Section 26: Harbourside. A number of amendments to these rules were requested by submissions, which have been grouped into the rule areas to which they relate.
- [154] **Elizabeth Kerr (PC-7-50/16)** opposed the proposed character areas in general and sought their revision to take account of heritage values and existing activities. We discuss this further in section 6.19 of this decision.

Retail Activity

- [155] One of the main principles in developing Proposed Plan Change 7 was that development in the harbourside area would not affect the vitality and vibrancy of the central city. The Officer's Report stated that this principle is also one of the main outcomes of the Plan in terms of sustainable management of the city centre resource and its retention as a people place. The report went on to state that, within the Harbourside Zone, effects are to be managed by restricting retail and commercial office activities to the Fryatt Street North and Steamer Basin North Character Areas. A graduated approach manages the scale of activities based upon individual floor areas and activity status, with an overall cumulative floor area threshold for both retail and commercial office activities. The Officer's Report stated that the approach seeks to manage urban design and distributional effects, and discourage large format retail activities.
- [156] **CPL (PC-7-14/15)** requested revision of the gross floor area for retail on the following basis:
- permitted being 500m² (notified as 200m²)
 - discretionary restricted 501-1500m² (notified as 201-500m²)
 - discretionary unrestricted of greater than 1500m² (notified as 501-1000m²)
 - deleting the non complying activity of greater than 1000m².
- Complementary to this the submitter requested an increase in the overall threshold under General Rule 26.10.11, which we consider under section 6.12 of this decision.
- [157] In support of CPL's request, we heard evidence from Mr John Long (Retail Consultant), who did not consider that enough retail space had been provided to achieve the vision and that such restrictions will frustrate viable retail development and, in Mr Long's opinion, ultimately the objective towards people orientated activities. Mr Long recommended relaxation of the retail footprint area limits to provide the market with a more flexible and certain response.
- [158] Mr Phillip Donnelly provided economic evidence on behalf of CPL and said there are too many unjustified restrictions on activities that can take place on the inner harbour land, including the retail limits. In Mr Donnelly's opinion, the threshold limits are having regard to trade competition effects upon Dunedin's CBD and are, therefore, not

justified under the Act. Mr Donnelly considered that the threshold limits on retail and commercial development will not provide for retail/commercial developments to take the lead role due to the restrictions imposed on them.

[159] The Officer's Report said that the floor area, as notified, is intended to promote smaller scale retail activities in a manner that is consistent with and supportive of active frontages and pedestrian orientated areas. The report went on to state that such a floor area size would result in retail activities similar to those fronting George Street, which have an average of 150-200m². The retail floor area promoted by CPL would result in a permitted activity equivalent to the retail unit such as Baby City established in the building complex adjacent to the railway at 140 Cumberland Street, which has a floor area of approximately 500m².

[160] The Officer's Report stated that the upper limit of 1500m² requested by CPL as discretionary unrestricted, imposes a limit that is consistent with the definition of *Large Scale Retail Activity* under Section 3: Definitions of the Plan, as follows:

means retail outlets that have a minimum gross retail floor area of 1,500 m² devoted to selling directly to the public, where the goods are on display, excluding offices, storerooms, preparation areas, toilet and staff facilities, service and delivery areas and which are operated as a single retail unit within a single building; and excluding individual shops, food courts or other pedestrian mall areas containing smaller retail sales areas or shops.

The report went on to state that Large Scale Retail Activities are intended to cater for big box retail and under the Plan are only provided for in the Activity Zones.

[161] The Section 32 Summary Report details the approach for retail activities undertaken within Proposed Plan Change 7, which was developed on the recommendations of the report by Marketplace New Zealand Limited, which concluded: *Overall the assessment concluded that impacts upon the city centre could be managed by adopting a graduated approach that imposed size limitations on individual retail activities with an overall cumulative threshold providing for up to a decade of growth, above which Council could consider impacts. The graduated approach enables site specific and urban design matters to be taken into consideration. This approach also enables large format retail activities to be non-complying, enabling the harbourside to develop with small-scale boutique retail. It was also recommended that commercial potential be focused around the concentrated public domain.*

[162] The report went on to state: *Retailing not anchored by large-scale outlets, prepared food and commercial office development in the proposed area would be extremely unlikely to bring about any downturn in the Central Activity Area.*

[163] Mr Mark Tansley, of Marketplace New Zealand Limited, provided evidence at the hearing that confirmed the approach adopted within the plan change based upon his original report. Mr Tansley stated that the approach of the plan change enables retailing as an ancillary activity and does not enable a critical mass of retail development that would or could be a *de facto* centre. Mr Tansley went on further to state that *"the retail 'needs' of residents, workers and visitors do not sum to 6,000m² or even 3,000m², in the context of the proximity of the Central Activity Area and established shopping patterns. The rules for retailing are arguably generous, unless viewed through the lens of a developer with a strong retail agenda."*

[164] The Officer's Report stated that improved connections and public access to the harbour will provide the nexus for the establishment of retail and other activities within the harbourside area. The report continued that the Harbourside Zone was never intended to provide for large format retail, which the amendments sought by CPL promote. In addition to distributional effects, the control on the scale of retail activities also seeks to manage effects of such activities upon the character and amenity of the Harbourside Zone. Large format retail has effects upon the scale of the built form, provision of parking and transportation effects that often conflict with pedestrian-orientated areas. The limits upon retail activities, as notified, will encourage development that is consistent with a human scale and the focus upon a pedestrian orientated area.

[165] In regard to urban design effects, we heard evidence from Ms Janet Reeves who said *the character buildings fronting Fryatt Street North have a relatively fine grain, i.e. the*

standard allotment has a street width of around 13 metres (although some have been amalgamated) and is subdivided by windows and doors, typically into 3, so the module is perhaps 4 metres wide. The permitted floorspace of 200m² would allow shops to occupy the whole of one building frontage back to a depth of 15.5m. Alternatively re-use of a building could result in 3 or 4 boutique shops occupying a building frontage. Which would fit comfortably into the existing spatial framework. Boutique shops are more likely to take advantage of the existing fenestration pattern as a 'point of difference' than larger premises.

- [166] In her planning evidence for CPL, Ms Christine Ralph acknowledged the impacts of retailing exceeding 500m² and considered that it is appropriate to require a consent. Ms Ralph preferred to make such activities discretionary up to 1500m² with activities exceeding this limit being non-complying. We note that this opinion differs from the approach in CPL's original submission. We also note that Ms Ralph's opinion differs from the less restrictive approach promoted by Mr Long and Mr Donnelly. In promoting these retail thresholds, Ms Ralph stated that *the key point of the proposed rules is to ensure that retailing in harbourside acts like a local activity area rather than a central activity area which has a wider catchment of interest, while at the same time enabling retailing of unit sizes that are practical in terms of retailing trends and the feasibility for the regeneration projects whilst fitting the Design Code requirements, traffic effects and the retailing hierarchy that the Council has established.*
- [167] We consider that the approach adopted within the harbourside area is consistent with the approach in the Plan where retail activities, as part of a wider definition of 'commercial activities', are provided in Activity Zones only. The Officer's Report noted that this is achieved through Objectives 9.2.1 and 9.2.5 of the Activity Zones section of the Plan, which seek to manage the provision of a range of activities within defined areas to continue their role as 'people places' (Objectives 9.2.1 and 9.2.5). The report goes on to say that Objective 9.2.2 seeks to manage large scale retail and its effects by limiting it to certain locations. We understand that the integrity of this approach has been promulgated by recent changes to the Plan introducing the Local Activity 2 Zone at St Clair and the Airport Zone, which limits the type and scale of retail.
- [168] We do not agree with the view of Mr Donnelly that the retail hierarchy and size limitations proposed for the Harbourside Zone are related to trade competition. We note that in his opening submission Mr Garbett stated that the protection of central city vibrancy is a valid resource management concern, raised in the Environment Court decision *Corner Stone Group Limited v North Shore City Council (A042/07)*. As we have outlined above, with references from the Officer's Report, the Plan has an established approach for retail activities and management of the city centre vibrancy and vitality, which has wider social and economic effects that the city wishes to manage. The framework to manage retail activities in the Harbourside Zone is consistent with this approach. Adopting the increased floor area size for retail activities as proposed by CPL has potential adverse effects upon the vibrancy and vitality of the city centre. This would be inconsistent with Proposed Objective 26.2.3, which seeks to ensure compatibility of activities within the harbourside area that complement the vitality and vibrancy of the city centre, and would undermine the overall integrity of the Plan. Overall, we are satisfied that the graduated floor area approach for retail activities within the Harbourside Zone, as notified, is appropriate and will achieve the objectives.

Commercial Office Activity

- [169] As with Retail Activities, Commercial Office Activities are only permitted in the Fryatt Street North and Steamer Basin North Character Areas (through Rules 26.6.1(ii) and 26.7.3(i)(b) respectively). An overall cumulative threshold area for commercial office is imposed under General Rule 26.10.12.
- [170] **Otago Regional Council (PC-7-20/4)** sought the inclusion of commercial office within the Steamer Basin South Character Area as a permitted activity. The submitter did not request any increase in the overall threshold floor area limit for Commercial Office (General Rule 26.10.12). In the absence of such an amendment, we consider that the request increases the area over which commercial office development can be undertaken with the potential to dilute the concentration of such activities in the Steamer Basin North and Fryatt Street North Character Areas.

- [171] The Officer's Report stated that while the Steamer Basin North and Fryatt Street North Character Areas are seen as the focus for pedestrian-orientated development, the Steamer Basin South Character Area is considered more desirable and appropriate for residential development because of its northerly aspect and outlook. This is reflected within the proposed rules, which do not permit Retail Activities or Commercial Office Activities in the Steamer Basin South Character Area. We note that the evidence of Ms Christine Ralph also supported this approach. We consider that this is appropriate and the submitters request is not accepted.

Identified Pedestrian Frontages - Glazing

- [172] **CPL (PC-7-14/6)** highlighted an inconsistency between references in the Harbourside Design Code and Rule 26.6.2(iii)(e) relating to glazing. CPL requested that it should consistently refer to 50% as opposed to 80% glazing. The Officer's Report said that the intent of the rule is to encourage active edges that allow interaction with the street and encourage people activities, along with safety and surveillance design issues. Given that the existing built form does not have significant glazing, due to their current function as industrial buildings, we consider it is appropriate that the minimum glazing refers to 50%, which may also encourage adaptive reuse.

Minimum Number of Floors

- [173] **CPL (PC-7-14/17)** requested that the performance standards relating to the minimum number of floors within each character area include reference to the exclusion of basement parking below ground floor level. The assessment in the Officer's Report did not consider the submitters request necessary, as the relevant performance standard heading within each character area is "*Maximum number of Floors above Ground Level*" (Rules 26.6.2(ii)(c), 26.7.4(ii)(a)(iii), 26.8.2(ii)(c), 26.9.2(ii)(b)). We agree with the Officer's Report and consider that this heading is readily interpreted as being a rule that does not include floor levels below ground level. This rule does not preclude provision of basement parking. We note that any interpretation as to ground level would refer to the definition in Section 3: Definitions of the Plan.

Wharf Provisions – Steamer Basin Character Areas

Wharf Heights

- [174] **ORC (PC-7-20/3)** sought clarification of the datum used in Rule 26.7.2(ii) to determine the height of any refurbished or rebuilt wharf. The submitter also requested that the heights specified in Rule 26.7.2(ii) be aligned to existing wharf heights and provide an effective range to allow for activities such as maintenance and re-decking.
- [175] As notified, Rule 26.7.2(ii) refers to a City Datum of 102.19m for the height of any refurbished or redeveloped Fryatt Street or Birch Street wharf. The submitter outlined that the implication of the City Datum reference is a wharf 100m above the existing wharf level, which is obviously not the intention of the provision. Alternatively, the submitter considers, if the rule is taken as Otago Datum, any wharf would be approximately 0.4m below the existing Birch Street wharf levels.
- [176] The Officer's Report stated that Rule 26.7.2(ii) is intended to ensure consistent wharf heights around the waters edge with sufficient provision for sea level rise. The report goes on to state that the height also seeks to establish a relationship between the street and the wharf which is supportive of a pedestrian orientated area, particularly along Fryatt Street. We note that the majority of the current wharf sheds, and the adjacent wharf, sits above the road level in Fryatt Street, while along Birch Street the wharf is closer to the street level.
- [177] The Officer's Report recommended that the rule be corrected to refer to Otago Metric Datum. The historical development of the various data used in Dunedin was explained in the evidence of Mr Maurice Davis, on behalf of CPL. Mr Davis confirmed that the datum used in the Plan should relate to the Otago Datum, which we understand is also referred to as the Otago Metric Datum. We accept that this is the correct reference that Rule 26.7.2(ii) should refer to.
- [178] We also heard evidence from Mr Gerard Collings, on behalf of ORC, that the fixed

wharf levels established in the Plan do not recognise the need for tolerance in construction of the wharf, particularly refurbishment and maintenance, or provision for stormwater capture or edge treatments. Ms Sarah Valk, on behalf of ORC, proposed an amended rule to take account of the differences of wharves along Birch Street and Fryatt Street, ranging up to 104m above Otago Metric Datum along Fryatt Street.

- [179] The evidence of Mr Davis clarified how the design levels for floors/decks of new wharf structures were established. Mr Davis stated that a minimum level should be adopted for wharf structures of 102.20m in terms of Otago Metric Datum. We accept this as the minimum level which is to be referred to in Rule 26.7.2(ii).
- [180] We prefer the evidence of Mr Davis in establishing an appropriate wharf level in light of the objectives of improved public access, but recognise the need to provide for general maintenance activities such as re-decking as highlighted by Mr Collings. Rule 26.7.2(ii), as currently worded, specifies a fixed level for the refurbished or rebuilt wharf along Birch Street and Fryatt Street. We consider that amending the rule to specify a minimum level would provide flexibility, which ORC are seeking, whilst establishing a minimum standard. We note that the provisions of the Harbourside Design Code and the resource consent process will provide for sufficient consideration of the wharf design.

Activity Status for Wharf Construction

- [181] **CPL (PC-7-14/19)** requested that the activity status for wharf construction (Rule 26.7.1) be amended from a discretionary activity (restricted) to a controlled activity. The submitter's request is on the basis that the environment is modified and the contents of the structure plan provide sufficient detail for the development of a wharf. In her evidence, Ms Christine Ralph, on behalf of CPL, was of the opinion that the Council has ample control over the design and delivery of an appropriate structure with the option of imposing a bond to ensure the desired outcome is achieved without requiring a resource consent application.
- [182] We note that the performance standards under Rule 26.7.2 specify general layout, wharf height and construction standards. Structure Plan 26.1.4, referred to through Rule 26.7.1(i), details the various minimum widths that are required around Steamer Basin.
- [183] The Officer's Report states that the activity status for wharf construction is intended to match the Regional Plan: Coast for Otago as consents will be necessary over both plans. The report went on to say that administrative inefficiencies may arise where different activity status applies across jurisdictional boundaries to essentially the same consent. The report emphasised the preference for consistency between the Regional Plan and District Plan as it relates to the wharves. We agree that it is preferable to ensure consistency between the plans for the same activity and consider that the discretionary (restricted) activity status for wharf construction/refurbishment should be retained as notified. We note that this activity status is consistent with our recommendation for the same activity under the Regional Plan: Coast for Otago.
- [184] **Te Runanga o Otakou (PC-7-54/8-9)** supported the restriction of discretion in relation to wharf construction (Rule 26.7.1), and sought the addition of an assessment matter in relation to effects upon the statutory acknowledgement area. We do not consider that this is necessary.

Mason Street Character Area

- [185] **Barry Simpson (PC-7-28/17)** has requested that the Mason Street Character Area be deleted and redesignated as Mixed Use. It is our decision to rezone both Stage 1 and Stage 2 as Harbourside and to retain the character areas as notified, as confirmed in Decision PC-7/6.3. Therefore we do not accept the submitter's request.
- [186] **North Dunedin Holdings Limited (PC-7-21/1)** requested the inclusion of retail activities associated with industrial and service activities into the Mason Street Character Area rules. Such an activity is currently provided for in the Mixed Use Character Area (Rule 26.8.1(viii)) and is normally associated with industrial and service activities. The Mason Street Character Area provides for industrial and service activities, and we consider that it is appropriate to make provision here for associated retail activity.

- [187] **North Dunedin Holdings Limited (PC-7-21/2)** also requested that *Rule 26.9.2(i) Front Yards* be amended to provide flexibility to take account of existing buildings that are built to the street frontage and thereby encourage retention of existing buildings. Rule 26.9.2(i) requires a front yard with a 2m minimum and 3m maximum. The Officer's Report noted that the front yard provides a small setback for buildings that are generally intended to contain residential activities, enabling entrances to be provided away from the street edge with small balconies/outdoor areas. We consider it is not necessary to amend Rule 26.9.2(i) to take account of existing buildings that may not meet the rule. The resource consent process is appropriate to assess existing buildings on a case by case basis against the relevant assessment matters contained in Section 26: Harbourside.

Steamer Basin North East Character Area (SBNECA)

- [188] **CPL (PC-7-14/20)** requested an amendment to Rule 26.7.6(ii)(c)(i), which relates to the provision of public open space areas and view shafts upon development within the Steamer Basin North East Character Area (containing the T & U wharf). The submitter requested the inclusion of reference within the rule to the Mason Street view shaft on the basis that this has to be provided.
- [189] The Officer's Report considered the request to be redundant on the basis that the Mason Street view shaft is located outside of the area covered by SBNECA and therefore not within the Harbourside Zone. The report went on to say that the Mason Street view shaft, as shown on Appendix 26.1.1: Structure Plan, extends into the Port 2 Zone on a site currently occupied by the cement silo operations of Holcim NZ. The Officer's Report stated that provision is made for the view shaft through proposed Rule 11.6.2(i), which is a consequential amendment to be included within Section 11: Ports as part of Plan Change 7. We agree with this assessment and do not consider it necessary to amend the rule.
- [190] **POL (PC-7-34/9)** submitted that it is their intention is to continue to utilise the area identified as SBNECA as part of their port operations until such a time as redevelopment is appropriate. The submitter does not wish to rely upon existing use rights and requested a transitional provision to enable ongoing relevant uses as permitted in the Port 2 zone (Rule 11.6.1). In his evidence, Mr Len Andersen confirmed the intent of POL with regard to the SBNECA, and stated that while their submission was limited to the SBNECA, the same principles apply in respect of other wharf sheds.
- [191] The requested transitional provisions sought by POL are to apply until either redevelopment of the zone commences; or the land is transferred from Port Otago Ltd's ownership. The further submission of **CPL (PC-7-F-58)** supported this to the extent that only activities listed under Rule 11.6.1(i)-(iii) are included.
- [192] The Officer's Report confirmed that no activities are permitted within SBNECA until the staging trigger has been met under the Harbourside General Rule 26.10.2: Staging. Therefore existing use rights would need to be relied upon until other activities within the SBNECA can be established. We consider that, given redevelopment is envisaged in the long term for SBNECA, it is appropriate that provision is made for ongoing port operations to provide certainty to POL. As outlined in the further submission of CPL we accept that provision is made for activities listed under current Port 2 Zone activities in Rule 11.6.1(i) to (iii).
- [193] We do not consider it appropriate to extend the provision of such temporary activities across other wharf sheds in Steamer Basin, as suggested by POL and CPL. While provision for such activities may be reasonable there is difficulty establishing a rule that can work in the context of the Plan. The Plan does not recognise the term '*temporary occupational agreements*' and it may not be a universally accepted term. It is also not clear as to what the intended temporary activities will be and it would be necessary to define such activities to provide clarity, along with any rules that will not apply. We also note that the remainder of Steamer Basin is contained within Stage 1.
- [194] We consider that a consequential amendment accepting the submitters request will be required to General Rule 26.10.2(i)(c): Staging, to allow for such transitional activities. As the submitter has not sought any relief in relation to the performance standards we have assumed that port related activities will be undertaken within the

existing buildings and no amendment is required for these standards.

- [195] **POL (PC-7-34/8)** also requested that berthing of ships and passenger disembarkation be provided for as a permitted activity in SBNECA (Rule 26.7.3), as it is not clear that this would be covered under 'tourist and entertainment activity'. Mr Len Andersen stated that the T & U wharf will continue to be used for the berthing of cruise vessels and navy ships. We consider that provision for this activity is consistent with the vision and objectives for the area.

Steamer Basin North Character Area - 41 Wharf Street

- [196] **Arthur Barnett Properties Limited (PC-7-12/2 & PC-7-12/3)** sought the deletion of restrictions that specifically apply to 41 Wharf Street, which is located within the Steamer Basin North Character Area. Rules 26.7.3(i) and (ii), as notified, would limit the activities permitted on 41 Wharf Street to only recreation activities. Any other activity would be non-complying under the rule. The submitter states that such a rule is not appropriate under the Act as it limits the ability of the landowner to undertake a variety of activities.
- [197] The Officer's Report said that, in developing the harbourside vision, the site at 41 Wharf Street was considered to be of strategic importance at the head of the Steamer Basin, providing options for amenity improvements and connections to the harbourside.
- [198] We note that the site at 41 Wharf Street is also subject to a Notice of Requirement (DIS-2007-9), notified alongside Proposed Plan Change 7, for road realignment which is subject to a separate decision. We also note that on 30 June 2008 **Arthur Barnett Properties Limited** was granted resource consent to develop a three-storey office block and one apartment on this site. While the site is subject to a designation, the ability to implement this consent, and any activity on 41 Wharf Street, is subject to approval of the requiring authority (Dunedin City Council).
- [199] The Officer's Report discussed the type of activities and performance standards that would be appropriate for 41 Wharf Street if the Notice of Requirement was not confirmed. The report considered that the site at 41 Wharf Street is isolated from the harbour by Wharf Street, and will continue to be isolated if the road is not realigned. The Officer's Report recommended that provision should be made for activities similar to those in the Steamer Basin North, with the exception of residential activities and retail activities due to its location. In his evidence, Mr Don Anderson considered that certain levels of residential and retail development on 41 Wharf Street would be compatible with the amenity and traffic for the site. Mr Anderson suggested such development could occur as discretionary restricted. We prefer the recommendation of the Officer's Report with regard to activities and their status on 41 Wharf Street.
- [200] Mr Neville Marquet outlined that the recommendation in the Officer's Report made any activity on the site non-complying. We heard from Ms Hogan that this was unintentional and recommended a revised provision. In light of Mr Marquet's submission and the revised recommendation from Ms Hogan, we have reconsidered the rule and made appropriate amendments to ensure that the rule provides the necessary certainty for a range of permitted activities to be undertaken on the 41 Wharf Street site.
- [201] In light of a greater range of activities at 41 Wharf Street, **Arthur Barnett Properties Limited (PC-7-12/4)** requested that Rule 26.7.4(ii)(a)(i) be amended to provide for the maximum height from finished ground level. We accept that it is appropriate to amend the rule in relation to 41 Wharf Street, however any maximum height should be measured on the same basis as the other Character Areas, that is from ground level as defined in the Plan.
- [202] The evidence of Ms Janet Reeves recommended changes to the Harbourside Design Code to take account of the form of any potential development at 41 Wharf Street. Ms Reeves stated that *Permitted heights sought are 10m to the spouting and 14m to the ridgeline, with the height being measured from finished ground level. These parameters reflect the building form of the wharf sheds and are not relevant for this site. I therefore recommend a maximum building height of 16m to permit a building of sufficient scale to form the backdrop to the harbour. This to be coupled with the*

maximum number of permitted floors being four. In order to ensure that the built form is of sufficient presence it will need to occupy most of the width of the site.

- [203] In his evidence, Mr Don Anderson suggested amendments to the design of any developments on site as recommended by Ms Reeves, including simplifying the built form criteria for 41 Wharf Street and the length of the building. We agree with Mr Anderson that a 100m long building is excessive at that location and that the site should be developed to maximise the view to the harbour. The rules establish the maximum bulk and location of the building and therefore should be relied upon.
- [204] Overall we accept that there is a range of activities that can be established on the site at 41 Wharf Street as part of the Harbourside Zone. We also consider it appropriate to amend the criteria for the Harbourside Design Code to enable flexibility in the form of development.

Steamer Basin Character Areas

- [205] **Port Chalmers Yacht Club (PC-7-22/2)** sought adoption of the rule for the Steamer Basin Character Area, particularly Rule 26.7.1(i)(e), which relates to provision of public access upon development around the Steamer Basin. We accept this submission.
- [206] **Elizabeth Kerr (PC-7-50/17)** sought that reference to the *Inner Basin* be rejected in favour of *Steamer Basin*. We note that the evidence of Mr Bert Youngman (presented as part of the evidence on the Otago Regional Council Plan Change) included a 1912 photo of the area which referred to the *Steamers' Basin*. We understand that the term Inner Basin was developed through the vision process and that, despite the variation, Steamer Basin is the more commonly used and accepted term. We consider that it is appropriate to revert to 'Steamer Basin' within the final plan change documentation.
- [207] **Elizabeth Kerr** also highlighted that Rule 26.7.2(i)(a)(v) contains a sentence that does not make sense. The addition of commas will overcome this, consistent with Rule 26.7.6(i)(a)(v).
- [208] **ORC (PC-7-20/6)** sought an amendment to the boundary of the Steamer Basin South Character Area to reflect the extent of their land ownership (Lot 2 DP22365) which contains the slipway, and subsequent provision for slipway activities. We discussed this in Section 6.4 of the decision and agreed that a minor amendment to exclude the slipway from the Harbourside Zone was necessary. In light of Decision PC-7/6.4 we consider it is not necessary to undertake any consequential amendment for slipway activities as they are provided for in its Port 2 zoning.

Mixed Use Character Area - Rule 26.8.1

- [209] **Polarcold Stores Limited (PC-7-32/2)** requested that an exception be provided in relation to Community Support Activities, Industrial Tourist Activities and Retail Activities associated with an Industrial Activity within Rule 26.8.1 in the Mixed Use Character Area. The requested exception is to apply to the block bounded by Kitchener Street/White Street/Butler Street/French Street, which is opposite the Polarcold premises at 10 French Street.
- [210] The Officer's Report stated that, with the exception of Community Support Activities, the remaining activities requested to be excluded are permitted activities within both the Industrial 1 and Port 2 Zone. Industrial Tourist Activity covers activities such as the Gourmet Ice Cream Company located in Birch Street. We consider that retaining these activities is appropriate within the Mixed Use Character Area.

Demolition of Existing Buildings and Construction of New Buildings in all Character Areas

- [211] In opposing the plan change, **NZHPT (PC-7-49/5)** requested that the rules (Rules 26.6.3(i), 26.7.5(i)(a), 26.8.3(i) and 26.9.3(i)) relating to the construction of new buildings and additions and alterations be elevated from controlled activity to discretionary restricted, across all character areas, to provide greater protection for heritage values.
- [212] The Officer's Report said that the design and appearance of all new buildings and additions is controlled to ensure the resulting built form maintains quality and consistency with the values of the area. The Section 32 Summary Report considered

that the activity status, as notified, is appropriate where a balance is required between encouraging redevelopment and controlling design, as guided by the Harbourside Design Code. We do not consider that changing the activity status would be efficient in achieving this and did not hear any evidence to convince us otherwise.

- [213] **NZHPT** sought clarification of Rule 26.6.4(iv), which relates to demolition of buildings in the Fryatt Street North Character Area, and how it relates to Schedule 25.1 items. The Officer's Report stated that the rule is not intended to apply to Schedule 25.1 items, as Rule 13.7.4 of the Townscape Section controls the demolition of any scheduled item. We consider that interpretation issues could arise between the two rules and inclusion of a reference within Rule 26.6.4(iv) clarifies that it excludes items listed on Schedule 25.1.
- [214] **NZHPT** also sought similar clarification for the remaining Character Areas within the Harbourside Zone as it relates to the demolition of Schedule 25.1 items. The Officer's Report clarified that the Fryatt Street North Character Area is the only location where demolition of buildings requires consent, due to the potential adverse effects vacant sites may have upon a pedestrian orientated area. The Officer's Report went on to note that Rule 13.7.4 of the Townscape Section controls demolition of Schedule 25.1 items and there are a number of cross-references to Section 13: Townscape within Section 26: Harbourside that alerts the plan user. It was also noted that Section 13: Townscape is highlighted in the summary activity table in 26.5, directing the user to that section, and there is a 'Note to Plan Users' at the start of each Character Area, cross-referencing to the Townscape Section. We do not consider it necessary to manage demolition of buildings in all Character Areas.

Fryatt Street North Character Area – Identified Pedestrian Frontage

- [215] **Kaan's (PC-7-45/2), Crawford Glass & Ors (PC-7-41/2), Action Engineering (PC-7-26/3) and Geoffrey Martin(PC-7-42/2)** considered the requirement that no access be obtained from Fryatt Street is impractical and an imposition on present activities. The rule referred to by the submitters is Rule 26.6.2(iii), which does not permit vehicle crossings along an Identified Pedestrian Frontage. The Identified Pedestrian Frontage applies to the first two blocks of Fryatt Street at the Wharf Street end. The rule does not apply to the remainder of Fryatt Street North.
- [216] The Officer's Report explained that Rule 26.6.2(iii) seeks to reduce conflict with pedestrians and maintain uninterrupted active frontages in light of the activities proposed within the Fryatt Street North Character Area. The report went on to state that this rule is similar to that applied to Identified Pedestrian Frontages within the Central Activity Zone. We acknowledge that there are a number of existing crossings on Fryatt Street, which will retain existing use rights and the ability to continue to use the crossing. We consider that it may be appropriate to retain some vehicle crossings when new activities are established or upon redevelopment, the effects of which can be considered through the consent process.
- [217] **Barry Simpson (PC-7-28/16)** sought the deletion of Rule 26.6.2(iv), which relates to the minimum habitable room area for residential activities. We do not consider that deleting this rule is appropriate as it provides for minimum areas for residential activities to achieve a level of amenity for residents.

Decision PC-7/6.11

It is our decision to:

- (i) **Reject** the submissions of **Barry Simpson (PC-7-28/16), Chalmers Properties Limited (PC-7-14/15, PC-7-14/17, PC-7-14/19, PC-7-14/20), Elizabeth Kerr (PC-7-50/16), Te Rununga o Otakou (PC-7-54/8, PC-7-54/9), Barry Simpson (PC-7-28/17), Polarcold Stores Limited (PC-7-32/2), North Dunedin Holdings Limited (PC-7-21/2).**
- (ii) **Reject in part** the submissions of **Chalmers Properties Limited (PC-7-F-53, PC-7-F-58, PC-7-F-67, PC-7-F-67, PC-7-F-66), Fonterra Co-Operative Group (PC-7-F-110), Action Engineering (PC-7-26/3), Kaan's Catering (PC-7-45/2), Crawford Glass & Ors (PC-7-41/2), Geoffrey Martin (PC-7-42/2).**
- (iii) **Accept in part** the submissions of **Elizabeth Kerr (PC-7-50/17), New Zealand Historic Places Trust (PC-7-49/5), Chalmers Properties Limited (PC-7-F-49, PC-7-F-52, PC-7-F-53, PC-7-F-60, PC-7-F-61), Nicol MacArthur (PC-7-F-106, PC-7-F-107), Otago Regional Council (PC-7-20/4), North Dunedin Holdings Limited (PC-7-21/1)** as they relate to the following amendments:
 - (a) Amend all references to *Inner Basin* to *Steamer Basin*
 - (b) Amend Rule 26.7.2(i)(a)(v) as follows:
 - (v) *The staging of the development, including construction and, where development occurs in stages, how new segments of wharf will be integrated with existing segments.*
 - (c) Amend Rule 26.6.2(iii)(e) as follows:
 - Glazing and pedestrian entrances to buildings shall occupy a minimum of ~~80~~50% of the ground floor frontage. The remainder of the frontage may be treated with solid materials or may be glazed.*
 - (d) Amend Rule 26.7.2(b) as follows:
 - The re-built or refurbished wharf along Birch Street and Fryatt Street shall be designed to have freeboard of at least 0.33m above the highest recorded tide to take account of predicted sea level rise to the year 2050, where the top finished level of the wharves shall ~~be not be less than at~~ 102.19m ~~102.20m~~ above City ~~Otago~~ Otago Metric Datum.*
 - (e) Amend Rule 26.6.4(iv) as follows:
 - Demolition of buildings and structures not listed on Schedule 25.1 and/or creation of vacant sites adjoining an identified pedestrian frontage, as shown on the Structure Plan in Appendix 26.1.1,...*
 - (f) Insert the following into Rule 26.9.1 as Rule 26.9.1(ix) with subsequent renumbering of remaining activities:
 - (ix) *Retail Activity in conjunction with an industrial activity, industrial tourist activity or service activity provided that:*
 - (a) *The retail activity is complementary to and an integral part of the industrial, industrial tourist activity or service activity.*
 - (b) *The maximum area of gross floor space for retail activities shall not exceed 10% of the total floor space of the premises.*

(iv) **Accept in part** the submissions of **Arthur Barnett Properties Limited (PC-7-12/2, PC-7-12/3, PC-7-12/4)** as it relates to the following amendments that apply to 41 Wharf Street as part of the Steamer Basin North Character Area:

(a) Insert the following as Rule 26.7.3(ii) as follows:

(ii) *On Lot 3 DP 25158 (41 Wharf Street) ~~the only permitted activity is Recreational Activity provided that associated structures do not exceed 200m² in gross floor area~~ the following activities are permitted provided they comply with the performance standards in Rule 26.7.4 and the Harbourside Zone General Rules in Rule 26.10:*

- a) *Additions and alterations to buildings and structures not listed on Schedule 25.1 where the addition or alteration is not visible from a public place or road reserve*
- b) *Commercial Office*
- c) *Commercial Residential Harbourside Activity*
- d) *Community Support Activity*
- e) *Licensed Premises*
- f) *Recreational Activity provided that associated structures do not exceed 200m² in gross floor area*
- g) *Restaurant Activity*
- h) *Tourist and Entertainment Activity*

(b) Amend Rules 26.7.4(ii)(a)(i) and (iii) as follows:

(i) **Maximum Height**

(a) On Fryatt Street Wharf

(i) *To the top edge of the spouting* 10m

(ii) ~~(b) To the ridgeline~~ 14m

Heights shall be measured from the finished wharf level.

(b) Lot 3 DP 25158 (41 Wharf Street) 16m

Heights shall be measured from the ground level.

(iii) **Maximum Number of Floors above Ground Level**

(a) On Fryatt Street Wharf

(i) *Floors* 3

(ii) *Loft Space – Half-width level for up to 75% of the building length as shown in Figure 1.* 1

In calculating the number of floors mezzanine levels count as full floor levels

(b) Lot 3 DP 25158 (41 Wharf Street)

Floors 4

In calculating the number of floors mezzanine levels count as full floor levels.

(c) Insert design criteria relating to 41 Wharf Street into Appendix 26.2: Harbourside Design Code as follows:

(i) **HDC 1: Site Layout Steamer Basin Character Areas – General Criteria**

- For the site at 41 Wharf Street, on-site car parking should be located behind, below or within the building, not in front.

(ii) **HDC 2: Built Form Steamer Basin North Character Area**

For the site at 41 Wharf Street the following criteria apply:

- Distinctive building frontages (as opposed to backs) should address the north east, south east and south west sides of the building
- Maximum advantage should be taken of the outlook across the water
- The building should be designed to form the backdrop to the view of the basin from the water

- (v) Accept the submissions of **Port Otago Limited (PC-7-34/8, PC-7-34/9)** as they relate to the following amendments:
 - (a) Insert into Rule 26.7.3 as 26.7.3 (iii) the following:
In the Steamer Basin North East Character Area only those activities specified in Rules 11.6.1(i)-(iii) of the Port 2 Zone are permitted provided that redevelopment of the Steamer Basin North East Character Area with activities listed in Rule 26.7.3(i) has not commenced.
 - (b) Insert into Rule 26.7.3(i) as Rule 26.7.3(i)(k) the following:
(k) The berthing and mooring of ships, including passenger embarkation and disembarkation, in the Steamer Basin North East Character Area.

Reasons for Decision:

- (i) Managing the location and scale of retail and commercial office activities in only the Fryatt Street North and Steamer Basin North Character Areas enables sustainable management of the vibrancy and vitality of the city centre, consistent with Objective 26.2.3. Increasing the floor area limits for retail activity has the potential to result in development that is inconsistent with this objective and lead to adverse effects upon the character and pedestrian orientated areas sought within the harbourside. The Harbourside Zone is not intended to provide for large scale retail activities and the retail hierarchy is consistent with the approach adopted in the District Plan.
- (ii) Minor amendments to the Character Area rules will ensure consistency through the Plan provisions and reduce interpretation issues.
- (iii) Provision for a range of activities at 41 Wharf Street is consistent with the character areas and overall zone intent. Associated performance standards and amendment to the Harbourside Design Code will ensure that development on the site contributes to the objectives of the Harbourside Zone.
- (iv) The discretionary restricted activity status for rebuilt/refurbished wharves, as notified, is consistent with the Regional Plan: Coast for Otago. This is important to ensure efficiency, in reducing the potential for interpretive and administrative issues to arise when processing resource consents, and is intended to ensure integrated management across mean high water spring tide.
- (v) The controlled activity status for new buildings and additions and alterations to existing buildings, as notified, provides an element of certainty for developers while ensuring a good design outcome consistent with the objectives for the harbourside.
- (vi) Provision for port activities related to the use of the wharf in the Steamer Basin North East Character Area will enable Port Otago Limited to continue its activities until the area is to be developed.

6.12 GENERAL RULES

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/21	General Rule 26.10.3: This reference should be amended to Table 26.10.3	
Barry Simpson PC-7-28/18	26.10.2(i)(b) delete entirely.	Chalmers Properties Limited PC-7-F-53 oppose
Otago Regional Council (ORC) PC-7-20/5	General Rule 26.10.3: That these provisions are reduced in order to drive a change in the use of public and other transport modes and promote a sustainable transport solution for the city.	Chalmers Properties Limited PC-7-F-49 oppose
Chalmers Properties Limited PC-7-14/22	General Rule 26.10.3: Insert a rule for the Harbourside zone that permits off-site parking tied to the site by a legal agreement as a performance standard as follows: <i>Car parking may be provided on land in the Harbourside Zone provided that such parking is formalised by a legal right to exclusive use of a car park so that the parking will continue to be related to that authorised use.</i>	
Action Engineering Limited PC-7-26/3	General Rule – Access and Parking (a) The Plan Change is abandoned in its entirety. (b) The Plan Change stage 1 stays west of Fish Street and retains separation between Industrial zone and the mixed use zone and occupies the inner basin south, which sees more sun and is therefore is a more hospitable environment.	Nicol A MacArthur PC-7-F-101 supports Chalmers Properties Limited PC-7-F-52 oppose
Kaan's Catering Supplies ("Kaan's") PC-7-45/2	General Rule – Access and Parking: Complete abandonment of the Harbourside Plan Change	Chalmers Properties Limited PC-7-F-63 oppose
Crawford Glass Dunedin Limited, Crawford Glass Limited trading as Novus Dunedin, CWC 2005 Limited and Eccotech Limited PC-7-41/2	General Rule – Access and Parking (a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-60 oppose
Geoffrey A Martin PC-7-42/2	General Rule – Access and Parking (a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-61 oppose
Otago Regional Council (ORC) PC-7-20/2	Rule 26.10.6 Contaminated and Potentially Contaminated Site: a) The words 'environmental engineer' are changed to 'suitably qualified professional' b) That there is clarification provided regarding whether the rule only relates to Contaminated and Potentially Contaminated sites or all sites. c) That the following is inserted after the rule "Note to Plan Users: Consent may also be required from the Otago Regional Council under the Regional Plan: Waste for Otago if any activity requires the disturbance of contaminated land or the ongoing discharge of contaminants to water, land or air." d) That there is liaison between the Dunedin City Council and the Otago Regional Council in terms of the Dunedin City Council providing contaminated site reports to the Compliance Unit of the Otago Regional Council.	
Otago Regional Council (ORC) PC-7-20/8	General Rule 26.10.8: That this rule is altered to include all activities that may occur in the Harbourside zone in order to ensure that reverse sensitivity does not occur and that existing activities will therefore not be adversely affected.	Nicol A MacArthur PC-7-F-99 supports Chalmers Properties Limited PC-7-F-49 oppose
Otago Chamber of Commerce PC-7-47/2	Recommend that Dunedin City Council continues to plan for minimal retail activity, allowing instead for a high proportion of hospitality-related activity in the Harbourside area.	
Chalmers Properties Limited PC-7-14/23	General Rule 26.10.11: Increase the total net lettable retail limit to 6000m ² as permitted activities with retail beyond that as restricted discretionary subject to being complimentary to the Central Activity Area.	
Chalmers Properties Limited PC-7-14/24	Delete Rule 26.10.12	

Submission	Decision sought from Dunedin City Council	Further Submission
Arthur Barnett Properties Limited PC-7-12/5	That Rule 26.10.12 be <u>deleted</u>	
Barry Simpson PC-7-28/19	26.10.13 Delete entirely.	Chalmers Properties Limited PC-7-F-53 oppose
Craig WD Ross PC-7-24/2	General Rule – Acoustic Insulation: Pass the plan with amended noise level limits for already built premises, or at least altered to accommodate existing premises. Like to see more accommodating approach to requirements taken eg. resolving mitigating factors, site specific	Port Otago Ltd PC-7-F-96 oppose the submission that Rule 26.10.8 should be amended
Andrew Shand, Public Health South PC-7-48/1	General Rule 26.10.8: Appropriate conditions for the control of noise by the inclusion of performance requirements for building insulation to be included for this new zone in the District Plan to ensure the protection of the health of people and communities – should such conditions not be already covered in a plan.	Port Otago Ltd PC-7-F-95 supports and opposes the submission as it relates to noise Chalmers Properties Limited PC-7-F-65 oppose
Simon R Gilmour PC-7-15/2	General Rule – Acoustic Insulation: The implementation of the proposed District Plan Change 7 with strong proviso for sound proofing of new premises and the provision for heavy vehicle access for existing business's. This doesn't necessarily mean through access, or the number of existing through roads must be monitored.	Chalmers Properties Limited PC-7-F-44 support

Discussion

- [218] The Harbourside Zone General Rules contained in 26.10 apply to all Character Areas and activities within the zone. We consider below the amendments requested in submissions grouped into the general rule areas to which they relate.
- [219] **Barry Simpson (PC-7-28/18)** sought the deletion of references to Mason Street in Rule 26.10.2(i)(b) in line with his overall submission discussed throughout this decision. As confirmed in Decision PC-7/6.3, it is our decision to rezone both Stage 1 and Stage 2 of the Harbourside Zone, which includes the Mason Street Character Area. All references to Mason Street are to be retained.

Access and Parking

- [220] **CPL (PC-7-14/21)** highlighted an incorrect reference to Table 26.10 in Rule 26.10.3(i), which should correctly read 26.10.3. We accept this submission.
- [221] **ORC (PC-7-20/5)** sought a reduction in parking standards (Rule 26.10.3) to encourage alternative transportation modes. In her evidence, Ms Sarah Valk stated that a reduced standard is necessary to drive change in the use of public and other transportation nodes and promote a sustainable transport solution. Ms Valk also briefly discussed the Otago Regional Land Transport Strategy 2005 and the responsibility of territorial authorities in giving effect to the strategy.
- [222] We accept the evidence of Mr Don Hill who commented as follows: *The minimum parking requirements are set to cater for the needs of residents and businesses. The potential users to be targeted for public transport are those who commute to work in the area. They will be encouraged to change modes by a variety of factors including convenience, reliability and cost. The City will continue to work in partnership with the ORC on the upgrade of the public transport system so that it will encourage mode change.*
- [223] The submissions from **Action Engineering (PC-7-26/3)**, **Kaan's (PC-7-45/2)**, **Crawford Glass & Ors (PC-7-41/2)** and **Geoffrey Martin (PC-7-42/2)** considered the requirement for on-site parking too onerous in that many buildings already occupy most of their site area thus precluding on-site parking. In his evidence, Mr Don Hill commented that *the requirements to provide parking arise when the land use changes and does not affect existing industrial users. Uses allowed under the Plan Change will generate a greater parking demand than the current industrial uses and it is important that some parking be provided off street to allow street space to be available to customers of new businesses establishing as change takes place.*
- [224] The Section 32 Summary Report recognised the concerns raised by the submitters in terms of the constraints of the area, however parking must be balanced with wider design considerations. The Officer's Report said that the approach adopted provides

greater flexibility within the rules compared to other sections of the Plan in recognition of the need to retain the character of the area. Such flexibility includes no parking requirements for Schedule 25.1 buildings and for certain ground floor activities in the Steamer Basin and Fryatt Street Character Areas, along with the ability to provide financial contributions in lieu of on-site parking. We understand the difficulties of establishing on-site parking within the harbourside area and consider that the rules for parking are appropriate. Sufficient flexibility is provided to enable alternatives to be considered, including alternative transportation modes, and we are satisfied that the Council is committed to working with ORC in encouraging alternative transportation modes.

- [225] **CPL (PC-7-26/3)** sought an additional performance standard in Rule 26.10.3 that would allow for parking to be provided on another site linked by a legal agreement as a permitted activity. The Officer's Report stated that under the rules, as notified, such provision of parking is possible through the resource consent process, with assessment matters in Section 20: Transportation of the Plan providing for legal agreements. We agree that this option should only be available through the consent process where appropriate enforceable conditions can be imposed, and monitored as part of consent monitoring programmes.

Rule 26.10.13 Financial Contributions for Parking

- [226] **Barry Simpson (PC-7-28/19)** sought deletion of Rule 26.10.13 relating to financial contributions in lieu of parking. The submitter commented that there is sufficient ability to accommodate parking within the existing streets and no need to further penalise with additional costs for parking.
- [227] The Officer's Report stated that financial contributions are an appropriate mechanism for providing an alternative option for the provision of parking when developing sites. The evidence of Mr Don Hill stated: *Allowing redevelopment to proceed without requiring parking would result in an undersupply of on-street parking for visitors to the area. It is recognised that it will not be possible to provide off-street parking on some sites and financial contributions provide a method for this to be dealt with.*
- [228] **Action Engineering (PC-7-26/3), Kaan's (PC-7-45/2), Crawford Glass & Ors (PC-7-41/2) and Geoffrey Martin (PC-7-42/2)** considered the concept of financial contributions based upon land value as unreasonable. The Officer's Report stated that the formula included in Rule 26.10.13, as notified, adopts an approach that is commonly used in District Plans throughout New Zealand. The report went on to state that the rule specifies that the land value will be determined by an independent valuer and published in the Annual Plan. Overall we consider this approach to be more equitable than an alternative that requires land values to be determined on a case-by-case basis where it is susceptible to differing/fluctuating land values.
- [229] We accept that the provisions for financial contributions in lieu of parking are an appropriate alternative that can be considered in development of sites within the Harbourside Zone.

Rule 26.10.6 Contaminated and Potentially Contaminated Sites

- [230] **ORC (PC-7-20/2)** sought clarification of, and a number of amendments to, Rule 26.10.6. We discuss each request below:
- a. Amend the reference 'an environmental engineer' to 'suitably qualified professional': We accept the amendment.
 - b. Clarification is sought as to whether the rule only relates to Contaminated sites or all sites: The Officer's Report stated that General Rule 26.10.6 will apply to all activities and all sites within the Harbourside Zone. The rule clearly states that *'All sites must be investigated...'* except where the activity involves use of an existing building with no ground disturbance. Where ground disturbance is to be undertaken then the site must be investigated for contamination. The rule is simple, efficient and effective.
 - c. The request to insert a note to plan users, highlighting that plan users may require consents under the Regional Plan, is appropriate and informative. We note that the evidence of Ms Sarah Valk requested a wording amendment to the recommendation in the Officer's Report. We accept this amendment.

- d. The sharing of information from contaminated site reports obtained under Rule 26.10.6 between Dunedin City Council and ORC is considered appropriate. The Officer's Report stated that this is part of the on going working relationship between the two authorities. The evidence of Ms Sarah Valk suggested an addition to Method 26.4.2: Liaison to take account of the sharing of such information as it relates to the harbourside area. We accept the addition of such a method.

Rule 26.10.8 Acoustic Insulation

- [231] Rule 26.10.8 requires acoustic insulation for noise sensitive activities established in new or existing buildings. The rule is based upon Rule 9.5.2(x) of the Central Activity Zone, which was added to the Plan by way of Plan Change 2: Inner City Noise.
- [232] Noise sensitive activities (NSA) are generally accepted as referring to residential and traveller's accommodation, educational and health care facilities. These activities are considered to be sensitive to noise, particularly with respect to sleeping accommodation, and it is best practice to apply mitigation measures in mixed use environments. This approach has been adopted in Proposed Plan Change 7 and is consistent with the relief sought by **Simon R Gilmour (PC-7-15/2)** and **Public Health South (PC-7-48/1)**.
- [233] **ORC (PC-7-20/8)** requested that Rule 26.10.8 apply to all activities within the Harbourside Zone. The Officer's Report considered this request to be inconsistent with the current best practice approach and that adopted within the Plan. We agree with the Officer's Report and also consider that also it would impose an undesirable and onerous cost on the range of activities proposed within the Harbourside Zone, including industrial and service activities that are not currently required or expected to have such insulation.
- [234] In his evidence, Mr Keith Ballagh responded to the ORC submission that *this would be unreasonable as other permitted activities are much less sensitive to noise (and hence likely to cause reverse sensitivity effects) compared to residential activities on which the sound insulation rule has been based (in particular sleeping). Other permitted activities include commercial offices, licensed premises, recreational activities, retail, and tourist and entertainment. These types of uses would typically regard an internal level of 45 dBA or higher as acceptable. A sound insulation of 20 to 25 dB would be sufficient even during the day when the noise environment is higher. Standard commercial construction would be expected to achieve this level of internal sound. Thus it would be excessive to require these types of permitted activities to comply with the sound insulation rule as the additional insulation would be of little or no benefit.*
- [235] **Craig Ross (PC-7-24/2)** sought amendment to Rule 26.10.8 to provide more flexibility for existing premises. In his evidence, Mr Ballagh responded to the submission as follows: *Existing residential uses would presumably have existing use rights and therefore, would be able to continue the residential activity without having to comply with the Rule. However I consider it necessary for the Rule to apply to new residential activity whether it is established in a new building or an existing building. It may be somewhat more difficult to achieve if developing an apartment in an older building but because the building is being refitted in a major way it would not be as difficult as retrofitting sound insulation to an existing apartment.*
- [236] In respect of Rule 26.10.8, Mr Ross also considered that the minimum performance standard ($D_{2m\ nTw} + C_{tr} > 30dB$) is too restrictive and the ventilation requirement for fans is inappropriate. Mr Ballagh did not agree that the standard is too restrictive and commented that *the effect of setting a sound insulation standard (as Rule 26.10.8 does), or of setting an internal noise level (as Mr Ross suggests) is the same. If one must meet an internal noise level then one must know and design for a particular external level, that is one sets an external and an internal level. The insulation required is always the difference between the external noise environment and the desired internal noise level. One cannot design for an internal noise level if the external noise level is not specified.*
- [237] In regard to the submitter's concerns regarding the ventilation requirement for fans, Mr Ballagh stated that *the Rule, as written, is appropriate as it ensures that the*

residents can have a satisfactory environment both acoustically and in terms of ventilation. If mechanical ventilation is not required by the rule then people might be faced with the unsatisfactory situation of not being able to open their windows at night for fresh air, or alternatively, having their sleep disturbed when they open windows for fresh air. The Rule controls the noise of fans to satisfactory levels (30 dBA) so that additional noise caused by fans should not be a problem.

- [238] Mr Ballagh's evidence also highlighted that Rule 26.10.8(i), as notified, contains two minor typographical errors. These relate to the inclusion of the notation 'dB' after the performance standard in the fourth line of the first paragraph of Rule 26.10.8(i) and amending the word 'adoption' to 'adaption' in the fifth line of the first paragraph. We accept these amendments.
- [239] We did not hear any expert evidence presented contradicting Mr Ballagh's evidence at the hearing. We therefore accept his evidence and confirmation that the approach adopted in Rule 26.10.8 is appropriate to provide for an adequate internal environment for noise sensitive activities in the harbourside.

Rule 26.10.11 Cumulative Retail Activity

- [240] **CPL (PC-7-14/23)** sought to first increase the total net lettable retail limit from 3000m² to 6000m² imposed under Rule 26.10.11, and second to reduce the activity status from non-complying to discretionary restricted for activities beyond this cumulative limit. CPL contended that, compared to the overall available footprint where retail is permitted, the cumulative limit is too small to create a sustainable destination. The request is related to the relief sought by the submitter under PC-7-14/15, which we did not accept as discussed in Section 6.11 of this decision.
- [241] In support of the submission from CPL, Ms Christine Ralph considered that the chosen threshold is not practical in terms of the required critical retail mass at the waterfront nor the pedestrian frontage opportunity provided by the plan change. In his evidence, Mr John Long promoted the higher cap as not having an adverse effect on the central area retailing.
- [242] As discussed earlier in this decision, the limit has been imposed as part of the graduated approach adopted for retail activities within the Harbourside Zone to manage the effects upon the vitality and vibrancy of the city centre and upon the character of the harbourside. The approach is based upon the recommendations in the report by Marketplace New Zealand Limited and is consistent with the wider approach of the Plan. We heard evidence from Mr Tansley in support of this approach and that the cumulative limit is more than sufficient to meet the needs of residents, workers and visitors in the context of the proximity of the Central Activity Area and established shopping patterns.
- [243] We consider that the key intent of the Harbourside Zone is not to establish a retail destination and the cumulative limit of 3000m², is appropriate to achieve proposed Objective 26.2.3 and maintain the integrity of the Plan. We note that the calculation of the cumulative threshold does not include restaurants, licensed premises and cafes.
- [244] Likewise we do not consider it necessary to amend the activity status from non-complying to discretionary restricted where activities exceed the cumulative threshold limit.
- [245] We note that the **Otago Chamber of Commerce (PC-7-47/2)** is supportive of the approach to minimise retail activity with the Harbourside Zone, retaining the focus upon the city centre.

Rule 26.10.12 Cumulative Commercial Office Activity

- [246] **CPL (PC-7-14/24)** and **Arthur Barnett Properties Ltd (PC-7-12/5)** sought the deletion of Rule 26.10.12, which would impose a 6000m² cumulative floor area limit upon Commercial Office Activity within the Fryatt Street North and Steamer Basin North Character Areas. CPL considered that the limitation on office floor area (at 2.5% of existing office stock in Dunedin) will act as a barrier to development in the harbourside area. The submitter considers that office development is important to bring people into the area to visit and work.
- [247] The Officer's Report stated that, as with the limitation on retail, the commercial office limit is related to potential effects upon the vibrancy and vitality of the city centre and

ensuring that there is an appropriate mix of activities within the harbourside area. The Section 32 Summary Report stated that the report of Marketplace New Zealand Limited did not consider that commercial office space established within the harbourside would reduce the demand for city centre office space in its city-wide context. The Officer's Report goes on to state that the commercial office limit was considered to be important by the Council and sustainable management of the city centre.

- [248] The Marketplace New Zealand Limited report expected that in the next ten years office growth city wide will be around 24,000m². The central activity area is estimated to have a gross office floor area of 140,000m². Based upon potentially developable floor area it is possible that all office growth could be accommodated within harbourside. The cumulative limit imposed under Rule 26.10.12 represents 25% of the estimated demand.
- [249] The Officer's Report said that, from another perspective, the cumulative office limit could be readily achieved by one or two large office developments, making it difficult for smaller offices to establish, or imposing additional costs for consents thereby reducing the efficiency and effectiveness of the rule. The Officer's Report illustrated how quickly the limit can be reached by way of example, using the two office developments recently approved within the area subject to Proposed Plan Change 7. These developments include the designation for the ORC principal office building with an office footprint of approximately 4000m² and an office development of approximately 3000m² at 41 Wharf Street. Together these two developments result in a total of more than 6000m².
- [250] We wish to emphasise that the ORC principal office building does not contribute towards the cumulative total within Rule 26.10.11 as it is not located within the Steamer Basin North or Fryatt Street North Character Areas. However, if the office development on 41 Wharf Street proceeded then there is only 3000m² of available floor area before the cumulative limit is reached.
- [251] Overall we consider that removal of the cumulative limit for commercial offices will still enable management of commercial office activities through their location, which is still restricted to the Fryatt Street North and Steamer Basin North Character Areas. This is also supported by the rejection of the request by ORC to allow Commercial Office Activity on the Steamer Basin South, as discussed in Section 6.11 of this decision.

Rule 26.10.2 Staging

- [252] On the basis of our decision to rezone both Stage 1 and Stage 2 as Harbourside Zone, we have given consideration to the staging rule in light of the shortcomings of the rule highlighted in the evidence of Mr Phil Page. We note that the Officer's Report did not consider the staging rule and there are no submissions directly related to it.
- [253] Mr Page considered there are three difficulties with Rule 26.10.2, as outlined below:
- (a) The 70% building footprint trigger relates to only a relatively small part of the Stage 1 area as it excludes the Fryatt Street North and Mixed Use Character Areas of Stage 1.
 - (b) The rule contains an *ultra vires* element, namely the reversion to Council as sole arbiter of the trigger of the 70% footprint by way of survey. The trigger point for the commencement of Stage 2 is a question of fact that must be certain and ascertainable.
 - (c) The staging rule itself is meaningless because the description of activities that may trigger the 70% building footprint threshold includes all possible activities, including present activities.
- [254] We accept that a staging rule is necessary to manage the transition and effect upon industry within the area, to ensure initial development is focused upon Steamer Basin, and the desired people place around the harbour edge is attained. The rule must be workable and provide certainty and clarity. We now consider the issues raised by Mr Page, in the order outlined above.
- [255] With respect to the focus of the rule being only upon the Steamer Basin Character Areas, as opposed to all of the Stage 1 area, we do not consider that this raises any concerns. We heard evidence about the poor state of the wharves and the wharf sheds within the Steamer Basin Character Areas, which was confirmed by our site

visit. We consider that these areas will be redeveloped out of necessity with rebuilt wharves and buildings, particularly along Fryatt Street. Structure Plan 26.1.4 clearly specifies the building footprints in the Steamer Basin and these can be readily determined as to when they are redeveloped, although we note that these do not match the footprints of the existing wharf buildings. The fact that the rule relies only on part of the Stage 1 area does not undermine the rule. Should the Steamer Basin never reach the 70% trigger identified in the rule and the remainder of Stage 1 is redeveloped, it still follows that Stage 2 cannot proceed.

- [256] The Section 32 Summary Report stated that *Various options were considered as triggers for staging, however the Steamer Basin forms an integral part of the vision and the provision of access to the harbouredge. Essentially it is the focus of the zone and it is important that development occurs here in an integrated manner that enables the area to maintain and sustain itself as a people orientated environment. If development within the Harbourside Zone were to only occur in one place then it should be the Steamer Basin.*
- [257] The second concern raised by Mr Page relates to that part of the rule that states that a Council survey will deem when the 70% threshold has been obtained. Mr Page considered this to be *ultra vires*, however we do not agree. The Council as regulatory authority, which includes both building consents and resource consents, is in our opinion the best placed to maintain records and determine when the threshold is reached. Such a record would be freely and publicly available. We are satisfied that referring to the means, that is a Council survey, as to how the threshold will be determined clearly identifies who, how and where the information can be obtained.
- [258] Finally, Mr Page considered that the rule allows any activity to be counted as part of the 70%, including existing activities. In his closing submission, Mr Garbett outlined the importance of ensuring the staging rule includes activities that establish under resource consent. Mr Garbett gave the example of where an activity breaches a performance standard, such as minimum car parking, it will require resource consent. Mr Garbett confirmed that such activities are intended to be included within the 70% calculation. We understand that this is the intent of the rule but consider that the current wording is unclear and leads us towards Mr Page's interpretation. The problem lies with the reference in the last line of the rule to activities *provided for in Rule 26.7.3....* Rewording this part of the rule to refer to activities *that are established under Rule 26.7.3...* provides clarity and certainty that activities must be established under the relevant rules, rather than being inclusive of all activities.
- [259] Overall, with the amendments discussed above, we are satisfied that the retention of the staging rule is necessary and the amendments will improve clarity and reduce interpretation issues that may arise in its implementation.

Decision PC-7/6.12

It is our decision to:

- (i) **Reject** the submissions of **Barry Simpson (PC-7-28/19)**, **Chalmers Properties Limited (PC-7-14/23)**, **Otago Regional Council (PC-7-20/8)** and **Craig Ross (PC-7-24/2)**.
- (ii) **Reject in part** the submissions of **Action Engineering Limited (PC-7-26/3)**, **Kaan's Catering Supplies (PC-7-45/2)**, **Geoffrey A Martin (PC-7-42/2)**, **Crawford Glass & Ors (PC-7-41/2)**, **Nicol MacArthur (PC-7-F-99, PC-7-F-101)**, **Chalmers Properties Limited (PC-7-F-65)** and **Port Otago Ltd (PC-7-F-96)**.
- (iii) **Accept in part** the submissions of **Chalmers Properties Limited (PC-7-F-53, PC-7-F-49, PC-7-F-52, PC-7-F-63, PC-7-F-60, PC-7-F-61, PC-7-F-49)**.
- (iv) **Accept** the submissions of **Chalmers Properties Limited (PC-7-14/21, PC-7-14/24)**, **Public Health South (PC-7-48/1)**, **Simon Gilmour (PC-7-15/2)**, **Otago Chamber of Commerce (PC-7-47/2)**, **Otago Regional Council (PC-7-20/2)**, **Arthur Barnett Properties Limited (PC-7-12/5)**, **Port Otago Ltd (PC-7-F-96)** by making the following amendments:
 - (a) Amend the reference to Table 26.10.3 in the first line of Rule 26.10.3(i) Minimum Car Parking as follows:

On-site car parking shall comply with the performance standards in Section 20 (Transportation) and shall be provided in accordance with Table 26.10.3, except that on-site car parking is not required for:
 - (b) Amend the first line of Rule 26.10.6 Contaminated and Potentially Contaminated Sites as follows:

All sites must be investigated and certified based on composite sampling of the site by an appropriately qualified person ~~environmental engineer~~ as not contaminated except where:
 - (c) Insert the following *Note to Plan Users* at the end of Rule 26.10.6 Contaminated and Potentially Contaminated Sites:

Note to Plan Users: Consent may also be required from Otago Regional Council if any activity requires the disturbance of contaminated land or the ongoing discharge of contaminants to water, land or air.
 - (d) Insert the following method into Method 26.4.2 Liaison:

Liaise with and provide Otago Regional Council with any contaminated site reports received as a result of site investigations to enable Otago Regional Council to maintain a register outlining details of sites which are contaminated.
 - (e) Delete Rule 26.10.12 Cumulative Commercial Office Activity and make any consequential amendments.
 - (f) Amend Rule 26.10.8(i) Noise Insulation for Residential and Commercial Residential Harbourside Activities as follows:

Any kitchen, dining area, living room, study or bedroom in a building to be used for a Residential Activity or Commercial Residential Harbourside Activity shall be acoustically insulated from noise emanating from the external environment. The Airborne Sound Insulation provided to insulate these rooms shall achieve a minimum performance standard of $D_{2m, nT_w} + C_{tr} > 30$ dB. This performance standard means the weighted standardised level difference plus traffic noise spectrum ~~adoption~~ adaption term as defined by ISO 140-5 and ISO 717/1.

- (g) Amend the final paragraph of Rule 26.10.2 Staging as follows:

may proceed under the provisions of Rules 26.7, 26.8 and 26.9, and buildings for these purposes, provided that the Steamer Basin North and South Character Areas are, by Council survey, deemed to have 70% of the building footprints of the Steamer Basin North and South Character Areas as shown on the Structure Plan in Appendix 26.1.44 established and occupied with activities provided for that are established under in Rules 26.7.3 and 26.7.5 to 26.7.9.

Deleted: Inner

Deleted: Inner

Reasons for the Decision

- (i) The performance standards relating to parking and access within the Harbourside Zone are considered appropriate to manage the transportation effects of activities expected, whilst ensuring adequate parking is provided for those living, working and visiting the area. Sufficient flexibility is provided through the rules to enable alternative parking provision to be considered through the resource consent process, including use of alternative transportation modes.
- (ii) The cumulative retail area threshold specified in General Rule 26.10.11 is appropriate to provide a level of retail activities that will enable mixed use and support people orientated activities, whilst managing the effects upon the vibrancy and vitality of the city centre. This will achieve Objective 26.2.3 of the harbourside.
- (iii) Amending General Rule 26.10.6, which relates to investigation of contaminated sites, improves the clarity of the rule.
- (iv) Removing the cumulative threshold imposed on commercial office activities under General Rule 26.10.12, but retaining the restriction on location of such activities, will enable sustainable management of the vitality and vibrancy of the city centre and provide for activities that will attract people into the area.
- (v) The performance standard requiring acoustic insulation for noise sensitive activities (General Rule 26.10.8), as notified, is considered appropriate to mitigate the potential effects of noise, achieve compatibility between activities and ensure an adequate level of amenity for residents.
- (vi) The staging rule (General Rule 26.10.2) is necessary to manage the transition and effect upon industry within the Harbourside Zone and to ensure development is focused upon the Inner Basin to achieve the desired 'people place' around the harbour edge. Refinement of the rule improves clarity in its interpretation and implementation so that it will be effective.

6.13 ASSESSMENT MATTERS

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/25	Insert relevant and appropriate assessment criteria for financial contributions.	
Chalmers Properties Limited PC-7-14/26	26.11.12: Amend the heading to read as 501m ²	
Chalmers Properties Limited PC-7-14/27	26.11.14(i): Insert into the clause " <i>retailing and office</i> " after the word residential.	
Chalmers Properties Limited PC-7-14/18	Add criteria 26.11.4(v) as follows: (v) <u>Whether the proposed alternative acoustic treatment of Residential and Commercial Residential Harbourside Activities is certified by an acoustic expert in this field as meeting the desired avoidance of the complaints from residents or visitors.</u> Or similar wording to like effect.	
Port Otago Limited PC-7-34/5	Rule 26.11.4 should include an assessment factor as to whether the proposed alternative treatment will have the desired avoidance of complaints about the operation of the commercial port at Dunedin.	Fonterra Co-Operative Group Ltd PC-7-F-111 supports Nicol A MacArthur PC-7-F-103 supports
Elizabeth J Kerr PC-7-50/18	See 26.11.3 – Comment: redraft this section to include wider consideration of heritage values. This should also apply to the title of the section, for example, "Heritage [insert], Character, Amenity Values..."	Nicol A MacArthur PC-7-F-107 supports

Discussion

[260] Assessment matters are contained in Section 26.11 and provide criteria to be used in assessing resource consent applications for discretionary and non-complying activities.

[261] **CPL (PC-7-14/25-27)** requested a number of amendments to the assessment matters. We consider these below:

- (i) Insert relevant and appropriate assessment criteria for financial contributions: Such criteria were notified as consequential amendment Rule 20.6.1(j) to be included in Section 20: Transportation of the Plan.
- (ii) Amend heading of Assessment Matter 26.11.12 to read 501m²: This assessment matter relates to assessment of retail activities in the Fryatt Street North and Steamer Basin North Character Areas where floor area exceeds 201m². The heading currently refers to 500m². The submitter's request relates to the request which we did not accept in Section 6.11 of this decision relating to changing the floor area related to retail activities. However, the heading of 26.11.12 should correctly reflect the rules by referring to 201m².
- (iii) Insert the clause 'retailing and office' in 26.11.14(i): This assessment matter relates to consideration of development that is contrary to the Staging Rule 26.10.2. We do not consider that inserting the reference as requested by the submitter would enhance the assessment for staging, as both retailing and commercial offices are non-complying activities within Stage 2.

[262] Both **Port Otago Limited (PC-7-34/5)** and **CPL (PC-7-14/18)** sought an addition to assessment matter 26.11.4 *Acoustic Insulation for Residential and Commercial Residential Harbourside Activities*. The submitters request related to whether any alternative acoustic treatment is certified as meeting the desired avoidance of complaints. The Officer's Report stated that the primary purpose of acoustic insulation is to provide an adequate internal environment for noise sensitive activities to co-exist with the proposed mixed use environment and ensure residents' health and safety. The report goes on to say that an assessment matter relating to no complaints is not appropriate as any alternative treatment being considered should relate to the standards being departed from and the ability of the alternative treatment to mitigate noise effects.

[263] In her evidence, Ms Christine Ralph amended the requested matter so that it referred to 'adverse effects on residents or visitors' as opposed to 'complaints from residents or visitors'. Ms Ralph considered that the assessment matter is necessary to enable the

consideration of alternative acoustic treatment and the advice from an acoustic expert. We consider that the additional assessment matter is not necessary as the existing assessment matter (i) refers to unacceptable internal noise environment and compromising health and amenity of occupants. It is not necessary to state the certification by an acoustic expert as this is a necessary part of the any application that will depart from the acoustic insulation performance standard.

- [264] **Elizabeth Kerr (PC-7-50/16)** sought wider consideration of heritage values within assessment matter 26.11.3 *Character, Amenity Values, Bulk and Location, Design and Appearance of Buildings and Structures*. With respect to heritage values, any items on Schedule 25.1 are included in the cross reference of 26.11.3(ii) to the assessment matters in Section 13: Townscape of the Plan. In addition, the assessment matters refer to the Harbourside Design Code, which includes references to heritage values. We consider that there is sufficient scope within the existing assessment matters to have regard to heritage values.

Decision PC-7/6.13

It is our decision to:

- (i) **Accept in part** the submission of **Chalmers Properties Limited (PC-7-14/26)** by amending the heading of Assessment Matter 26.11.12 as follows:
Retail Activities exceeding ~~501~~201m² in the Fryatt Street North and ~~Inner~~ Steamer Basin North Character Areas
- (ii) **Reject** the submissions of **Chalmers Properties Limited (PC-7-14/25, PC-7-14/27, PC-7-14/18), Port Otago Limited (PC-7-34/5)** and **Elizabeth Kerr (PC-7-50/18)**.
- (iii) **Reject in part** the further submissions of **Fonterra Co-Operative Group Ltd (PC-7-F-111)** and **Nicol MacArthur (PC-7-F-103 & PC-7-F-107)**.

Reasons for Decision

- (i) The assessment matters, as notified, cover a wide range of matters that will enable appropriate consideration and assessment of resource consent applications in relation to discretionary and non-complying activities within the Harbourside Zone.

6.14 ANTICIPATED ENVIRONMENTAL RESULTS

Submission	Decision sought from Dunedin City Council	Further Submission
Port Otago Limited PC-7-34/6	Anticipated environmental result 26.12.2 could raise false expectations unless qualified to read "The Dunedin harbourside is an attractive quality environment where a variety of uses co-exist with a working port".	Fonterra Co-Operative Group Ltd PC-7-F-111 supports
Elizabeth J Kerr PC-7-50/19	See 26.12.2 – Comment: What does "an attractive quality environment" mean? This is so vague as to have no meaning. Redraft.	Nicol A MacArthur PC-7-F-107 supports
Te Runanga o Otakou PC-7-54/10	Add the following environmental result: "The cultural, spiritual, historical and traditional association of Kai Tahu with Te Tai O Arai Te Uru (Otago Coastal Marine Area) is actively protected."	Chalmers Properties Limited PC-7-F-70 support

Discussion

- [265] The Anticipated Environmental Results (AER) are contained in 26.12 of proposed Section 26: Harbourside. An AER should relate to the objectives and is the intended result or outcome on the environment as a consequence of implementing other provisions. The AER's have been developed and written in a manner consistent with the *Dunedin City District Plan Drafting Guidelines (July 2006)*.
- [266] **Port Otago Ltd (PC-7-34/6)** requested an amendment to AER 26.12.2 to read "*The Dunedin harbourside is an attractive quality environment where a variety of uses co-exist with a working port.*" The amendment is sought by the submitter on the basis that its current wording may result in false expectations. The AER is linked to the objectives and is expected to be read in conjunction with the other AER's, including 26.12.5 relating to complaints. The Officer's Report stated that reference to 'quality environment' is intended to encompass a range of contributing factors, one of which includes compatibility between activities. We consider that such compatibility includes the noise environment as an element of a quality environment. The Officer's Report considered that the amendment sought narrows the focus of the AER preventing the measurement of all factors.
- [267] In his evidence on behalf of POL, Mr Len Andersen amended the requested AER to *The Dunedin harbourside is an attractive quality environment where a variety of land uses can be established despite the high ambient noise level.* Mr Andersen considered that this is more focused than the original amendment requested and necessary as a qualifier to the attractive quality environment so that people understand it is also a noisy environment.
- [268] While we accept the importance of recognising the high ambient noise level, we agree with the Officer's Report that the addition to the AER narrows its focus. The existing AER provides broad scope for the high ambient noise level to be considered as one element in establishing a quality environment.
- [269] **Elizabeth Kerr (PC-7-50/19)** sought clarification as to what an 'attractive quality environment' means in AER 26.12.2. As discussed above, quality environment is the result of a range of factors including compatibility of activities, good urban design, built form, safe quality public space and management of effects. The evidence of Ms Janet Reeves recommended amending the AER to meet the submitter's concerns as follows: "*The Dunedin Harbourside is a vibrant and attractive environment accommodating a mix of compatible uses. Continuous street frontages comprising enhanced character buildings and sensitively inserted new development. A network of high quality public space.*"
- [270] The Officer's Report did not agree with the amendment suggested by Ms Reeves stating that it narrows the focus of the AER and is too similar to the objectives that it is intended to measure. We agree with the Officer's Report and do not consider the AER requires amendment.
- [271] **Te Runanga o Otakou (PC-7-54/10)** requested an additional AER relating to the association of Kai Tahu with Te Tai O Arai Te Uru. The submitter made several requests relating to the statutory acknowledgement that have been considered throughout this decision. The Officer's Report stated that the preference is not to narrow the focus of the statutory acknowledgement only upon the Harbourside Zone when it affects a wider area. As previously noted there is a statutory requirement upon Council to recognise the acknowledgement and the document is contained in the

Regional Plan: Coast for Otago, which would be referred to for coastal issues. We note that in evidence tabled at the hearing, ***Te Rununga o Otakou*** accepted the assessment and approach in the Officer's Report.

Decision PC-7/6.14

It is our decision to:

- (i) **Reject** the submissions of **Port Otago Limited (PC-7-34/6)**, **Elizabeth Kerr (PC-7-50/19)** and **Te Rununga o Otakou (PC-7-54/10)**.
- (ii) **Reject in part** the submissions of **Fonterra Co-Operative Group Ltd (PC-7-F-2)**, **Nicol MacArthur (PC-7-F-107)** and **Chalmers Properties Limited (PC-7-F-70)**.

Reasons for Decision

- (i) The anticipated environmental results identified for the harbourside are considered appropriate, providing an overall picture of the combined effect of objectives, policies and methods to achieve the desired outcomes.

6.15 STRUCTURE PLANS

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/28	Delete the Eastern Walkway between Mason Street and Willis Street from Plans 2 and 4.	
Chalmers Properties Limited PC-7-14/29	Amend plans by removing the Jetty Street flyover ramp and realigning Wharf Street and showing additional public open space adjacent to the Inner Basin in accordance with the Notice of Requirement. Redefine the extent of the Inner Basin.	
Chalmers Properties Limited PC-7-14/30	Amend Structure Plan to show wider carriageway for Rattray Street, and insert a reference to a pedestrian access link also.	
Chalmers Properties Limited PC-7-14/31	On all Structure Plans provide referencing that makes it clear that the jagged shaped civic area on the northern side of the inner basin is a Council initiative and not a requirement of the redevelopment or refurbishment of the wharves. Structure Plan 2 should show the desired walkway on the seawards side of the Jade House building as within the jurisdiction of the ORC and the walkway to be on the seaward side of the Jade House at a level below current ground floor or such other location as agreed with the building owner when the building is redeveloped.	
Otago Regional Council (ORC) PC-7-20/7	Structure Plans 26.1.1 and 26.1.4: The alignment of public access on these structure plans should be revised to ensure it allows for the existing uses of this site.	Chalmers Properties Limited PC-7-F-49 oppose
Holcim New Zealand Ltd PC-7-19/2	Closure of Fryatt Street on the northeast side the intersection with Mason and Cresswell Streets: That this be removed or re-positioned so that trucks can enter and leave the Holcim site using the existing gateways and traffic routes.	Chalmers Properties Limited PC-7-F-48 oppose
Port Chalmers Yacht Club (Inc.) PC-7-22/3	That the following items in the Proposed District Plan Change 7 are adopted: The View Shafts and Accessways outlined in Appendix 26.1.1: Harbourside Structure Plan	
Port Chalmers Yacht Club (Inc.) PC-7-22/4	That the following items in the Proposed District Plan Change 7 are adopted: The Pedestrian Walkways, and Harbour Edge Open Space & Public Promenades, as outlined in Appendix 26.1.2: Harbourside Structure Plan	
Port Chalmers Yacht Club (Inc.) PC-7-22/5	That the following items in the Proposed District Plan Change 7 are adopted: The Harbour Edge Open Space & Public Promenades, as outlined in Appendix 26.1.4: Harbourside Structure Plan	
Peter Nicholls PC-7-5/2	Tewsley Square: (corner Tewsley & Cresswell) Provision should be made for public art works to be in the planning stages before completion and implementation of this and square proposed for corner Fish and Willis.	
Peter Nicholls, Chairman Otago Sculpture Trust PC-7-6/2	Tewsley Square: (corner Tewsley & Cresswell) Provision should be made for public art works to be in the planning stages before completion and implementation of this and square proposed for corner Fish and Willis. I am chairman of Otago Sculpture Trust and would like to be on a committee presenting ideas and strategies.	
Barry Simpson PC-7-28/20	Appendix 26.1.1: Delete the reference to both 4 and 3 storeys.	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/21	Appendix 26.1.2: Delete Fryatt St closure, the Mason St Slow Way and the promenade in front of the Jade Building at Birch St.	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/22	Appendix 26.1.3 Delete Stage 2 entirely	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/23	Appendix 26.1.4 Wharf Promenade 'C' Delete refer 26.1.2 comments Willis St Fryatt St walkways Delete Rattray St Fryatt St leave roading layout as is add a Pedestrian Footbridge across Wharf St	Chalmers Properties Limited PC-7-F-53 oppose
Elizabeth J Kerr PC-7-50/20	Revise structure plans following redrafting of proposed Plan Change documentation subject to further consultation.	Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose

Discussion

[272] Appendix 26.1 to Section 26: Harbourside contains four structure plans, which are referenced through the rules. We consider the submissions relating to each structure

plan below.

Structure Plans 26.1.2 and 26.1.4

- [273] **ORC (PC-7-20/7)** sought amendments to Structure Plans 26.1.2 and 26.1.4 in relation to their site on the corner of Birch and Kitchener Streets as it is detrimental to the existing uses and potential development of the site. The submitter's concern is related to their request to amend the zone boundary to reflect the full extent of the slipway, which we accepted in part in Decision PC-7/6.4(ii). Our decision amended the boundary of the Harbourside Zone to exclude the slipway and the structure plans are amended to reflect this boundary.
- [274] We are also aware that a designation for principal premises of the ORC has been confirmed (and is beyond appeal) on the site adjoining the slipway and this will be developed with a footprint that differs from that shown on the structure plans. The designation overrides any Plan provisions for the purpose of the designation and we do not consider it necessary to amend the structure plan to reflect the designation.
- [275] **Holcim (PC-7-19/2)** were concerned with the notation relating to the Fryatt Street closure on Structure Plans 26.1.2 and 26.1.4, and its relationship with truck movements from their site. The Officer's Report stated that the notation to the Fryatt Street Closure on the structure plans does not relate to any rules within the Harbourside Zone and, in this instance, is illustrative in its intent and does not represent any final design. The evidence of Mr Don Hill commented that *the final point of closure for Fryatt Street will recognise the needs of the Holcim silo site*. We note that the evidence of Mr Warren Gregory, on behalf of Holcim, accepted the assurances provided by Mr Don Hill and the Officer's Report. We were also reminded in the closing submissions by Mr Garbett that the structure plans are not stopping roads and that we are not deciding on any road stopping, which are subject to a legal process under the Local Government Act. We have amended the structure plans to remove reference to the Fryatt Street closure. We also consider it appropriate to remove the reference to the Mason Street slow way, which does not relate to any rules within the Harbourside Zone.
- [276] **Barry Simpson (PC-7-28/21 & 23)** sought the deletion of various elements from Structure Plans 26.1.2 and 26.1.4. These elements have been discussed above and are to be retained on the structure plans for illustrative purposes.
- [277] **CPL (PC-7-14/28)** sought deletion of the Eastern Walkway between Mason Street and Willis Street from Structure Plans 26.1.2 and 26.1.4 on the basis that this is intended to be designated as part of Stage 2 of the Harbourside Zone. At the commencement of the hearing we were advised that Dunedin City Council had withdrawn three of the Notices of Requirement originally notified alongside Proposed Plan Change 7, one of which included part of the Eastern Walkway. We accept that the Eastern Walkway should be deleted from the structure plans.
- [278] **CPL (PC-7-14/31)** noted that the jagged extended wharf area in the north-west corner of Steamer Basin is to be a Council initiative and not a condition of any developer in refurbishing or rebuilding the Fryatt Street wharf. The Officer's Report responded that the Structure Plan 26.1.4 specifically excludes this area as part of any development segment that relates back to the wharf requirement in Rule 26.7.1. We have amended the structure plans with more consistent notation to indicate that this area does not need to be provided, in line with the request of the submitter.
- [279] CPL commented that the walkway in front of Jade House is located in the jurisdiction of ORC, which we acknowledge. We note that this also applies to a large part of the wharf structures surrounding Steamer Basin. The cadastral boundaries around the basin do not relate to jurisdictional boundaries or to the extent of the wharves proposed on the structure plans. The notation on the right hand corner of Structure Plans 26.1.2 and 26.1.4 refers to the fact that the wharf extends into the coastal marine area, with Structure Plan 26.1.4, in particular, identifying the approximate line of Mean High Water Spring Tide. In this regard we do not consider there is any difference in the structure plans illustrating the extent of the walkway in front of Jade House. Of course, the ability to give effect to it lies with the Regional Plan: Coast for Otago. We consider that the reference requested by CPL relating to the height of the walkway is more appropriately located in the Regional Plan: Coast for Otago.

Structure Plan 26.1.1

- [280] **Barry Simpson (PC-7-28/20)** sought deletion of reference to 3 and 4 storeys from Structure Plan 26.1.1. We do not accept this as it is inconsistent with the relevant rules and creates interpretation issues.

All Structure Plans

- [281] **CPL (PC-7-14/29)** sought amendment of the structure plans to reflect the proposed realigned Jetty Street/Wharf Street area and enlarged public space in accordance with the Notice of Requirement. Any amendment to the structure plans to illustrate the realigned road will be consistent with our decision on the Notice of Requirement for 41 Wharf Street, which is released separately.
- [282] **CPL (PC-7-14/30)** sought the inclusion of a wider carriageway and reference to the pedestrian access link in relation to the Rattray Street crossing on all structure plans. The Officer's Report noted that the structure plans inconsistently show a crossing of the railway at Rattray Street, with no indication as to what it relates to. We do not consider it is necessary to show a wider carriageway in relation to Rattray Street. Further, we find that it is potentially misleading showing the future crossing on the structure plans when there are no rules that relate to the crossing.
- [283] **Port Chalmers Yacht Club (PC-7-22/3-5)** are supportive of elements relating to view shafts, walkways, open space and public promenades in Structure Plans 26.1.1, 26.1.2 and 26.1.4. We accept this submission.
- [284] **Barry Simpson (PC-7-28/22)** sought deletion of Stage 2 from Structure Plan 26.1.3. In accordance with our decision to rezone both Stage 1 and Stage 2, retention of Stage 2 on the Structure Plan 26.1.3 is appropriate.
- [285] **Peter Nicholls (PC-7-5/2)** and the **Otago Sculpture Trust (PC-7-6/2)** sought provision for public art works in the Tewsley Street Square. We do not consider this is a matter for inclusion within the structure plans.
- [286] **Elizabeth Kerr (PC-7-50/20)** sought revision of all structure plans following redrafted plan provisions from further consultation. As previously discussed throughout this decision this would require withdrawal of the plan change to undertake such amendments on an extensive basis. We do not accept this submission.
- [287] In considering the submissions of **CPL** the Officer's Report highlighted a number of consistency issues in relation to the structure plans, which appear to be a mix of the vision and plan change rules. The Officer's Report recommended that the structure plans be amended to ensure that they relate to the rules in the first instance and where do not it should be clearly identified. We agree with the Officer's recommendation and amend the structure plans to consistently reflect the rules to which they relate, removing extraneous information.

Decision PC-7/6.15

It is our decision to:

- (i) **Accept in part** the submissions of **Chalmers Properties Limited (PC-7-14/28, PC-7-14/29, PC-7-14/30, PC-7-14/31)** and **Holcim New Zealand (PC-7-19/2)** by amending the following notation on Structure Plans 26.1.2 to 26.1.4 to ensure consistency between the information shown and links to rules:
 - (a) *Include notation to clearly identify that the jagged civic wharf area in the Steamer Basin does not need to be provided by developers as part of any wharf development.*
 - (b) *Delete notation that shows the proposed Fryatt Street closure, Mason Street slow way, harbour arterial and Rattray Street crossing.*
- (ii) **Reject in part** the submissions of **Barry Simpson (PC-7-28/21, PC-7-28/22, PC-7-28/23)**.
- (iii) **Accept in part** the submissions of **Port Chalmers Yacht Club (Inc.) (PC-7-22/3, PC-7-22/4, PC-7-22/5)** and the further submissions of **Chalmers Properties Limited (PC-7-F-49, PC-7-F-67)**.
- (iv) **Reject** the submissions of **Peter Nicholls (PC-7-5/2), Otago Sculpture Trust (PC-7-6/2), Elizabeth Kerr (PC-7-50/20), Barry Simpson (PC-7-28/20)** and **Otago Regional Council (PC-7-20/7)**.
- (v) **Reject in part** the further submission of **Chalmers Properties Limited (PC-7-F-53, PC-7-F-48)**.

Reasons for Decision

- (i) The structure plans, contained in Appendices 26.1.1 to 26.1.4 to Section 26: Harbourside, are an important method that illustrates a range of elements and features directly related to the rules within the Harbourside Zone. The amendments will ensure that the structure plans retain consistency and clarity.

6.16 DESIGN CODE

Submission	Decision sought from Dunedin City Council	Further Submission
Chalmers Properties Limited PC-7-14/32	Amend the diagram page A26.2:2 to remove the "Wharf Street/Cross Wharf" area and include it in the <u>Inner Basin North Character Area</u> .	
Chalmers Properties Limited PC-7-14/33	Urban Character Descriptions - Amend the sentence to make it clear that the new buildings will continue to frame the inner basin by running generally parallel to the street alignments. Or similar wording to like effect	
Chalmers Properties Limited PC-7-14/34	Design Criteria - Semi Basement Car parking Provision: Transfer this statement to the Site Layout General Criteria section so that it applies in all Character Areas.	
Chalmers Properties Limited PC-7-14/35	Design Criteria 1: Site Layout – Fryatt Street North, Mixed Use and Mason Street – General Criteria: Edit to " <i>dimensions</i> ", and provide reference to the provisions of the Transportation Section of the Plan, which specifies minimum access dimensions. Clarify in the Code that in Fryatt Street North there are to be no crossing points for vehicles	
Chalmers Properties Limited PC-7-14/36	Harbourside Design Criteria- Active Frontages: Delete the section on residential units at ground floor Delete the last bullet point referring to glazing.	
Chalmers Properties Limited PC-7-14/37	Harbourside Design Criteria- Built Form, Inner basin North East: The first bullet point and the first sentence of the second bullet point should be retained with the deletion of the option of 4 stories and the insertion of 3 storeys to be in line with the Structure Plan and rules	
Chalmers Properties Limited PC-7-14/38	Harbourside Design Criteria- Residential Unit / Apartment Layout: Delete the clause from the Design Code.	
Chalmers Properties Limited PC-7-14/39	Harbourside Design Criteria- Wharf design: Add to the clause, words that reflect that it is anticipated there will be up to one minor building on the Tewsley Street pontoon/ wharf extension.	
Chalmers Properties Limited PC-7-14/40	Harbourside Design Criteria- private /Shared Open Space: Amend the Code to reflect the rules for open space for above ground residences.	
Director-General of Conservation PC-7-31/5	Amend Appendix 26.2: Harbourside Design Code, Definition of Public Space, paragraph five (pg A26.2.3) as follows: Central to this is the Inner Basin, traditionally the heart of the working port and the City's early gateway for both trade and new immigrants. This inlet forms the closest part of the Otago Harbour to Dunedin's city centre and this proximity offers the best opportunity for the public to access and enjoy the water's edge <u>and the indigenous wildlife that uses the harbour</u> in the inner city. Creating and maintaining a high quality active public water edge will attract businesses, visitors and residents to the area and in so doing enhance its vibrancy and spur further development in adjoining areas.	
Barry Simpson PC-7-28/24	26.2 CA Boundaries Delete 'F'.	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/25	pA26.2.7 Reduce to 2 storey only structures.	Chalmers Properties Limited PC-7-F-53 oppose
New Zealand Historic Places Trust (NZHPT) PC-7-49/3	Consistent with the points mentioned in the submission, the NZHPT recommends that Council withdraws Proposed Plan Change 7 (Dunedin Harbourside) to the Dunedin City District Plan in its entirety. The NZHPT requests that this be done so until such time as what are serious concerns it has with the proposal from an historic heritage perspective have been properly addressed.	Nicol A MacArthur PC-7-F-106 supports Chalmers Properties Limited PC-7-F-66 oppose
Elizabeth J Kerr PC-7-50/21	See general comments for proposed Character Areas above and the shift in methodology required for the Council to recognise its statutory responsibilities to heritage. Further consultation is required to revise and resolve the content of the proposed design code.	Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose

Discussion

[288] Appendix 26.2 contains the Harbourside Design Code, which is referred to through the rules and assessment matters of the Harbourside Zone, forming an integral part of Section 26: Harbourside of the Plan.

Chalmers Properties Limited (PC-7-14/32-40)

[289] The submitter requested a number of amendments to Harbourside Design Code, which we consider below:

- (a) Amend the Character Area boundaries diagram on page A26.2:2 of the code so that it includes the cross wharf as part of the Steamer Basin Character Area as intended **(PC-7-14/32)**. We consider that it is appropriate to amend the diagram to be consistent with the final boundaries of the Character Areas in Appendix 26.4.
- (b) Urban Character Descriptions (5th paragraph page A26.2:3): Amend the second sentence to make it clear that the new buildings will continue to frame the inner basin by running generally parallel to the street alignments **(PC-7-14/33)**. The submitter states that the current wording, *Building footprints for new development adhere to the narrow strip of land traditionally occupied by wharf sheds.....*, implies that no new buildings will be built over the coastal marine area when it is possible that they will be. The Officer's Report stated that the building platforms are shown on Structure Plan 26.1.4 of the Plan and are all located on the landward side of Mean High Water Springs (Coastal Marine Area boundary). The report continues that buildings constructed beyond these building platforms would be inconsistent with the structure plan and would require consent under the Regional Plan. We note that the Jade building referred to by the submitter is fully located within the Coastal Marine Area. We do not accept the submission.
- (c) Design Criteria HDC1 Site Layout page A26.2:15: (PC-7-14/34) The submitter stated that criteria for semi-basement car parks are only mentioned in relation to Mason Street but should apply to all character areas. The Officer's Report clarified that the bullet point relating to semi-basement car parks is listed in relation to infringements of the front yard setback. The Mason Street Character Area is the only character area where front yards are permitted; in all other cases no front yards are permitted. It is therefore appropriate that the criteria is retained only in relation to Mason Street.
- (d) Design Criteria HDC1 Site Layout Fryatt Street North, Mixed Use and Mason Street General Criteria Page A26.2:13: (PC-7-14/35) The submitter sought to clarify the bullet point relating to *vehicle access, where permitted, should be kept to the minimum dimension while serving the maximum number of vehicles*. The submitter stated that this is vague and should refer to dimensions, as height and width are important. The Officer's Report did not consider the bullet point to be vague, as vehicle access dimensions are referred to in Rule 20.5.6(v) of the Transportation section of the Plan, and do not include reference to height. The submitter further requested that the bullet point should clearly indicate that there are no crossing points for vehicles in Fryatt Street North as per Rule 26.6.2(iii). The Officer's Report pointed out that the bullet point makes reference to vehicle access, where permitted, requiring reference back to the rules. We agree that no further clarification is required.
- (e) Design Criteria HDC5 Active Frontages page A26.2:22: (PC-7-14/36) The submitter requested that bullet point 5 relating to residential activities at ground floor be removed on the basis that it is not permitted by the rules. The Officer's Report stated that this was not correct. Residential activities are permitted at ground level in all Character Areas *except* along Identified Pedestrian Frontages. We consider the reference in the bullet point to be appropriate and reflects the rules.
- (f) Design Criteria HDC5 Active Frontages page A26.2:23: (PC-7-14/36) The submitter sought the deletion of the last bullet point relating to glazing for identified pedestrian frontages on the basis that it repeats the first bullet point on page A26.2:21. The Officer's Report considered the retention of the bullet point to be appropriate as it differentiates between glazing along identified pedestrian frontages and along active frontages in general. We agree with this assessment.
- (g) Design Criteria HDC2 Built Form Steamer Basin North East page A26.2:18:

(**PC-7-14/37**) The submitter commented that the criteria repeated those for the Steamer Basin South but did not reflect the rules for the Steamer Basin North East. The submitter sought the deletion of reference to the fourth storey. We accept the submitters request and amend the criteria to reflect the rules.

- (h) Design Criteria RDC2 Residential Unit/Apartment Layout page A26.2:27: (**PC-7-14/38**) The submitter sought the deletion of the third bullet point which refers to minimum floor levels and window sill levels for residential units at ground level. While this does not relate to any rules, it is a feature that is encouraged, so it is appropriate for it to be retained.
- (i) Design Criteria HDC2 Wharf Design page A26.2:30: (**PC-7-14/39**) The submitter requested an addition to the note under bullet point ten to reflect that one minor building is anticipated on the Tewsley Street pontoon/wharf extension. Including this reference is appropriate as the Design Code will be referred to by the Regional Plan: Coast for Otago.
- (j) Design Criteria RDC3 Private/Shared open amenity page A26.2:28: (**PC-7-14/40**) The submitter sought that the reference to above ground residences reflects the rules. We accept this amendment.

NZHPT and Elizabeth Kerr

- [290] **NZHPT (**PC-7-49/3**)** supports the use of a design code but is concerned that it has been developed in a manner that fails to recognise or address inherent heritage values within the harbourside. The submitter considered that it is written to promote significant modernisation based upon a commercial /residential environment.
- [291] **Elizabeth Kerr (**PC-7-50/21**)** sought revision of the design code in relation to the wider concerns of the submitter relating to heritage values.
- [292] In regard to the submissions, we accept the evidence of Ms Janet Reeves which states that *The Design Code, with the amendments I have drafted, describes in some detail the design patterns and features which combine to produce a specific character. The parameters have been derived from the existing building design and form and urban design best practice. New activities will come in to rejuvenate the area. A new character will evolve that will be different from that which exists at present, but as Salmond Reed Architects have pointed out:*

In the event that a different planning environment may be established for the precinct, it is inevitable that some of the activities which also contribute to the historic and present activities within the Harbourside will relocate, and this will, in itself, be part of a process of significant change, which will erode some of the historic values whilst replacing them with other new values. This is called 'progress' and is to be regarded as an indication of normal urban and social regeneration.

Barry Simpson (PC-7-28/24 & PC-7-28/25**)**

- [293] The submitter requested amendments related to deletion of Mason Street and height of buildings. As Mason Street is integral to the Harbourside Zone, being part of Stage 2, we consider that it is inappropriate to remove references. With regard to height of buildings, these have been established to enable opportunities to create mixed use buildings vertically and are considered appropriate. We do not accept the submission.

Director General of Conservation (PC-7-31/5**)**

- [294] The submitter requested an amendment to the definition of public space on page A26.2.3 of the design code to include reference to the indigenous wildlife of the area. We accept the submission, which follows on from other amendments considered elsewhere in this decision.

Decision PC-7/6.16

It is our decision to:

- (i) **Accept in part** the submissions of **Chalmers Properties Limited (PC-7-14/40, PC-7-14/41), Elizabeth Kerr (PC-7-50/21) and NZ Historic Places Trust (PC-7-49/3)** to the extent that the following amendments are made to the Harbourside Design Code Appendix 26.2:
- (a) The diagram illustrating the Character Area boundaries on page A26.2:2 be amended to reflect those in Appendix 26.4.
 - (b) Amend RDC 3: Private /Shared open amenity on page A26.2: 29 in relation to each dwelling unit above ground floor as follows:
 - *Each dwelling unit above ground floor shall have either:*
 - *a primary open amenity space of 6m² in the form of a deck or terraced areas with direct access to a living area, or*
 - *access to a shared communal space at ground or roof level of 12m² per dwelling unit.*
 - (c) Amend HDC2: Wharf Provision as it relates to the note under bullet point ten on page A26.2: 30 as follows:

***Nb.** All wharves are required to be free of structures and obstructions above wharf level such as kiosks or ticket booths, with the exception of the Tewsley Street pontoon/breakwater where one minor building is anticipated.*
 - (d) Amend HDC2: Built Form Steamer Basin North East on page A26.2:18 as follows:
 - *Development over the entire Inner Basin South Character Area should be expressed as one a minimum of four distinct buildings (the 'buildings' may adjoin but are required to appear as architecturally distinct).*
 - *Three storeys are permitted over the full floor plate up to a maximum height of 13m. A fourth storey is permitted over 75% of the floor plate up to a maximum height of 15m.*
 - *The visual impact of the fourth floor should be broken up through techniques such as stepping in from the main building facade line; incorporating the 4th floor into the roof element; or introducing capping elements to the roofline.*
 - (e) Amend the Harbourside Design Code to give greater acknowledgement to the existing built fabric characteristics.
- (ii) **Accept** the submission of the **Director General of Conservation (PC-7-31/5)** by amending paragraph five of the Definition of Public Space in the Harbourside Design Code as follows:
- Central to this is Steamer Basin, traditionally the heart of the working port and the City's early gateway for both trade and new immigrants. This inlet forms the closest part of the Otago Harbour to Dunedin's city centre and ~~this~~ its proximity offers the best opportunity for the public to access and enjoy the water's edge and the indigenous wildlife that uses the harbour in the inner city. Creating and maintaining a high quality active public water edge will attract businesses, visitors and residents to the area and in so doing enhance its vibrancy and spur further development in adjoining areas.*
- (iii) **Reject** the submissions of **Barry Simpson (PC-7-28/24 & PC-7-28/25) and Chalmers Properties Limited (PC-7-14/33, PC-7-14/34, PC-7-14/35, PC-7-14/36, PC-7-14/37, PC-7-14/38, PC-7-14/39).**

Reasons for Decision

- (i) The Harbourside Design Code forms an integral part of proposed Section 26: Harbourside to the Plan. The design code seeks to manage change and influence development to ensure good urban design and a quality environment in a manner that will achieve the objectives of the harbourside.
- (ii) The amendments proposed to the Harbourside Design Code will improve clarity and acknowledgement of existing built form characteristics to complement the intended character as described within the Character Areas. This will provide an improved basis to guide and assess development and use of buildings.

6.17 CONSEQUENTIAL AMENDMENTS

Submission	Decision sought from Dunedin City Council	Further Submission
Te Runanga o Otakou PC-7-54/10	Add the following new method into 1.5.3: Methods of Implementation: 26 <u>Statutory Acknowledgements</u> : The statutory acknowledgements set out in the Ngai Tahu Claims Settlement Act 1998 reflect the cultural, spiritual, historical and traditional association of Ngai Tahu with their ancestral lands, water, sites, wahi tapu, and other taonga.	Chalmers Properties Limited PC-7-F-70 support
Elizabeth J Kerr PC-7-50/3	Method 25 Design Codes Suggest insertion (underlined): "Design codes seek to identify <u>heritage values</u> , predominant physical patterns and significant features of an area...in which new development can enhance those <u>existing heritage values, patterns, and features that</u> contribute positively to the character of the area. The design code..."	Nicol A MacArthur PC-7-F-107 supports
Otago Regional Council (ORC) PC-7-20/1	The definition for Potentially Contaminated Site is altered to read "Means a site that is currently used, or has been previously used, by land uses which are identified in the Hazardous Activities and Industries List (HAIL)".	
Barry Simpson PC-7-28/5	Commercial Residential DELETE backpackers, motels, tourist lodges, holiday flats, tourist cabins, motor inns Tourist and Entertainment Activity DELETE museums, theatres, art galleries, cinemas, conference facilities Home occupation DELETE Mason Street Character Areas	Chalmers Properties Limited PC-7-F-53 oppose
Holcim New Zealand Ltd PC-7-19/4	Holcim opposes this proposed change and requests no change to existing Rule 11.6.2(i).	
Chalmers Properties Limited PC-7-14/41	Method 18.4.4: Replace the word " <i>guide</i> " with the word " <u>plan</u> "	
Elizabeth J Kerr PC-7-50/4	Method 18.4.4: Suggest insertion (underlined): "...used to guide the development or redevelopment of a particular area and include defining the future development and land use patterns, <u>existing heritage values</u> , areas of open space..."	Nicol A MacArthur PC-7-F-107 supports
Chalmers Properties Limited PC-7-14/42	Amend Rule 19.5.6B(ii) as necessary.	
Elizabeth J Kerr PC-7-50/5	See (page 10) "Insert the following in Rule 19.5.1(ix)..." DELETE (e) and (f). Overhead banners spanning Tewsley Street and Fryatt Street at the stated locations or for any harbourside location are <u>strongly opposed</u> , for the avoidance of visual clutter and to prevent heritage buildings and structures being obscured.	Nicol A MacArthur PC-7-F-107 supports
Elizabeth J Kerr PC-7-50/6	<u>19.6.2 : Add third point for assessment:</u> (iii) The extent to which the proposed signage will have an adverse effect on heritage values. Unless the Harbourside Design Code (Appendix 26.2) is revised to recognise and protect heritage values, this third point (or words to the effect) will be necessary.	Nicol A MacArthur PC-7-F-107 supports
Barry Simpson PC-7-28/6	(iv) Mason Street Character Area DELETE this section and put into the Mixed Use Character Area	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/7	(i) section on parking financial contributions, DELETE. Some streets are wide enough to accommodate angle parking so change from parallel parking to angle parking.	Chalmers Properties Limited PC-7-F-53 oppose
Barry Simpson PC-7-28/27	Amendments to Maps 35 and 49 Re-draught to show more Industrial 1 and less Harbourside. That is Harbourside to be the seaward side of Fryatt Birch Sts plus the Cross Wharf the rest to be designated Industrial. Refer above.	Chalmers Properties Limited PC-7-F-53 oppose

Submission	Decision sought from Dunedin City Council	Further Submission
Elizabeth J Kerr PC-7-50/24	<p>- Proposed Dunedin City District Plan Change 7 – Amend Maps 73 and 74 Road Hierarchy</p> <p>Comment: Revise on consideration of urban design issues for consultation.</p> <p>- Proposed Dunedin City District Plan Change 7 – Items for inclusion on Schedule 25.1: Townscape and Heritage Buildings and Structures</p> <p>Comment: Further heritage assessment required for Dunedin Harbourside. Upgrade this map to incorporate further listings to Schedule 25.1 (see comments on Schedule 25.1 above).</p> <p>- Proposed Dunedin City District Plan Change 7 – Amendments to Maps 35 and 49 Rezoning of Dunedin Harbourside</p> <p>Comment: Upgrade maps to include the block contained by Roberts, French, Buller and Birch Streets in the Harbourside Zone.</p>	Nicol A MacArthur PC-7-F-107 supports
Otago Regional Council (ORC) PC-7-20/9	Any such consequential amendments in order to give full effect to this submission.	Chalmers Properties Limited PC-7-F-49 oppose

Discussion

- [295] A number of consequential amendments are included as part of Proposed Plan Change 7 to ensure consistency between proposed Section 26: Harbourside with other sections of the Plan. We have considered the submissions grouped as they relate to each section of the Plan.

Section 1 Introduction

- [296] **Te Runanga o Otakou (PC-7-54/10)** requested the insertion of a new method into 1.5.3: Methods of Implementation relating to statutory acknowledgements. This is consistent with the main theme of the overall submission. The Officer's Report considered this to be a valid method and one which should be included within the Plan, but that it has implications beyond Proposed Plan Change 7, which have not been given due consideration. The Officer's Report stated that the preference was to consult with the submitter on how greater consideration can be given to statutory acknowledgements through Section 3: Manawhenua of the Plan, when it is reviewed. This would enable city-wide consideration of the method rather than being tagged onto Proposed Plan Change 7. The evidence tabled by Te Runanga o Otakou accepted the comments in the Officer's Report. We accept that view.
- [297] **Elizabeth Kerr (PC-7-50/3)** sought amendments to *Method 25 Design Codes* to improve reference to heritage values. The Officer's Report stated that heritage values would be considered as elements contributing to physical patterns and/or significant features, which is discussed in the method, but that it was appropriate that heritage values are explicitly referred to. We accept this recommendation.

Section 3 Definitions

- [298] **Otago Regional Council (PC-7-20/1)** requested amendment to the definition proposed for '*Potentially Contaminated Site*' to ensure clarity and consistency with the Regional Plan: Waste for Otago. The Officer's Report considered that the definition as notified and that requested by the submitter sought to achieve the same result, and recommended accepting the submission to reduce potential interpretation difficulties. In her evidence, Ms Sarah Valk provided a slightly amended definition to that originally submitted. We accept this amended definition.
- [299] The request by **Barry Simpson (PC-7-28/5)** to delete the reference to various forms of commercial residential activity within the definition of *Commercial Residential Harbourside Activity* is not appropriate and will have little effect. Deletion of these terms from the definition will not result in those activities not being considered as Commercial Residential Harbourside activities. The references are included within the definition for interpretation purposes and to assist plan users. Likewise the relief sought by the submitter in relation to *Tourist and Entertainment Activity* and *Home Occupation* is not accepted.

Section 11 Ports

- [300] **Holcim (PC-7-19/4)** sought the deletion of the proposed amendments to Rule

11.6.2(i) and Assessment Matter 11.7.4 in the Port section. Rule 11.6.2(i) provides for the proposed Mason Street view shaft and requires that no new structures, or additions and alterations to existing structures, are located on the view shaft area, unless through resource consent. Holcim occupy this site and have office buildings located in the area proposed to be subject to the rule. The submitter is concerned that it could be restricted from developing its facilities, which may include an additional cement silo, as a result of having to go through the consent process. While the rule prevents new structures as a permitted activity, it does accept that structures may be necessary, but should be assessed for their impacts on the view shaft. We consider the rule is appropriate and that the resource consent process enables assessment on a case-by-case basis.

Section 18 Subdivision

- [301] Both **CPL (PC-7-14/41)** and **Elizabeth Kerr (PC-7-50/4)** sought amendments to Method 18.4.4: Structure Plans. **CPL** sought that the word 'guide' be replaced with 'plan', while **Elizabeth Kerr** sought the inclusion of reference to heritage values.
- [302] The Officer's Report stated that since Proposed Plan Change 7 was notified, Method 18.4.4 was inserted as a new method to the Plan by the Environment Court as a result of decisions on Variation 15: Mosgiel. The report went on to state that the wording of the method that is now in the Plan is slightly different to that notified under Proposed Plan Change 7 and reads as follows:
- Structure Plans as Plan provisions prepared by the Council or individuals provide a framework to guide the development or redevelopment of a particular area by defining the future development and land use patterns, areas of open space, the layout and nature of infrastructure (including transportation networks), and other key features for managing the effects of development.*
- [303] In response to the submission of **CPL**, the Officer's Report considered that the method now in the Plan refers to structure plans as 'Plan provisions' providing a 'framework to guide' development. This reference implies that they are a statutory document or matter for compliance. In addition, the wording 'structure plan' implies a plan of some sorts. In her evidence, Ms Christine Ralph, on behalf of CPL, accepted the method as inserted into the Plan by the Environment Court.
- [304] With regard to the reference to heritage values within Method 18.4.4, sought by **Elizabeth Kerr**, we consider that such values would not be excluded from a structure plan based upon the wording of the method.

Section 19 Signs

- [305] **CPL (PC-7-14/42)** submitted that the wording of Rule 19.5.6b(ii)(e) is not clear with respect to definition of 'shop front signs'. The Officer's Report responded that the reference to 'shopfront signs' is based upon existing rules that relate to signage in the Central Activity Zone. Rule 19.5.6B(ii) is referring to signage below verandahs or the stated height from the footpath. Other rules within 19.5.6b(ii) relate to signs above verandahs, and on the fascia and underside of verandahs. The Officer's Report recommended that removal of 'shopfront' would provide a better relationship to the other rules and avoid potential interpretation issues. We accept this recommendation.
- [306] **Elizabeth Kerr (PC-7-50/5)** sought deletion of Rule 19.5.1(ix)(e) and (f), which relates to banners being permitted across specified parts of Tewsley Street and Fryatt Street. This rule provides for banners similar to those in Lower Stuart Street and other named locations, used to advertise various events within the city. The Officer's Report considered that, in addition to the issues relating to heritage values and visual clutter as noted by the submitter, there may be technical issues relating to the ability of trucks to continue to access businesses within the area. The Officer's Report recommended that provision for such banners is not necessary or consistent with the character of the harbourside area. Alternative forms of advertising are more appropriate and we agree that the rule should be deleted as it relates to harbourside.
- [307] **Elizabeth Kerr (PC-7-50/6)** sought the inclusion of an assessment matter in 19.6.2 to refer to the effects of signage upon heritage values. As per Decision 6.16 the Harbourside Design Code is to be improved in terms of reference to the values of the existing and intended character, which includes heritage values. We consider that these improvements and the reference to the Harbourside Design Code in 19.6.2 will

enable appropriate assessment of the effects of signage upon heritage values.

- [308] The Officer's Report noted that the number of assessment matter 19.6.2 is incorrect and recommended that it be amended to read *19.6.5 (not 19.6.2) Harbourside Zone*. We accept this amendment.
- [309] **Barry Simpson (PC-7-28/6)** sought removal of references to the Mason Street Character Area. In line with our decision to rezone both Stage 1 and Stage 2 of the Harbourside Zone any references to the Mason Street Character Area are retained. We reject this submission.

Section 20 Transportation

- [310] **Barry Simpson (PC-7-28/7)** sought removal of references to financial contributions (Assessment Matter 20.6.1(j)) on the basis that the streets within the harbourside area are sufficiently wide to provide for parking. As discussed in Section 6.20 of this decision, provision for financial contributions enables flexibility for development of sites and the retention of this assessment matter is appropriate.

Volume 2 Amendments

- [311] The relief sought by **Barry Simpson (PC-7-28/27)** in relation to the extent of the zone has been previously discussed in this decision. In line with our Decision PC-7/6.3 to rezone both Stage 1 and Stage 2 of the Harbourside Zone any references to the Mason Street Character Area are retained.
- [312] **Elizabeth Kerr (PC-7-50/24)** sought consequential amendments to relevant maps in relation to other parts of her submission discussed elsewhere in this decision. These will be consequential amendments in relation to the submissions where we have accepted it.

Decision PC-7/6.17

It is our decision to:

- (i) **Accept in part** the submissions of **Otago Regional Council (PC-7-20/1)**, **Chalmers Properties Limited (PC-7-14/42)**, **Elizabeth Kerr (PC-7-50/5)** as they relate to the following amendments:
 - (a) Amend the definition of Potentially Contaminated Site in Section 3: Definitions as follows:

~~Potentially Contaminated Site: means sites that may be contaminated due to specific industries and land uses which have been associated with land contamination. The Hazardous Activities and Industries List (HAIL) is used as a guideline for identifying potentially contaminated sites. a site that is currently used, or has been previously used, by land uses that are identified in Schedule A: Hazardous Activities and Industries List (HAIL) of the Ministry for the Environment Contaminated Land Management Guidelines (January 2004).~~
 - (b) Delete Rule 19.5.1(ix) in Section 19: Signs.
 - (c) Amend Rule 19.5.6b(ii)(e) in Section 19: Signs as follows:
 - (e) ~~Shop front signs:~~
 - (f) *Signs located on building facades below the verandah, or for buildings without verandahs between ground level and 3m above ground level or higher than 4m for Identified Pedestrian Frontages, are permitted in the Steamer Basin North and South and Fryatt Street North Character Areas.*
 - (d) Re-number Assessment Matter 19.6.2 Harbourside Zone in Section 19: Signs to 19.6.5.
 - (e) Amend Method 25: Design Codes in Section 1: Introduction as follows:

25 Design Codes

Design codes seek to identify predominant physical patterns and significant features of an area, including heritage values, and encourage ways in which new development can enhance those patterns and features ~~and to~~ contribute positively to the character of the area. The design code seeks to encourage high quality buildings, places and spaces. The design code will be used to assess development to achieve good design outcomes.
- (ii) **Accept in part** the further submissions of **Chalmers Properties Limited (PC-7-F-53)** and **Nicol MacArthur (PC-7-F-107)**.
- (iii) **Reject** the submissions of **Te Runanga o Otakou (PC-7-54/10)**, **Barry Simpson (PC-7-28/5, PC-7-28/7, PC-7-28/6, PC-7-28/27)**, **Holcim (PC-7-19/4)**, **Chalmers Properties Limited (PC-7-14/41, PC-7-F-70)** and **Elizabeth Kerr (PC-7-50/4, PC-7-50/6, PC-7-50/24)**.
- (iv) **Reject in part** the submissions of **Chalmers Properties Limited (PC-7-F-70)** and **Nicol MacArthur (PC-7-F-107)**.

Reasons for the Decision

- (i) Proposed Plan Change 7 results in a number of consequential amendments to the Plan. These are necessary to ensure consistency and to include reference to the Harbourside Zone in rules that apply city wide. The amendments accepted relating to the Section 3: Definitions and Section 19: Signs will maintain consistency and reduce interpretation issues, while managing effects.

6.18 SCHEDULE 25.1

Submission	Decision sought from Dunedin City Council	Further Submission
The Pines Otago Limited PC-7-11	That the building at 27 Willis Street not be included on Schedule 25.1 Townscape and Heritage Buildings and Structures in Volume 2 of the District Plan.	
John Whittaker, Farra Engineering Ltd PC-7-16/2	Oppose Farra offices at 10 Tewsley Street (B756) becoming a heritage building	Nicol A MacArthur PC-7-F-97 supports
Kaan's Catering Supplies ("Kaan's") PC-7-45/3	63 Fryatt Street inclusion on Schedule 25.1. Seeks complete abandonment of the Harbourside Plan Change	
Geoffrey A Martin PC-7-42/4	(a) The Plan change is abandoned in its entirety.	
Darrel Robinson on behalf of IPENZ Engineering Heritage Otago Chapter PC-7-17/2	Consider adding additional buildings to Schedule 25.1 and clarifying the extent of buildings listed.	Nicol A MacArthur PC-7-F-98 supports Chalmers Properties Limited PC-7-F-46 oppose
New Zealand Historic Places Trust (NZHPT) PC-7-49/2	The scheduling of items must be revisited based upon the Salmond Reed reports, with items listed in the submission. Along with consideration of additional items for inclusion relating to the NZHPT Dunedin Harbourside Historic Area: Registration Report for a Historic Area.	Nicol A MacArthur PC-7-F-106 supports Chalmers Properties Limited PC-7-F-66 oppose
Elizabeth J Kerr PC-7-50/23	Upgrade this Table with further items for inclusion; done in consultation property owners, tenants, stakeholders, Salmond Reed Architects, and New Zealand Historic Places Trust. As a result, changes will need to be made to the relevant planning map(s).	Nicol A MacArthur PC-7-F-107 supports Chalmers Properties Limited PC-7-F-67 oppose

Discussion

- [313] As notified, ten items are to be included on Schedule 25.1: Townscape and Heritage Buildings and Structures as part of Proposed Plan Change 7. To be included in Schedule 25.1 a structure must be assessed against the criteria specified in Method 13.4.3 of the Plan. Two buildings are already listed on Schedule 25.1, being the Loan & Mercantile Building on the corner of Fryatt Street and Thomas Burns Street and the Customhouse on the Cross Wharf.
- [314] **John Whittaker of Farra Engineering (PC-7-16/2), The Pines Limited (PC-7-11), Geoffrey Martin (PC-7-42/4) and Kaan's (PC-7-45/3)** oppose the inclusion of the buildings at 10 Tewsley Street (B756), 27 Willis Street (B752) and 63 Fryatt Street (B751), respectively. The submitters are owners and occupiers of the buildings to be scheduled.
- [315] Submissions from **NZHPT (PC-7-49/2), IPENZ (PC-7-17/2) and Elizabeth Kerr (PC-7-50/23)** sought inclusion of additional items. The points raised in their submissions relating to the wider discussion on heritage values are contained in the following section of this decision.
- [316] **Mr Whittaker** submitted that the inclusion of their building in Schedule 25.1 will be onerous. The Officer's Report outlined that inclusion in Schedule 25.1 provides a level of protection for the building or parts of the building that are identified as contributing to the heritage and townscape values. Any item in the schedule is subject to the rules in Section 13: Townscape of the Plan. The report went on to state that the rules specify that any additions and alterations that affect that part of the building/item protected is a discretionary (restricted) activity while demolition of any item from Schedule 25.1 is non-complying. The Officer's Report considered that inclusion of a building in Schedule 25.1 does not impose any more onerous requirements upon the building owners than what is proposed under the provisions of the Harbourside Zone. We note that there is a greater level of flexibility with the rules as they relate to

scheduled items.

- [317] **NZHPT (PC-7-49/2)** agree with the ten items that were notified to be added but are concerned with the number of additions to Schedule 25.1. The submitter considered that scheduling of items identified in the Salmond Reed reports and the Registration Report for the Dunedin Harbourside Historic Area must be revisited. The items specifically considered for inclusion are listed on page 5 of the **NZHPT** submission. The submission of **Elizabeth Kerr (PC-7-50/23)** sought the addition of items along similar lines to NZHPT, with the proviso of adequate consultation.
- [318] **NZHPT** is also concerned with the level of protection accorded to the ten items proposed to be added to Schedule 25.1. The submitter is concerned with the continuing acceptance of 'facadism' as the approach that Council is taking towards protection of heritage buildings. The Officer's Report stated that the level of protection accorded any item varies between the facade and the entire building envelope. The report went on to state that only a few interiors of items listed in the schedule are currently protected. We understand that the concerns of the submitter are part of an on-going debate, which has been highlighted in the Council's Heritage Strategy and is intended to be resolved as part of the current review, and the resulting plan change, of the Townscape section of the Plan. In the absence of an holistic plan approach to the protection of interiors city-wide and in light of the work being undertaken on the Plan, we do not consider it necessary to discuss this further.
- [319] The **IPENZ Engineering Heritage Chapter (PC-7-17/2)** sought consideration of additional buildings to Schedule 25.1 but did not identify which buildings in its submission. We heard evidence from Mr Darrell Robinson who supported the items which had been identified to be included in Schedule 25.1.

Assessment of Additional Items for Inclusion

- [320] In response to the submissions, we heard evidence from Mr Dave Pearson, Consultant Heritage Architect for Dunedin City Council. Mr Pearson's evidence was also referred to in the Officer's Report. Mr Pearson undertook assessment of the three existing buildings that submitters opposed, and the additional buildings requested by submitters. The buildings were assessed against the criteria contained in Method 13.4.3 of the Plan and Mr Pearson recommended the inclusion of the following buildings in Schedule 25.1:

Item Assessed	Protection Recommended by Dave Pearson
Existing buildings opposed by submissions	
Wilson & Canham warehouse, 63/65 Fryatt St	The façade and bulk appearance to Fryatt Street
Waterfront Industry Commission, 27 Willis St	Entire external building envelope
Farra Bros offices 10 Tewsley St	Facades and bulk appearance to Tewsley and Cresswell Streets
NZHPT Recommendations	
Farra Dunedin Engineering Co Cnr Fryatt & Fish Sts	Bulk appearance as viewed from the Fryatt/Fish Street corner.
Turner Bros Offices 55 Fryatt St	Bulk appearance as viewed from the Fryatt/Fish Street corner
Dunedin Engineering & Steel 24 Willis St (Office & Willis St)	The single storey Art Deco office building facing Thomas Burns Street– entire external building envelope
	The building along Willis Street - bulk appearance as viewed from Willis Street
Sargood, Son & Ewen (Radcliffe Shoes) 20 – 32 Willis St	The two storied section occupying the Fairley/Willis Street corner – bulk appearance
Sargood, Son & Ewen 36 Willis St (McCormick Carrying)	Entire external building envelope
Tucker Box 14 Mason St	Entire external building envelope
Farra Bros Workshop 43 Cresswell St	Facades and bulk appearance to Cresswell Street
Briscoe's Wharf Store 9 Birch St	Façade and bulk appearance
Stone walls and railway abutment Roberts Street	Entire structures

- [321] In his evidence and on the basis of his assessment, Mr Pearson did not recommend scheduling for the following buildings:
- Iron & Steel Co of NZ , 51 Fryatt St
 - Iron & Steel Co of NZ , 67 Fryatt St
 - Nimmo & Blair , 28 Willis St
 - Reckitts Ltd , 29 Willis St
 - Cross Wharf, Wharf St
 - Former OHB building , 12-16 Wharf St
 - Wharf sheds, 60 Fryatt Street
- [322] We accept the evidence of Mr Pearson and his recommendations to schedule those buildings as outlined above [320], which brings the total number of buildings to be included in Schedule 25.1 through Plan Change 7 to 20. In terms of the retention of the wharf buildings, Mr Pearson considered that some part of the wharf sheds could be retained and incorporated into new structures as a result of negotiations with the owners. The wharf structures themselves are a contentious issue, yet integral to success of the Steamer Basin in particular.
- [323] We heard evidence on the structural integrity of the wharf structures from Mr Lou Robinson (Structural Engineer) who raised some serious concerns in terms of the integrity of the Fryatt Street wharf. Mr Robinson stated that the Fryatt Street wharf was constructed in several stages from 1870 to 1951 and the Birch Street wharf is a 1940 replacement of the original wharf. In Mr Robinson's opinion the Fryatt Street wharf is in a serious state of disrepair, with the seawall in a precarious condition with undermining of the wall, subsidence, cracking and in some instances sections of wall have collapsed. Mr Robinson was of the opinion that the Birch Street wharf is in better condition but with development of unfavourable structural features similar to those in the Fryatt Street wharf. In terms of the wharf sheds, Mr Robinson was of the opinion that if the sheds are to be retained as part of a remodelled complex, some remedial work is required, although they are not secure in terms of earthquake proofing. However the replacement of the seawall in its present position would imply prior removal of the seaward walls of all sheds to allow access for construction. Mr Robinson considered that, unless the seawalls are replaced, any new buildings should be founded in a way that is not reliant on the ground behind the seawalls; meaning they should be piled or be set sufficiently far back from the seawalls to be unaffected by land subsidence. Overall, Mr Robinson recommended replacement of the Fryatt Street wharf and the seawalls.
- [324] It was clear from the evidence of Mr Robinson that there are significant costs and difficulties in retaining the wharf structures themselves and the sheds, particularly with respect to the Fryatt Street wharf. The structural condition of the wharves also makes it difficult to establish additional buildings, or indeed those envisaged, consistent with the Design Code.
- [325] We accept the evidence of Mr Robinson on the structural integrity of the wharves and wharf sheds and accept the approach promoted by Mr Pearson in that the wharf sheds should not be included in Schedule 25.1. We note that NZHPT did not provide any evidence with regard to the structural integrity of the wharf structures themselves despite their desire to retain the structures.
- [326] We note the comment in the Officer's Report that building owners and landowners of the additional nineteen items to be included in Schedule 25.1 have not been formally advised. Upon release of our decision, we consider that it is appropriate for Council to advise the owners and occupiers of these additional buildings that are to be included in Schedule 25.1, and the implications that this may impose.

Decision PC-7/6.18

It is our decision to:

- (i) **Accept in part** the submissions of **NZ Historic Places Trust (PC-7-49/2), Elizabeth Kerr (PC-7-50/23), IPENZ (PC-7-17/2), Nicol MacArthur (PC-7-F-98, PC-7-F-106, PC-7-F-107)** by including the following items on Schedule 25.1 Townscape and Heritage Buildings and Structures of the Plan in addition to those ten items originally notified:

No.	Item	Address	Legal Description	Protection Required & Comments
B764	Briscoe's Wharf Store	9 Birch Street	Lot 1 DP 7743	Facade and bulk appearance
B765	Farra Dunedin Engineering Co	Cnr Fryatt & Fish Streets	Part Section 12 Block L II (CT 288/71, 67/233)	Bulk appearance as viewed from the Fryatt/Fish Street corner.
B766	Dunedin Engineering & Steel	24 Willis Street	Part Section 1 Block L II (CT 67/233)	The single storey Art Deco office building facing Thomas Burns Street– entire external building envelope
B767	Dunedin Engineering & Steel	24 Willis Street	Sections 2- 6 Block L II (CT 288/11)	The building along Willis Street - bulk appearance as viewed from Willis Street
B768	Sargood, Son & Ewen (Radcliffe Shoes)	20 – 32 Willis Street	Sections 1 to 3 Block LZ II	The two storied section occupying the Fairley/Willis Street corner – bulk appearance
B769	Sargood, Son & Ewen	36 Cresswell Street	Section 6 Block LX II	Entire external building envelope
B770	Farra Bros Workshop	43 Cresswell Street	Sections 6, 7 & 9 DP 1900	Facades and bulk appearance to Cresswell Street
B771	Tucker Box	14 Mason Street	Section 53 Block LX II (CT 318/217)	Entire external building envelope
B772	Turner Bros Offices	55 Fryatt Street	Lot 1 DP 26374	Bulk appearance as viewed from the Fryatt/Fish Street corner
B773 a, B773 b & B773 c	Stone walls and railway abutment	1A and 1B Roberts Street, 2 Birch Street, 8 Wharf Street	Section 36 Block LXI SO 19010 Town of Dunedin, Lot 5 DP 22285, Lot 2 DP 9757, Lot 10 DP 15162	Entire structures

- (ii) **Reject** the submissions of **John Whittaker, Farra Engineering (PC-7-16/2), The Pines Limited (PC-7-11), Geoffrey Martin (PC-7-42/4)** and **Kaan's (PC-7-45/3)** by confirming the inclusion of buildings located at 10 Tewsley Street, 27 Willis Street and 63 Fryatt Street in Schedule 25.1: Townscape and Heritage Buildings and Structures of the Plan.
- (iii) **Reject in part** the submissions of **Chalmers Properties Limited (PC-7-F-46, PC-7-F-66, PC-7-F-67).**

Reasons for Decision

- (i) Reassessment of the buildings identified at 10 Tewsley Street, 27 Willis Street and 63 Fryatt Street has confirmed that they meet the criteria in Method 13.4.3 of the Plan. It is appropriate for the heritage and townscape values of these items to be recognised and included in Schedule 25.1 of the Plan.
- (ii) A number of additional structures have been assessed against the criteria in Method 13.4.3 of the Plan to determine their significance and eligibility for inclusion in Schedule 25.1: Townscape and Heritage Buildings and Structures of the Plan. Eleven additional structures have been recommended for inclusion in the schedule. The inclusion of these items recognises their contribution to the heritage and character of the Harbourside Zone.

6.19 HERITAGE VALUES

Submission	Decision sought from Dunedin City Council	Further Submission
New Zealand Historic Places Trust (NZHPT) PC-7-49/4	Consistent with points mentioned in the submission, the NZHPT recommends that Council withdraws Proposed Plan Change 7 (Dunedin Harbourside) to the Dunedin City District Plan in its entirety. The NZHPT requests that this be done until such time as what are serious concerns it has with the proposal from an historic heritage perspective have been properly addressed.	Nicol A MacArthur PC-7-F-106 supports
New Zealand Historic Places Trust (NZHPT) PC-7-49/6	The submitter raises concerns in relation to earthworks associated with development and effects upon archaeological sites. NZHPT proposes that that area is archaeologically assessed to identify important sites and those of lesser importance. The assessment should be completed before earthworks take place. The assessment could be a joint DCC/ORC assessment.	Nicol A MacArthur PC-7-F-106 supports
Darrel Robinson on behalf of IPENZ Engineering Heritage Otago Chapter PC-7-17/1	Amendments to proposed rules to better enable the reuse of heritage buildings.	Nicol A MacArthur PC-7-F-98 supports
Elizabeth J Kerr PC-7-50/1	Critical revision of all provisions of the Plan Change to include the results of full consultation with New Zealand Historic Places Trust and the New Zealand Institute of Architects Southern Branch, as well as affected harbourside businesses. The submitter supports the proposed Plan Change subject to the Dunedin City Council: 1. undertaking a critical revision of the methodology to give greater recognition to heritage values for the Dunedin Harbourside; and full consultation with New Zealand Historic Places Trust; 2. providing an archaeological assessment for the proposed Harbourside Zone;	Nicol A MacArthur PC-7-F-107 supports

Discussion

- [327] In opposing the plan change **NZHPT (PC-7-49/4)** are concerned that, as notified, the plan change is based upon underlying assumptions that do not adequately address retention of significant heritage values, recognise requirements for sympathetic management of heritage values or value existing industrial heritage. NZHPT sought withdrawal of Proposed Plan Change 7 until their concerns with historic heritage were addressed subject to suitable consultation with NZHPT. The submitter questions sustainable management of the heritage and industrial resource; however, NZHPT fails to fully indicate what a more appropriate approach would be. The concerns of NZHPT are expanded upon in their submission and have been discussed throughout this decision.
- [328] The concerns of **Elizabeth Kerr (PC-7-50/1)** are similar to those of NZHPT. The submitter sought substantial revision of the plan change to recognise and protect heritage values for the harbourside. The submitter considered that such revision should articulate an integrated long-term vision, focusing on slow incremental change that does not set out to destroy existing values, historical readings and traces, and overall area character that makes the Dunedin harbourside unique – within Dunedin City and within the wider context of historical and contemporary portside developments in New Zealand.
- [329] The Officer's Report commented that the submission of NZHPT seemed to indicate that, in their view, the only way to achieve the greatest level of heritage recognition and protection is to retain the area as industrial and port. The Officer's Report stated that, based upon this approach, if the plan change was withdrawn and the status quo remained, there would be no recognition or protection of heritage values within the Plan for the harbourside, unless, another plan change was undertaken. On the other hand, the submitter encourages adaptive re-use of buildings, which, based upon the limited range of activities provided for within the Industrial 1 and Port 2 zones, would be difficult to pursue.
- [330] The Officer's Report stated that, while the plan change promotes a change in land use and the rules provide for new buildings and additional flexibility, they equally provide for retention and re-use of existing buildings which form the character upon which the rules have been developed.
- [331] We note that, in the absence of Proposed Plan Change 7, the recognition of heritage values within the harbourside is limited to the two buildings (the Customhouse and Loan & Mercantile) listed in Schedule 25.1: Townscape and Heritage Buildings and

Structures of the Plan. Beyond this there is no protection or recognition within the Plan of heritage values within the harbourside area. Proposed Plan Change 7 introduces recognition of heritage values through additions to Schedule 25.1 and the policy framework within the Harbourside Zone.

Recognition of the Dunedin Harbourside Historic Area

- [332] The evidence of Mr Doug Bray, on behalf of **NZHPT**, confirmed that the Dunedin Harbourside Historic Area was registered by NZHPT on 4 April 2008. In its submission, NZHPT sought the inclusion of the historic area as an heritage precinct under Section 13: Townscape of the Plan. We note that the boundaries of the historic area do not align with the boundaries of the proposed Harbourside Zone, or indeed the Character Area boundaries, and extend across Mean High Water Springs.
- [333] As discussed in the Section 32 Summary Report, the use of precincts was considered for the Harbourside Zone but has a number of limitations in terms of how precincts, as an overlay, relate to the zone and performance standards. The Officer's Report considered that the integrated approach of character areas provides the ability to ensure activities, performance standards and the built form are fully integrated within the zone. The Officer's Report was of the opinion that this approach is considered to be more efficient and effective than precincts and provides a direct link to the objectives.
- [334] The Officer's Report also highlighted that the Townscape section of the Plan is currently under review and may result in substantial changes in its approach, which is another reason why a precinct approach was not used in the Harbourside Zone. The Officer's Report went on to note that none of the heritage precincts currently identified in the Plan reflect historic area boundaries, although they may contain historic areas within their extent.
- [335] The Officer's Report considered that, based on the use of character areas, it is difficult to see what added value the inclusion of a heritage precinct would provide, that could not be more appropriately incorporated into the zone. The report said that, unless the historic area was also included in Schedule 25.1, the only additional benefit is that additions and alterations would have a discretionary restricted status, as opposed to controlled activity, for buildings within a precinct.
- [336] The Officer's Report outlined a number of other options available with respect to historic heritage including:
- Increasing the recognition of heritage values and how they can be managed in development and adaptive re-use, particularly as it relates to context, within the Harbourside Design Code. This could be easily achieved, and would be efficient and effective.
 - Aligning the character area boundaries with the historic area boundaries. This would require a substantial change in the approach for the zone and the vision.
 - Include the historic area within Schedule 25.1, with some reference to the area within the rules of Section 13: Townscape and the Harbourside Zone. This would result in administrative inefficiencies without changes to the Harbourside Zone due to the conflicts between the sections in terms of activity status for building additions and alterations. It would also place additional costs on existing industrial activities.
- [337] The submitter commented in relation to scheduled items, that 'heritage and townscape values exist whether they are identified on a list or not.' This concept is certainly recognised through the Townscape section the Plan, which relates to issues beyond those of the NZHPT. It is considered that the design-based approach in Proposed Plan Change 7, based upon character areas, provides a more holistic and integrated approach than the existing approach adopted currently in the Plan relating to townscape.
- [338] We heard evidence from Mr Jonathan Howard, on behalf of NZHPT, who considered that any proposal should be compatible with existing uses and encourage their continued operation.
- [339] In his evidence, Mr Doug Bray supported the additional scheduling of buildings, as recommended by Mr Dave Pearson. However, Mr Bray was not convinced that

scheduling recognised all buildings and structures of historic heritage significance within the Harbourside Zone.

- [340] The Officer's Report considered that the historic area and the proposed Harbourside Zone can not be easily reconciled due to the differences between boundaries and intent. Recognition of the historic area through an heritage precinct overlay would require a fundamental change in the approach of Proposed Plan Change 7, one which is not considered to be efficient or effective in terms of the existing administrative problems with the Townscape section, or desirable to achieve the objectives for the Harbourside Zone.
- [341] We agree with the concerns raised in the Officer's Report with respect to the impacts upon the efficiency and effectiveness of imposing an additional layer of control with respect to the historic area. We heard evidence from the various experts for NZHPT but this did not provide any compelling solutions. We understand that considerable effort has gone into the development of the vision and the subsequent plan change. We were also reminded by Mr Michael Garbett, in his opening submission, that the presence of heritage buildings does not "trump" other potential uses of land in the harbourside area. Further that all these matters must be balanced and a decision reached having regard to the relative significance of each relevant matter.
- [342] Overall, we consider that the approach adopted in Proposed Plan Change 7 introduces a level of recognition and protection of historic heritage in the harbourside area that currently does not exist. The approach is undertaken in light of the experience and difficulties of the current Plan, and is balanced to give effect to the vision for the Harbourside Zone.
- [343] Council is in the early stages of undertaking a plan change for the Townscape section of the Plan, which manages heritage and the rules related to Schedule 25.1. At the time of writing this decision Council had commissioned a thematic heritage study which will be used to develop the plan change. We consider that this process is best placed to progress the wider debate on how heritage is protected, the role of facadism, and the inclusion of historic areas. However, at this stage we can not offer any guarantee that the historic area and heritage values of the harbourside area will be protected in the Plan to the satisfaction of NZHPT.

Archaeological Assessment

- [344] **NZHPT (PC-7-49/6)** and **Elizabeth Kerr (PC-7-50/1)** requested that a joint archaeological assessment be undertaken by DCC and ORC to assist in informing heritage and archaeological values within the harbourside. We understand that, with the exception of the public squares and walkways, DCC is not the developer, but is providing the mechanism and policy framework to enable development to occur in the harbourside area.
- [345] Being a joint hearing, we note that the planners report for Proposed Plan Change 1 to the Regional Plan: Coast for Otago, did not concur with the need for an archaeological assessment, which aligns with the approach of the DCC Officer's Report. The Historic Places Act 1993 requires that an archaeological authority is obtained for all sites where pre-1900 human activity existed. Any archaeological assessment does not override these requirements, which is required for each developer.
- [346] We heard evidence from Dr Matthew Schmidt who outlined the need for and benefits of an archaeological assessment for the harbourside. Dr Schmidt was of the view that reports had been undertaken for built heritage but not archaeological heritage. Dr Schmidt considered the benefits of such an assessment would be to inform developers and ensure there were 'no surprises'.
- [347] We consider that the onus should be upon each developer to ensure that they meet the relevant statutory requirements and, thus, do not consider it necessary to require DCC, or recommend that ORC, undertake an archaeological assessment. However, this does not prevent either authority from undertaking such an assessment should they consider it appropriate or necessary in future.

Decision PC-7/6.19

It is our decision to:

- (i) Reject the submissions of New Zealand Historic Places Trust (PC-7-49/4, PC-7-49/6), Elizabeth Kerr (PC-7/50/1), IPENZ Engineering Heritage Otago Chapter (PC-7-17/1) and reject in part the further submissions of Nicol MacArthur (PC-7-F-106, PC-7-107, PC-7-F-98).**

Reasons for Decision

- (i) Proposed Plan Change 7 introduces recognition and protection of historic heritage within the Harbourside Zone. This recognition is undertaken within the context of the proposed change towards a mixed use environment that is supportive of the development of a people orientated place. This is achieved through a design-based approach using character areas that enables integrated management of activities and the built form, including historic heritage.
- (ii) Recognition of the NZHPT Dunedin Harbourside Historic Area through an heritage precinct overlay would require a fundamental change in the approach of Proposed Plan Change 7. Such an approach is not considered to be efficient or effective in terms of the existing administrative problems with the Townscape section or desirable to achieve the objectives for the harbourside.
- (iii) It is not accepted that the only method to recognise and protect historic heritage within the harbourside is to retain its existing industrial and port zoning across the full extent. Such a narrow approach fails to take account of the range of issues that must be balanced to sustainably manage resources whilst meeting the changing demands and desires of the community.
- (iv) It is not considered appropriate to require the Council to undertake an archaeological assessment of the harbourside. The onus is upon each developer as an assessment will be required for each site as it is developed under the Historic Places Act 1993.

6.20 TRANSPORTATION

Submission	Decision sought from Dunedin City Council	Further Submission
Progressive Plastics Ltd PC-7-1/2	Action on the matters in submission: Continued availability of existing free parking for workers and customers and roading access for loading and unloading goods including shipping containers.	
Fonterra Co-Operative Group Limited ("Fonterra") PC-7-10/4	That Proposed Plan Change 7 be declined or amended as per the submission: <ul style="list-style-type: none"> Fonterra has established cool stores located just south of the site proposed to be rezoned "Harbourside" on Kitchener Street. There are regular heavy vehicle movements associated with the cool store operations. Fonterra is concerned with the potential transportation conflicts between existing and new users. Fonterra considers that the introduction of non-employment related pedestrian and/or cycle access into this industrial area will result in a direct conflict with the heavy and service vehicle traffic needing access to the area. 	Transit New Zealand PC-7-F-30 partially supports the submission in relation to transportation conflicts Chalmers Properties Limited PC-7-F-42 partial opposition
Simon R Gilmour PC-7-15/3	The implementation of the proposed district plan change 7 with strong provision for soundproofing of new premises and the provision for heavy vehicle access for existing businesses. This doesn't necessarily mean through access, or the number of existing through roads must be monitored.	Chalmers Properties Limited PC-7-F-44 support
Transit New Zealand PC-7-18/1	That the Council endorse proposed Plan Change 7 as proposed in principle, but subject to more details on the following matters: <ul style="list-style-type: none"> the key strategic vehicular accesses into the Harbourside precinct are identified to maintain and enhance the overall safety and functionality of the Harbour Arterial Route Rules are included among the provisions of the Plan Change and the associated Structure Plan limiting the number of accesses to property directly off the Harbour Arterial Route and also limiting parking opportunities Key opportunities for pedestrian and cyclist access are identified in the Structure Plan in positions that are safe and at the same time will not impair the safety and efficiency of the Harbour Arterial Route 	Chalmers Properties Limited PC-7-F-47 support
Roger Denston (Bradken Foundry) PC-7-29/3	Develop a pedestrian bridge from Queens Gardens over Thomas Burns Street and directly to the inner basin. This will significantly reduce the number of pedestrians crossing a busy arterial road now and in the future.	Peter C Nicholls PC-7-F-74 support Otago Sculpture Trust PC-7-F-78 support Nicol A MacArthur PC-7-F-102 supports Chalmers Properties Limited PC-7-F-54 oppose
Action Engineering Limited PC-7-26/4	(a) The Plan Change is abandoned in its entirety. (b) The Plan Change stage 1 stays west of Fish Street and retains separation between Industrial zone and the mixed use zone and occupies the inner basin south, which sees more sun and is therefore is a more hospitable environment.	Nicol A MacArthur PC-7-F-101 supports Chalmers Properties Limited PC-7-F-52 oppose
Kaan's Catering Supplies ("Kaan's") PC-7-45/2	General Rule – Access and Parking: Complete abandonment of the Harbourside Plan Change	Chalmers Properties Limited PC-7-F-63 oppose
Barry Simpson PC-7-28/3	<ul style="list-style-type: none"> Change connectivity emphasis from Inner Basin to more beaches along the harbourside Extend the harbourside walkways/cycleways to both Aramoana & Tairoa heads Extend the pedestrian overbridges at the Railway Stn and the proposed Rattray St site to cross over Thomas Burns St & Wharf St 	Fonterra Co-Operative Group Ltd PC-7-F-2 opposes Chalmers Properties Limited PC-7-F-53 partial support
Stephen W Todd for EJ, EA, SW & JN Todd PC-7-33/2	The abandonment of this plan change	

Submission	Decision sought from Dunedin City Council	Further Submission
Crawford Glass Dunedin Limited, Crawford Glass Limited trading as Novus Dunedin, CWC 2005 Limited and Eccotech Limited PC-7-41/2	The Plan change is abandoned in its entirety. If complete abandonment is not sustainable then: (a) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (b) Keep road network as is.	Chalmers Properties Limited PC-7-F-60 oppose
Geoffrey A Martin PC-7-42/2	(a) The Plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-61 oppose
Otago Chamber of Commerce PC-7-47/5	The effectiveness of the transport network, be it road or rail, in getting goods from Dunedin's manufacturers to its port must not be compromised by the frictional effects of more intersections and crossovers.	Transit New Zealand PC-7-F-34 partially supports Chalmers Properties Limited PC-7-F-64 support
Andrew Shand, Public Health South PC-7-48/2	- The inclusion of both walkway and cycleways in any new access created for approach to the area from the direction of all main arterial routes and roadways. - The linking of cycleways leading to and within the Harbourside Zone to the wider Dunedin City Council plan to continue a cycleway around the harbour basin.	Fonterra Co-Operative Group Ltd PC-7-F-113 supports Transit New Zealand PC-7-F-31 partially supports Chalmers Properties Limited PC-7-F-65 support
Elizabeth J Kerr PC-7-50/1	Critical revision of all provisions of the Plan Change to include the results of full consultation with New Zealand Historic Places Trust and the New Zealand Institute of Architects Southern Branch, as well as affected harbourside businesses. The submitter supports the proposed Plan Change subject to the Dunedin City Council: - Urgently review the transportation planning aspects of the proposal within the context and hierarchy of wider urban design principles	Nicol A MacArthur PC-7-F-107 supports

Discussion

- [348] Submissions raised a number of issues in relation to the wider transportation network that would result from the proposed Plan Change. In making decisions on the submissions, we have relied largely on the evidence of Mr Don Hill, Transportation Planning Manager for Dunedin City Council. We consider submissions relating to the roading hierarchy separately in the following section of this decision.
- [349] Proposed Plan Change 7, and the development of the harbourside area, is being undertaken within management of the wider transportation network, including the Strategic Arterial route referred to as the Harbour Arterial. We understand that the Notice of Requirement for the Harbour Arterial route, involving Thomas Burns Street, was notified on 28 June 2008. We note that this adjoins the harbourside area and is referred to within both the vision and the structure plans. The evidence of Mr Hill stated that the Harbour Arterial relocates the arterial route, between Willis Street and Mason Street, onto vacant land adjacent to the rail corridor. The current Thomas Burns Street will operate as an access road to service the harbourside area. Mr Hill stated that this will remove the influence of property access from the arterial route thus protecting its function. The Strategic Arterial Route proposal is set out in The City's Transportation Strategy "Your City – Your Future" adopted by the Council in July 2006.
- [350] Mr Hill said that the Transportation Strategy also recognises the need for a good connection from the central city to the harbourside area and proposes an at grade connection across the rail corridor on the line of Rattray Street, with traffic signals at the intersection of this connection with the arterial corridor and Fryatt Street to create permeability across both the rail corridor and arterial route. The strategy recognises that an at grade rail crossing will not be possible while the rail shunting area remains across the line of Rattray Street. Mr Hill stated that it is the intention of Council to

pursue an alternative site for rail shunting yards. Mr Hill went on to state that in the event relocating the shunting yards proves not to be possible, alternative grade separated options for accessing the harbourside area from the central city will need to be pursued.

- [351] ***Progressive Plastics Limited (PC-7-1)*** sought continued availability of the present free parking for workers, customers, and loading. In his evidence, Mr Hill stated that *businesses rights will be protected by provision of customer parking and the retention of the Council's policies relating to the loading and unloading of containers on street. These policies establish rules and performance standards relating to the placing, loading and/or unloading of containers on streets. Free, on-street parking for staff will receive the same treatment as applies elsewhere in the city in that commuter parking will be allowed outside the immediate business needs of the area.*
- [352] ***Fonterra (PC-7-10/4)*** is concerned with the potential conflicts that may arise between existing and new users. The concerns particularly relate to access for heavy vehicles to the submitters' cool stores, which lie immediately to the south of the harbourside area. Access is currently available to these cool stores from Wharf and Kitchener Streets and will continue. Mr Hill's evidence stated that *while the Plan Change may introduce more general traffic into the area, the network of wide streets will ensure there is adequate safe space for all users.*
- [353] ***Simon Gilmour (PC-7-15/3)*** is supportive of the plan change on the basis that heavy vehicle access to existing business continues to be provided. As discussed above, heavy vehicle access for existing premises will continue.
- [354] ***Transit NZ (PC-7-18/1)*** are supportive of the plan change in principle but sought assurances that it will not have an adverse effect on the proposed strategic Harbour Arterial Route. The assurances relate to safe crossing points for pedestrians and cyclists, minimum impacts on the safety and efficiency of the arterial route, and limits upon the number of vehicle connections between the arterial route and the harbourside area. These assurances were sought by Transit based upon the role of the Harbour Arterial Route within the roading network, and the possibility that it may become a State Highway in future. Mr Hill stated that Council has an agreed protocol with Transit NZ and fully intends to continue to work in partnership with Transit NZ to ensure their concerns are properly addressed. In his evidence, Mr Bruce Richards agreed there is a working partnership, which will generally ensure the concerns can be addressed.
- [355] Mr Richards was, however, concerned with the issue of existing and future property access to the existing Harbour Arterial Route and sought inclusion of a rule that disallows direct property access onto the Harbour Arterial Route. Mr Richards sought the rule on the basis that the upgrade may take time and Transit wished to safeguard the existing formation. In rebuttal evidence, Mr Hill did not consider it necessary to have a rule within the Plan on the basis that properties between Fryatt Street and Willis Street have access available from those streets and no vehicle access from Thomas Burns Street. Mr Hill also stated that Council has powers to control access to private property under the Local Government Act and can utilise these to give the arterial Limited Access Road status. We consider there are limited opportunities for access points along the existing Thomas Burns Street, and the Plan contains existing rules that prevent vehicles from reversing onto an arterial road. We agree with Mr Hill and are satisfied that there is no need for a rule to limit direct property access.
- [356] ***Action Engineering Ltd (PC-7-26/4), Crawford Glass Ltd & Ors (PC-7-41/2), Geoffrey Martin (PC-7-42/2), Kaan's Ltd (PC-7-45/2) and Stephen Todd (PC-7-33/2)*** are concerned with the general changes to the roading network and the failure to address the role of the network in relation to the operation of the activities in the harbourside area. The submitters' comments on changes including the narrowing of access to Fryatt Street from Thomas Burns Street and the development of the Tewsley Street square, which they consider will make heavy vehicle movement difficult along with the conflicts between parking, pedestrians and heavy vehicle movement. In his evidence Mr Hill stated *it is reiterated that the access rights of existing businesses will be protected throughout the change process. The suggestion that the Mason Street roundabout will not cope is largely redundant as the Council plans to*

extend the Strategic Arterial through rail land to Frederick Street will eliminate the current morning peak congestion.

- [357] The **Otago Chamber of Commerce (PC-7-47/5)** wanted to ensure the on-going effectiveness of the transportation network as it relates to the harbourside area. Mr Hill's evidence stated that *this is a matter the Council also wishes to ensure and it will be achieved through integration of land use and transport planning and careful planning of the implementation of changes.*
- [358] In his evidence, Mr Mark Willis, on behalf of the Otago Chamber of Commerce, considered that the road network in the harbourside area is ideally suited for industrial use with its wide roads and minimal parking restrictions. Mr Willis was concerned with the differing needs of uses within a mixed use zone and possible conflict with the industrial users. We understand the concerns of Mr Willis and the Chamber, and are satisfied that Council can manage the differing needs of users as the area changes and, as Mr Hill's evidence has stated, the access rights of existing business will be protected through the change process.
- [359] **Barry Simpson (PC-7-28/3)** and **Public Health South (PC-7-48/2)** sought the inclusion of walkways and cycleways and appropriate linkages to and from the harbourside area. **Roger Denston (PC-7-29/3)** sought the development of a pedestrian overbridge at Rattray Street. As outlined in the discussion above, planning for transportation changes will ensure the needs of all users of the network are addressed with appropriate facilities along the arterial corridor and across it.
- [360] **Elizabeth Kerr (PC-7-50/1)** considered that an integrated urban design approach to all aspects of the plan change is necessary, including in relation to transportation. The evidence of Mr Hill commented that *when preparing the concept the Council utilised urban design professionals to assist in developing concepts for the area. Urban design aspects will also be taken account of once the projects to implement change are developed.*
- [361] Overall, based upon the evidence of Mr Don Hill, we are satisfied that Council is aware of the potential conflicts that may arise within the harbourside area and that they will manage changes to the transportation network to have regard to the different existing and future users within the harbourside. We recognise that change will not occur immediately but that change will occur over time.

Decision PC-7/6.20

It is our decision to:

- (i) **Accept in part** the submissions of **Action Engineering Ltd (PC-7-26/4)**, **Crawford Glass Ltd & Ors (PC-7-41/2)**, **Geoffrey Martin (PC-7-42/2)**, **Kaan's (PC-7-45/2)**, **Stephen Todd & Ors (PC-7-33/2)**, **Fonterra Co-Operative Group Limited (PC-7-10/4, PC-7-F-2, PC-7-F-113)**, **Simon R Gilmour (PC-7-15/3)**, **Transit New Zealand (PC-7-18/1, PC-7-F-30, PC-7-F-34, PC-7-F-31)**, **Progressive Plastics Limited (PC-7-1/2)**, **Otago Chamber of Commerce (PC-7-47/5)**, **Public Health South (PC-7-48/2)** and **Chalmers Properties Limited (PC-7-F-44, PC-7-F-47, PC-7-F-54, PC-7-F-64, PC-7-F-65)** to the extent that the Plan contains provisions to manage the effects of transportation and there will be on-going management of the transportation network within and surrounding the harbourside, including making provision for the needs of existing industrial activities as the area develops.
- (ii) **Reject in part** the submissions of **Roger Denston (PC-7-29/3)**, **Barry Simpson (PC-7-33/2)** and further submissions of **Peter Nicholls (PC-7-F-74)**, **Otago Sculpture Trust (PC-7-F-78)**, **Elizabeth Kerr (PC-7-50/1)**, **Chalmers Properties Limited (PC-7-F-42, PC-7-F-52, PC-7-F-53, PC-7-F-60, PC-7-F-61)** and **Nicol MacArthur (PC-7-F-101, PC-7-F-107)**.

Reasons for Decision

- (i) Proposed Plan Change 7 encourages land use changes within the harbourside. The land use change will have effects upon the transportation network that will be managed as development occurs. This will involve ensuring that the needs of existing businesses are met whilst meeting the changing demands of new activities within the harbourside.
- (ii) The transportation effects that will result from development of the harbourside are also considered within the context of the wider transportation network. The harbourside is recognised through the City's Transportation Strategy and the need to ensure safe and efficient connections and continued access to and from the harbourside for pedestrians, cycles and vehicles.

6.21 ROADING HIERARCHY

Submission	Decision sought from Dunedin City Council	Further Submission
Fryatt Street Properties Ltd PC-7-3/3	That the Proposed Plan Change 7 be withdrawn in its entirety; or -In the alternative, that Proposed Plan Change 7 be amended so that its extent is reduced so that it does not apply to 95/97 Fryatt Street, the adjoining property, or adjacent properties in Fryatt Street or Willis Street that are currently being used for an Industrial or Service Activity; or -In the alternative, that Proposed Plan Change 7 be amended so that the existing permitted activities in the Port 2 zone retain that status and are able to expand onto adjoining or adjacent land as a permitted activity under the currently conditions that are applicable to permitted activities in the Port 2 zone.	
Christie Paper Ltd PC-7-7/3	That the Proposed Plan Change 7 be withdrawn in its entirety; or -In the alternative, that Proposed Plan Change 7 be amended so that its extent is reduced so that it does not apply to 85 Fryatt Street, the adjoining property, or adjacent properties in Fryatt Street that are currently being used for an Industrial or Service Activity; or -In the alternative, that Proposed Plan Change 7 be amended so that the existing permitted activities in the Port 2 zone retain that status and are able to expand onto adjoining or adjacent land as a permitted activity under the currently conditions that are applicable to permitted activities in the Port 2 zone	Chalmers Properties Limited PC-7-F-41 oppose
Barry Simpson PC-7-28/26	Amend Maps 73 and 74 Road Hierarchy do not remove Mason St and Fryatt St Collector Rd status.	Chalmers Properties Limited PC-7-F-53 oppose
Port Otago Limited PC-7-34/7	Fryatt Street remain a collector road between Halsey Street and Mason Street.	Chalmers Properties Limited PC-7-F-58 support
Holcim New Zealand Ltd PC-7-19/3	Holcim wishes to be sure that changes to the road hierarchy in the area will not limit its ability to use the most efficient transport routes to and from its site.	Chalmers Properties Limited PC-7-F-48 support in part
Crawford Glass Dunedin Limited, Crawford Glass Limited trading as Novus Dunedin, CWC 2005 Limited and Eccotech Limited PC-7-41/3	(a) The plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-60 oppose
Geoffrey A Martin PC-7-42/3	(a) The plan change is abandoned in its entirety. (b) If complete abandonment is not sustainable then: (i) Fryatt Street is not classified as a 'Character Area'. Rather the general Mixed Use Zone applies; (ii) Keep road network as is.	Chalmers Properties Limited PC-7-F-61 oppose
Action Engineering Limited PC-7-26/4	(a) The plan change is abandoned in its entirety. (b) The plan change stage 1 stays west of Fish Street and retains separation between Industrial zone and the mixed use zone and occupies the inner basin south, which sees more sun and is therefore is a more hospitable environment.	Nicol A MacArthur PC-7-F-101 supports Chalmers Properties Limited PC-7-F-52 oppose

Discussion

[362] The roading hierarchy is shown on Planning Maps 73 and 74 in Volume 2 of the Plan. The hierarchy is referred to through rules in Section 20: Transportation, to determine access and loading requirements and manage effects upon the network. A number of amendments are proposed to the roading hierarchy as part of Proposed Plan Change 7. The proposed changes reflect changes to the wider network, including the harbour arterial route and the effects of development within the harbourside area.

[363] The submissions were generally opposed to the proposed changes to the roading hierarchy, with concerns relating to the operation of businesses in the harbourside area. As we heard in the evidence of Mr Don Hill, the changes to the roading hierarchy are effective only in terms of the rules relating to access and loading. The roading hierarchy does not regulate or control traffic use and the change will not affect an existing business's right of access. It is important to note that changes to the roading hierarchy will occur regardless of development within the harbourside, as part of management and improvements to the wider transportation network. We have

based the following consideration of submissions upon the evidence presented by Mr Don Hill.

- [364] **Fryatt Street Properties Ltd (PC-7-3/3), Christie Paper Ltd (PC-7-7/3) and Action Engineering (PC-7-26/4), Crawford Glass & Ors (PC-7-41/3) and Geoffrey Martin (PC-7-42/3)** are concerned with the proposal to change the status of Fryatt Street from Collector road to Local road. As we mentioned above, the proposed changes to the status of the road in the road hierarchy provides a guide for future developments. It does not either regulate or control traffic use and the change will not affect an existing business's rights of access.
- [365] **Port Otago Ltd (PC-7-34/7)** are concerned with the changes as it relates to Fryatt Street, in particular changing its status north of Mason Street. In his evidence, Mr Hill said that *as the portion of Fryatt Street between Mason Street and Bauchop Street will primarily provide access to properties fronting the road, its correct status is local road. Given recent changes proposed to Port Access arising from a review of the Strategic Corridor design there will be a need to review the road hierarchy for the area north of the Harbourside and this will be carried out independent of the Plan Change in conjunction with the Port Company and other land owners and occupiers.*
- [366] **Holcim (PC-7-19/3)** sought assurances that the changes will not limit its ability to use the most efficient transport routes to their site in Fryatt Street. The evidence of Mr Hill commented that *the need for good access from the Arterial Corridor to the northern Port and Industrial area is recognised. At the current stage two access points are proposed. The first will be from Mason Street into Ward Street and the second will be at Wickliffe Street. While this will necessitate some change to existing travel patterns it will ensure proper access for all classes of vehicles. The final point of closure for Fryatt Street will recognise the needs of the Holcim silo site by ensuring there is adequate turning room for heavy vehicles to freely enter and exit the silo site.*
- [367] **Barry Simpson (PC-7-28/26)** sought the retention of Mason Street and Fryatt Street as Collector roads. As we have discussed above the change reflects the wider transportation network.

Decision PC-7/6.21

It is our decision to:

- (i) **Accept in part** the submissions of **Chalmers Properties Limited (PC-7-F-41, PC-7-F-53, PC-7-F-48, PC-7-F-60, PC-7-F-61)** to the extent that the roading hierarchy is retained as notified.
- (ii) **Reject** the submissions of **Fryatt Street Properties Ltd (PC-7-3/3), Christie Paper Ltd (PC-7-7/3), Action Engineering (PC-7-26/4), Barry Simpson (PC-7-28/26), Holcim (PC-7-19/3), Port Otago Ltd (PC-7-34/7), Crawford Glass & Ors (PC-7-41/3), Geoffrey Martin (PC-7-42/3), Chalmers Properties Limited (PC-7-F-58) and Nicol MacArthur (PC-7-F-101).**

Reasons for Decision:

- (i) The roading hierarchy is identified in the Dunedin City District Plan to manage the effects of activities upon the wider transportation network. The changes proposed to the roading hierarchy, as notified, reflect the wider management of the network and do not translate to restrictions upon traffic use or control.
- (ii) The roading network within and surrounding the harbourside will continue to provide for the efficient access and needs of activities and users of the network.

6.22 KAI TAHU

Submission	Decision sought from Dunedin City Council	Further Submission
Te Runanga o Otakou PC-7-54/2	<ul style="list-style-type: none"> - Adoption of the Statutory Acknowledgement for Te Tai O Arai Te Uru (Otago Coastal Marine Area) into the Dunedin City District Plan: Harbourside Zone through the formulation of specific objectives, policies and rules for the statutory acknowledgement area. - Promote the use of Kai Tahu place names in the nomenclature for public spaces within the Harbourside Zone. 	Peter C Nicholls PC-7-F-119 supports Otago Sculpture Trust PC-7-F-81 supports
Te Runanga o Otakou PC-7-54/3	<ul style="list-style-type: none"> - On-going consultation with Te Runanga o Otakou during the implementation of the structure plan for the areas of public open space around the Inner Basin. - Interpretation Panels that document the history and cultural use of the Otago Harbour, Nga Moana e rua and the Toitu Stream. 	Peter C Nicholls PC-7-F-119 supports Otago Sculpture Trust PC-7-F-81 supports
Te Runanga o Otakou PC-7-54/4	<ul style="list-style-type: none"> - Include the management of run-off during all stages of construction as a resource consent assessment matter to avoid silt and other contaminants entering the harbour. - Require on site retention of stormwater from buildings and areas of hard standing, through the use of rain gardens, stormwater planters, swales and mini wetlands, to minimise the risk of contaminants entering the harbour. 	Peter C Nicholls PC-7-F-119 supports Otago Sculpture Trust PC-7-F-81 supports
Te Runanga o Otakou PC-7-54/5	<ul style="list-style-type: none"> - Promote the use of locally sourced genetic plants and fruiting species for landscaping and garden areas within the Harbourside Zone. - Include the restoration and enhancement of biodiversity, including the use of locally sourced genetic plants and fruiting species, as a resource consent assessment matter. 	Peter C Nicholls PC-7-F-119 supports Otago Sculpture Trust PC-7-F-81 supports
Te Runanga o Otakou PC-7-54/11	Attach the Statutory Acknowledgment for Te Tai O Arai Te Uru (Otago Coastal Marine Area) as Appendix 26.4.	Chalmers Properties Limited PC-7-F-70 support

Discussion

- [368] **Te Runanga o Otakou** sought relief related to their request for general amendments to recognise their concerns. The specific amendments have been considered elsewhere within the decision.
- [369] The Officer's Report considered that the requests relating to on-going consultation, interpretation panels, and use of place names to be part of on-going liaison between Council and Kai Tahu as development occurs, particularly in regard to Council works.
- [370] With respect to the requests sought in relation to on-site stormwater retention and avoidance of contaminants as sites are developed, we do not consider it necessary to include this within the Plan as an assessment matter. The Officer's Report stated that Council's Code of Subdivision is currently being revised and will become a Code of Subdivision and Development that will form the basis of standards for all development. The report further stated that any standards within the code will be based upon national standards. We consider that the Code is an appropriate mechanism to address the concerns of the submitter.
- [371] The Officer's Report stated that the promotion of locally sourced plants and fruiting species, and restoration and enhancement of biodiversity within the harbourside area is consistent with the vision and objectives of Council's Biodiversity Strategy. We accept that it is more appropriate that these concepts are promoted city-wide through the non-regulatory actions of the strategy, which will involve liaison with Kai Tahu.
- [372] The inclusion of statutory acknowledgement has been discussed elsewhere within this decision and is not considered appropriate as part of Proposed Plan Change 7. We note that the evidence tabled at the hearing by Te Runanga o Otakou supported the recommendations in the Officer's Report and acknowledged the desire to work alongside Council in future.

Decision PC-7/6.22

It is our decision to:

- (i) **Accept in part** the submissions of **Te Runanga o Otakou (PC-7-54/2, PC-7-54/3, PC-7-54/4, PC-7-54/5)**, **Peter Nicholls (PC-7-F-119)**, **Otago Sculpture Trust (PC-7-F-81)** to the extent that there will be on-going liaison between the Dunedin City Council and Kai Tahu.
- (ii) **Reject** the submissions **Te Runanga o Otakou (PC-7-54/11)** and **Chalmers Properties Limited (PC-7-F-70)**.

Reasons for Decision

- (i) On-going liaison is appropriate to address the wider concerns identified by Kai Tahu which can be appropriately considered as part of the implementation of other Council policy documents, including relating to public amenities and biodiversity strategy, code of subdivision and development.

6.23 MISCELLANEOUS

Submission	Decision sought from Dunedin City Council	Further Submission
Derek R Parkes PC-7-4	To raise the issues of environmental sustainability from being subtext in another urban redevelopment to being the primary identity of the project. This would lead to all amendments being written in terms of the highest attainable standards of sustainability.	Elizabeth Kerr PC-7-F-3 supports
Barry Simpson PC-7-28/2	Pare back \$9 million to \$1 million	
Otago Chamber of Commerce PC-7-47/6	Perhaps most importantly, major investment in the harbourside area must be left to private developers. DCC's role should be restricted to the provision of the appropriate zoning and resource consent policies to allow a commonly agreed upon framework within which development can occur, and the provision of necessary public infrastructure.	
Otago Chamber of Commerce PC-7-47/7	The Chamber suggests that a model of development in which astute investors are able to purchase the appropriate land would be the most effective model in which DCC can achieve its vision for the City's harbourside. Within this model investors are likely to see less risk in their ventures and more potential for long term gain and are therefore more likely to invest in the type of environment that DCC has in its vision and to do it well.	
Andrew Shand, Public Health South PC-7-48/3	The inclusion of rules for public safety with any new amenity including reserve or square/walkway created by lighting and control of the activities that border those features (such as buildings with windows facing in to the squares) and a restriction on the use of buildings (in particular industrial) that border these areas.	
Andrew Shand, Public Health South PC-7-48/4	The inclusion of Smokefree areas where there are enclosed and preferably open public recreational spaces as well.	
Elizabeth J Kerr PC-7-50/25	Plan Change Document Style Rules: 1) Decide a rule for " <u>well being</u> " [to hyphenate or not; well-being, wellbeing or well being?] and check document for consistency; both forms are used in the document. 2) Do spell check for ' <u>mater</u> ' of national importance [should read 'matter'] and check document for consistency. 3) Decide a style rule for " <u>adaptive reuse</u> " [to hyphenate or not] and check document for consistency 4) Reject use of the term "Inner Basin" in the document; substitute "Steamer Basin" as it is commonly referred to.	Nicol A MacArthur PC-7-F-107 supports
William van der Vliet PC-7-52	That the application allows the establishment of a public skateboarding park in this area. That the application confirms that the current skateboarding park is able to remain in the current location close to the new residential housing.	Geraldine Tait PC-7-F-92 supports
Barry J Cameron PC-7-35/1	(a) Withdrawn the Plan Change in its entirety or (b) Delay the Plan Change until a comprehensive weather study is completed to determine whether or not the harbourside area is a viable location for the proposed uses within the Plan Change.	Nicol A MacArthur PC-7-F-104 supports Chalmers Properties Limited PC-7-F-59 oppose

Discussion

[373] The submission from **Barry Simpson (PC-7-28/2)** related to funding within the Council's Annual Plan/Community Plan to provide for harbourside amenity improvements. Funding is a matter under the Local Government Act 2002 and we do not consider it germane to this decision.

Style and Formatting Rules

[374] The submission from **Elizabeth Kerr (PC-7-50/25)** noted a number of formatting inconsistencies in relation to a number of words and styles within the plan change documentation. We note the concerns of the submitter and that general formatting rules will be resolved in any final plan change documentation.

Public Health Concerns

[375] **Public Health South (PC-7-48/3)** sought the inclusion of rules for public safety in the design of any public spaces that will be developed in the harbourside area and the control of activities bordering these areas. The Officer's Report stated that public

safety is an important consideration and a benefit of good urban design, which is promoted under the policy framework for the harbourside. The report went on to say that, in terms of the activities bordering the proposed public squares and walkways, active edges will be encouraged through Appendix 26.4: Harbourside Design Code. This will promote people orientated activities, public safety and surveillance of public spaces. The Officer's Report also stated that these matters are encouraged through the design code, the adoption of Crime Prevention Through Environmental Design (CPTED) principles and performance standards within the Harbourside Zone.

- [376] **Public Health South (PC-7-48/4)** also sought the inclusion of smokefree areas for public recreational spaces. We do not consider that this is a matter for the Plan but relates to the management and operational issues for public spaces.

Skateboard Park

- [377] **William van der Vliet (PC-7-52)** sought to ensure that a skateboard park remains within the area. The existing skateboard park, adjacent to the railway and pedestrian over bridge, is located on a site that is part of the realigned Thomas Burns Street. The Officer's Report stated that the skateboard park was always intended to be a temporary location with a new location under investigation by Council and skateboard users. We do not consider it necessary to amend the Plan to provide for such a facility specifically as it is consistent with the definition for Recreation Activity, which is generally provided for in zones throughout the city.

Weather Study

- [378] **Barry J Cameron (PC-7-35/1)** raised concerns about the weather impacts of the harbourside area not being conducive to the type of activities proposed. The Officer's Report stated that a comprehensive weather study has not been undertaken, as requested by the submitter, and it is not considered necessary in terms of the proposed plan change. While we acknowledge that the harbourside area is subject to prevailing northeast winds that may not always be conducive to outdoor activities along the harbour edge, it is not considered to be a significant issue that affects rezoning the area. The prevailing weather patterns will present one factor for consideration in the design of buildings and surrounding spaces.

General

- [379] **The Otago Chamber of Commerce (PC-7-47/6)** highlighted the need for major investment to be left to private developers, who are better placed to make investment decisions. The submitter considered that the role of Council should be restricted to providing appropriate zoning and public infrastructure. This is the purpose of the plan change.
- [380] **The Otago Chamber of Commerce (PC-7-47/7)** commented that the most effective model of development is one where investors are able to purchase the land and obtain long term benefits. The Officer's Report indicated that freeholding of leasehold land is an approach that Council has adopted with land under its ownership, recognising the wider benefits that it provides. Beyond this Council does not have any influence over other landholders. We note that the evidence of Mr Andrew Duncan, on behalf of CPL, confirmed that CPL has a policy to sell freehold property where it will assist in achieving the vision and plan change.
- [381] **Derek Parkes (PC-7-4)** sought that the plan change identifies the harbourside as an area of ecological sustainability, providing a 'green heart' for the city, and that wider environmental sustainability is the primary identity of the project. The plan change has been developed in terms of the Act, based upon the sustainable management of physical and natural resources. This does not prevent consideration or promotion of wider sustainability issues.

Decision PC-7/6.23

It is our decision to:

- (i) **Accept in part** the submissions of **Otago Chamber of Commerce (PC-7-47/6)**, **Public Health South (PC-7-48/3)**, **Elizabeth Kerr (PC-7-50/25)** and **Chalmers Properties Limited (PC-7-F-59)**.
- (ii) **Reject** the submissions of **Derek Parkes (PC-7-4)**, **Barry Simpson (PC-7-28/2)**, **Otago Chamber of Commerce (PC-7-47/7)**, **Public Health South (PC-7-48/4)**, **William van der Vliet (PC-7-52)**, **Barry Cameron (PC-7-35/1)**, **Geraldine Tait (PC-7-F-92)** and **Elizabeth Kerr (PC-7-F-3)**.

Reasons for Decision

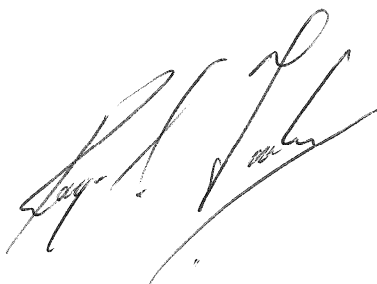
- (i) Proposed Plan Change 7 has been developed in a manner consistent with the provisions of the Resource Management Act 1991, and the sustainable management of natural and physical resources. The provisions provide the framework to enable development to be undertaken to achieve the objectives identified for the harbourside.

7.0 CONCLUSION

[382] In summary, we were satisfied that in broad terms Proposed Plan Change 7 provides a suitable response to the issues and environmental effects associated with achieving the objectives identified for the Dunedin harbourside.

[383] Over the duration of the hearing, we heard from a variety of submitters both in support and in opposition to the proposal. We also heard detailed expert evidence presented on behalf of submitters, including Chalmers Properties Limited, and the Dunedin City Council, as proponent of the Plan Change. All of those views, along with those of submitters who elected not to speak at the hearing, were taken into consideration. All parties are to be commended for their proactive and helpful approach to presenting their cases.

[384] Given the matters raised above, we therefore confirm Proposed Plan Change 7, subject to the amendments made above.



Commissioner Roger Tasker (Chairperson)

Commissioner John Lumsden

Dated the 5th day of February 2009

APPENDIX A

**PLAN CHANGE PROVISIONS AS AMENDED BY
DECISION**