

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-270

Under	the Resource Management Act 1991 (RMA)
In the matter of	an appeal under clause 14(1) of the First Schedule of the RMA in relation to the proposed Second Generation Dunedin City District Plan (2GP)
Between	University of Otago Appellant
And	Dunedin City Council Respondent

Consent memorandum – Heritage precinct provisions and mapping

30 July 2020

Respondent's solicitors:

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**anderson
lloyd.**

May it please the Court

- 1 This consent memorandum relates to the University of Otago appeal regarding Policies 13.2.3.1, 13.2.3.2, 13.2.3.5, 13.2.3.6 and 13.2.3.7 and Schedule A1.1 of the proposed Dunedin City Second Generation District Plan (**2GP**).
- 2 The appeal sought that:
 - (a) Amend policies 13.2.3.1 – 2 by deleting the word 'Require' and replace it with 'encourage' (DCC Reference number 215);
 - (b) Amend policies 13.2.3.5 – 13.2.3.7 by deleting 'Only' from the start of each policy (DCC Reference number 215); and
 - (c) Delete the part of the Dundas-Castle Street heritage precinct that is within the Campus Zone, and the part bounded by Clyde, Forth, Dundas Streets and Harbour Terrace (DCC Reference number 236).
- 3 Heritage New Zealand is a section 274 party to this appeal.
- 4 The parties have agreed to the changes to the plan set out in **Appendix A**.
- 5 There is no impact on any higher order objectives or strategic directions.
- 6 The rationale for these changes, and the assessments in terms of section 32 of the RMA, is explained in an affidavit of Emma Christmas, a policy planner at Dunedin City Council.
- 7 This is a partial settlement of the appeal (points 215 and 236). The appeal reference points, topics and status of proceedings for the unresolved appeal points are as follows:
 - (a) University of Otago:
 - (i) Group 2c Campus Zone provisions (185, 187, 190, 191, 196, 198), scheduled for mediation on 12th and 13th August 2020.
 - (ii) Group 3b Harbourside Edge Zone (203), scheduled for mediation on 13th August 2020.
 - (iii) Group 3a Relocatable Buildings (205), not yet scheduled for mediation.

- (iv) Group 3b Hazardous Substances (213), not yet scheduled for mediation.
 - (v) Group 4a 692 Cumberland Street (224), not yet scheduled for mediation.
 - (vi) Group 4a Tree Rules (241), not yet scheduled for mediation.
 - (vii) For completeness we note that appeal points on the following topics have been withdrawn - Campus Zoning (206 and 246).
- 8 The making of orders is contingent on settlement/determination of other appeals challenging Objective 2.3.1 as addressed in the affidavit of Emma Christmas.
- 9 As explained in the affidavit of Emma Christmas, there are no appeals on the provisions being amended through this consent order.
- 10 The agreed changes shown in **Appendix A** are intended to introduce a consenting pathway that enables a balancing of the effects on the University of Otago and Otago Polytechnic, with the effects on Heritage Streetscape Character.
- 11 There is also a supporting affidavit of Dr Anna Louise Johnson, the City Development Manager at Dunedin City Council, that considers alignment with, and impact of, any changes on the strategic directions objectives and policies and the drafting of the proposed amendments to ensure alignment with the 2GP Style Guide. Dr Johnson considers that the amendments have been drafted to be in keeping with the 2GP Style Guide.

Orders sought

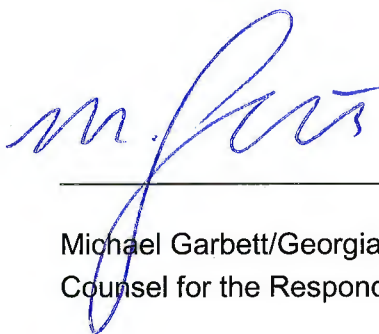
- 12 The parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the RMA, including Part 2 and request:
- (a) That the amendments shown in strikethrough and underline and the Forth Street mapped area in **Appendix A** are made; and
 - (b) That the remaining parts of this appeal remain to be dealt with at a later date.

- 13 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

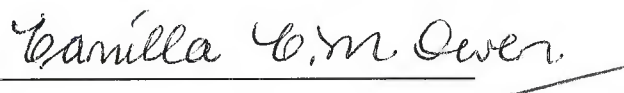
Dated this 30th day of July 2020



Phil Page/Derek McLachlan
Counsel for the Appellant



Michael Garbett/Georgia Cassidy
Counsel for the Respondent



Camilla Owen
Heritage New Zealand
Section 274 Party

Appendix A

Rule 34.10.4.1

34.10.4 Assessment of restricted discretionary development activities			
Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	In a heritage precinct : All restricted discretionary activities due to being in a heritage precinct	a. Effects on heritage streetscape character b. <u>Effects on the efficient and effective operation of the Otago University and the Otago Polytechnic</u>	See Rule 13.6 <u>Relevant objectives and policies:</u> i. <u>Objective 34.2.1</u> ii. <u>Campus activity is enabled within the Campus Zone (Policy 34.2.1.1).</u>

Rule 15.11.5.4

15.11.5 Assessment of restricted discretionary activities in an overlay zone, mapped area, heritage precinct or affecting a scheduled heritage item			
Activity		Matters of discretion	Guidance on the assessment of resource consents
4.	In a heritage precinct : All RD activities due to being in a heritage precinct	a. Effects on heritage streetscape character	See Rule 13.6
X.	In the Forth Street mapped area : <u>All RD activities due to being in a heritage precinct</u>	<u>a. Effects on the efficient and effective operation of the Otago University and the Otago Polytechnic</u>	<u>Relevant objectives and policies:</u> i. <u>Objective 2.3.1; Policy 2.3.1.6</u>

Precinct description A.2.1.3

A2.1.3.1 Description of area

The Dundas Street - Castle Street Residential Heritage Precinct is located at the heart of the student residential area, centered on Dundas Street and Castle Street. It extends from the Botanic Garden to St David Street within the University Campus, and from Clyde Street to Cumberland Street. The area is most strongly defined by its early working class housing stock and the concentration of students who now live in the area, giving it a distinctive and lively character.

While the overriding theme in the architectural character of the area is its working class housing stock, there are a number of styles represented. The most common forms are the double bay villa, bungalow, and terrace. The terrace style is strongly represented in the area, with a number of large blocks located on the northern side of Dundas Street giving this area a distinctive character within Dunedin and within the campus area itself. In this part of the precinct buildings are generally two storeys at the road frontage. On Castle Street, the single-storey villa is the most common form. Fences and hedges are an integral part of the road frontage.

Generally there is a strong connection between individual houses and the street, with dwellings facing the street. This allows for a high level of interaction between street and on-site activity. This interaction is encouraged by the shallow setbacks of buildings, low front fences and visible front yards, clear entranceways, and large numbers of front verandahs and balconies.

Over the last few years, there has been a growing number of new buildings constructed in the precinct, almost exclusively built as student accommodation, responding to the high demand for accommodation in close proximity to the campus. These vary in quality and the degree to which they blend into the neighbourhood. The most successful exhibit a scale and level of detailing that is consistent with the buildings around them. The less successful ones demonstrate less attention to their surrounds, leading to inconsistent scale, setback or form, and the use of materials that are inconsistent with those typical of the precinct. In addition, large developments near the north and south fringes of the precinct demonstrate the potential adverse effects of incompatible style when it is magnified to a large scale. It is important that new buildings visible from the street are sensitive to the character of the area.

Alterations to existing character-contributing and heritage buildings, as these are altered or extended for student use, can also have adverse effects on the character of individual buildings and the overall amenity and character of the area. It is important that these additions and alterations are undertaken as

sensitively as possible to ensure they do not undermine the character of the area.

As with other heritage precincts close to the University, the strong redevelopment demand and regular refurbishment of student flats means there is a great deal of pressure on the character of the precinct. There is a risk that this character will be gradually eroded over time. The significance of this area as a working class neighbourhood means that controls over new development and the alteration of existing buildings are necessary to defend the historic character from development primarily aimed at maximising density.

However, the Plan also acknowledges the importance the University of Otago and Otago Polytechnic to the city's economic and social wellbeing and has strategic objectives around supporting the efficient and effective operation of these institutions. This is particularly relevant in both the Campus Zone and in the adjoining residential areas (in particular **Forth Street mapped area**). This requires balancing the potential need for development in these parts of the heritage precinct to support these institutions with development design that maintains the heritage character and values in the precinct. To achieve this, assessment rules for redevelopment within these areas allow for consideration of the positive effects on the efficient and effective operation of the University of Otago and Otago Polytechnic.

Change to planning maps

Add new Forth Street mapped area

