

REPORT

LAND USE RESOURCE CONSENT RESOURCE MANAGEMENT ACT 1991



Applicant:	J D Phillips
Application Number:	LU2018/357
Location:	128 Main Street, Gore
Proposal:	To demolish a scheduled building and establish a new commercial building with a parking shortfall
Legal Description:	Part Section 11 Block VII Town of Gore held in Computer Freehold Register SLA2/37
Zoning:	Commercial
Public Notification:	18 March 2018 – 18 April 2018
Submissions:	In Opposition 0 In Support 1 Neutral 2
Procedural Issues	One submission was received one day after the specified closing date.
Recommendations	(1) Pursuant to Section 37, it is recommended that the late submission be received. (2) Subject to new or additional evidence being presented prior to the Hearing, the application be REFUSED pursuant to Section 104 of the Resource Management Act 1991 (the RMA) for the following reasons: a) There is conflict between the solutions identified in the engineering reports which needs resolved and evidence is required to support the financial arguments put forward by the applicant regarding cost of repairs, before a determination on this application can be made. b) There is insufficient information to adequately assess the effects of the proposal on heritage and townscape values. c) There is the potential for an undesirable precedent to be set unless outstanding matters are resolved.

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INTRODUCTION

1. My name is Kirstyn Lindsay and I am the sole director and employee of Southern Planning Solutions Limited. I hold a Masters in Planning with Distinction from the University of Otago. I have 15 years' experience in district and regional planning. I am an accredited RMA commissioner and hold full NZPI membership.
2. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses and, while this is not an Environment Court hearing, I agree to comply with the code. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
3. This report has been prepared to assist the Commissioners. It contains a recommendation that is in no way binding. It should not be assumed that the Commissioners will reach the same conclusion.

PROPOSAL AND SITE DESCRIPTION

4. A copy of the application and accompanying assessment of effects and supporting reports is appended as Attachment A to this Report.
5. The applicant has provided a detailed description of the proposal and the site and locality in Sections 2, 3 and 4 of the application. The plans for the new building are found at Appendix 5 of the application.
6. While some of the information provided in these sections falls outside of my area of expertise, (such as the potential economic returns on new building), the physical description of the building and the area are considered accurate and are substantially adopted for the purpose of this report. Although, I note that while the application states that the building dates from 1900 -1910, the provenance of this assertion has not been proven.

SUBMISSIONS

7. A copy of submissions received is appended as Attachment B to this Report. For the benefit of the Commissioners the submissions are summarised below.
8. With reference to section 41D of the RMA, none of the submissions were considered to:
 - (a) *be frivolous or vexatious;*
 - (b) *have failed to disclose a reasonable or relevant case;*
 - (c) *constitute an abuse of the hearing process to allow the submission or the part to be taken further;*
 - (d) *be supported only by evidence that, though purporting to be independent expert evidence, has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert evidence on the matter;*
 - (e) *contains offensive language.*
9. It is noted that none of the submission were on the prescribed form and no submitters wish to be heard in support of their submission.

Name and Property Address	Summary of Submission and Relief Sought
Peter Cooper on behalf of the P and L Cooper Family Trust 134 Main Street	The submitter has declared an interest in the vacant property. The submitter considers the repair of the building is cost prohibitive. The submitter supports the removal of the car parking requirement. Relief: Supports the demolition and redevelopment on the site.
Environment Southland	The submitter identifies that the site is located within the historic floodplain of the Mataura River and is potentially flood prone. The submitter recommends that the applicant consider a higher minimum floor levels. The submitter also supports the salvage and re-use of historic fabric into the new building where appropriate. Relief: Neutral
Steven Brinsdon on behalf of the Gore District Memorial RSA 12 Bowler Avenue	The submitter states that it requires consultation regarding access to their land during demolition and rebuild. The submitter is concerned that the use of its land during the works may result in them breaching the carparking conditions of its consent. The submitter notes that the agreement from June 2013 for access to their land no longer stands and further consultation is required. Relief: Neutral

Late submission

10. The submission from the Gore District Memorial RSA was received one day after the close of submissions. Under Section 37 of the RMA, the Commissioners may waive the requirement to make a submission within the required time period provided Section 37A(1) is considered.
11. Section 37A(1) states:
- A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account -*
- (a) The interest of any person who, in its opinion, may be directly affected by the extension or waive; and*
 - (b) The interests of the community in achieving adequate assessment of the effects of any proposal, policy statement or plan; and*
 - (c) Its duty under section 21 to avoid unreasonable delay.*
12. As this submission is from a directly affected party who has been referred to in the application, and the submission introduces no additional matters of contention, I consider that it is reasonable that this submission is accepted.

CONSULTATION AND WRITTEN APPROVALS

13. Evidence of consultation has been provided as part of the application at pages [19-22] of the application. It is noted that a significant amount of the consultation occurred in 2013. In its submission, the RSA state that the agreement of June 2013 does not stand and it requires further consultation. For clarity, I also note that the New Zealand Historic

Places Trust is no longer a legal entity and has been replaced by Heritage New Zealand with the advent of the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA).

PLANNING FRAMEWORK

THE DISTRICT PLAN

14. The subject site is zoned Commercial in the Gore District Plan. Main Street is identified as State Highway 1. It is noted that the road to the south of the subject site is referred to as Civic Avenue (District Plan identification) at that time and Bowler Avenue (Council's GIS) at others.
- Demolition of schedule heritage structure (H13) is a discretionary activity pursuant to Rule 2.5.9.
 - Rule 4.15.1(1) states that:

Within that part of the commercial zone at Gore shown on the District Plan Maps as "Central Area":

 - (a) *Other than to provide recesses associated with the entrance of persons, buildings shall provide continuous frontage to the street.*
 - (b) *Buildings shall provide a veranda to the edge of the footpath, together with under veranda lighting.*
 - (c) *Buildings shall be constructed to the front boundary of the site.*
 - (d) *The facade of the building shall have a minimum height of 8 metres along the street frontage.*
 - (e) *Areas utilised for the outdoor storage or placing of goods or waste shall be screened from public view.*
 - The proposed new building fails to comply with Rule 4.15.1(i)(a-d) and is assessed as a discretionary activity pursuant to Rule 14.5.2.
 - An office, retail or other land use activity that fails to provide on-site car parking as required by Table 5.4 is assessed as a restricted discretionary activity pursuant to Rule 5.9.4.
15. Case law directs that applications should be assessed under the most restrictive activity status unless the matters are able to be discretely and independently assessed. In this instance, the demolition and new build have the most restrictive activity status being discretionary. I consider that the carparking shortfall is indivisible from the proposed new building and, as such, the application is to be considered to be a **discretionary** activity overall. This activity status is consistent with that promoted by the applicant.

STATUTORY CONSIDERATIONS

16. This application must be considered in terms of Section 104 of the RMA. Subject to Part 2 of the RMA, Section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:
- (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (b) *any relevant provisions of:*
 - (i) *a national environmental standard;*
 - (ii) *other regulations;*

- (iii) a national policy statement
- (iv) a New Zealand coastal policy statement
- (v) a regional policy statement or proposed regional policy statement
- (vi) a plan or proposed plan; and
- (c) any other matters the consent authority considers relevant and reasonably necessary to determine the application.

17. Section 108 empowers the Commissioners to impose conditions on a resource consent should it be of a mind to grant consent.
18. The application promotes the “*King Salmon*” approach used in *RJ Davidson Family Trust v Marlborough District Council [2016] EnvC 81*, which follows the Court’s reasoning that in most cases it is not necessary to refer back to Part 2 when determining an application for resource consent. The rationale for this approach is because planning instruments are prepared as a cascade with district plans at the bottom of the cascade. Therefore, unless the district plan(s), under which the resource consent is being considered, are deemed to be incomplete, invalid or uncertain, these are assumed to have given effect to the higher order planning documents including regional policy statements, national policy statements and Part 2 of the Act, and no further consideration of those planning instruments is required.
19. This a valid approach especially where there are second generation plans in place. However, in this instance the age of the Gore District Plan means that assuming absolute compliance with the higher order planning documents should be undertaken with caution. In *Davidson*, the Court stated at paragraph [262]:

In summary we hold that the correct way of applying section 104(1)(b) RMA in the context of section 104 as a whole is to ask:

- (1) *Does the proposed activity, after: assessing the relevant potential effects of the proposal in the light of the objectives, policies and rules of the relevant district plans;*
- (2) *having regard to any other relevant statutory instruments but placing different weight on their objectives and policies depending on whether:*
 - (a) *the relevant instrument is dated earlier than the district (or regional) plan in which case there is a presumption that the district (or regional) plan particularises or has been made consistent with the superior instruments' objectives and policies;*
 - (b) *the other, usually superior, instrument is later, in which case more weight should be given to it and it may over-ride the district plan even if it does not need to be given effect to; and/or*
 - (c) *there is any illegality, uncertainty or incompleteness in the district (or regional) plan, noting that assessing such a problem may in itself require reference to Part 2 of the Act, can be remedied by the intermediate document rather than by recourse to Part 2;*
- (3) *applying the remainder of Part 2 of the RMA if there is still some other relevant deficiency in any of the relevant instruments; and*
- (4) *weighing these conclusions with any other relevant considerations*
 - *achieve the purpose of the Act as particularised in the objectives and policies of the district/regional plan?"*

20. Since the advent of the Gore District Plan, a new regional policy statement has been made operative for Southland and, as such, it is not certain that the district plan continues to give effect to this higher order planning instrument. In forming a decision,

the application should, at the least, be assessed in detail against the Southland Regional Policy Statement as well as the Gore District Plan.

21. Another implication of *King Salmon* and *Davidson* is that a greater importance is imposed on objectives and policies. As a planning instruments which pre-dates *King Salmon* and *Davidson*, the wording of the objectives and policies in the Gore District Plan now carry a level of significance that were perhaps not anticipated when the plan was first drafted. For example, there is a far greater weighting on the term “avoid” as a result of the *King Salmon* findings and any potential interpretation debate of the term “avoid”, when determining a resource consent application, appears to be no longer available.
22. Furthermore, objectives and policies are to be considered in a suite, with relevant policies being read in the context of the specific objectives they are seeking to achieve. In *Blueskin Energy Limited v Dunedin City Council* [2017] NZEnvC 150, the Court held at Paragraph [36] that:

“Careful attention must be paid to the way objectives and policies are expressed. The meaning of words and phrases are to be interpreted and applied in their context; this is especially important when considering the integrated management of natural and physical resources.”
23. The Gore District Plan has no such causal linkages between objectives and policies. To ensure the intent of Part 2 continues to be reflected in the district plan, it is my opinion that a cautious approach is appropriate and an assessment under Part 2 is warranted in this instance.

ASSESSMENT

EFFECTS ON THE ENVIRONMENT

The Permitted Baseline

24. Under section 104(2) of the RMA, an adverse effect of the activity on the environment may be disregarded if the plan permits an activity with that effect. That is, an application can be assessed by comparing it to the existing environment and development that could take place on the site as of right, without a resource consent, but excluding development that is fanciful.
25. In this situation, removal of a scheduled heritage building is not provided for by the district plan and does not form part of the baseline.
26. The construction of a new building in this zone is a permitted activity providing:
 - it has contiguous street frontage with adjacent buildings,
 - it is built up to the site boundary,
 - it has a veranda
 - it is between 8 and 12 metres high, and
 - provides an appropriate number of carparks for the associated permitted activity occurring on the site.
27. It is considered that this is the appropriate permitted baseline against which the activity should be considered, and against which the proposal has been assessed. As a result, it is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements and these are considered further below.

Actual and Potential Effects on the Environment

28. Section 104(1)(a) requires consideration of the effects of the activity. I consider the following actual and potential effects on the environment are relevant:

Hazards

29. The subject site is identified in the Gore Inundation Maps as being within the *Mataura River Flood Plain: Prone to flooding subsequent to a stopbank breach or stopbank overtopping*. There are no rules controlling activities within the identified flood plain area. The submitter Environment Southland promotes that any proposed floor level takes into account greater flood risk anticipated by climate change. It is expected that appropriate minimum floor levels will be set at the time of building consent. The application proposes that any wiring within the new building will be located high within the wall to prevent inundation.
30. The application has provided two structural engineering assessment reports stating that the structural state of the building is less than 20% of new build standard (NBS) and poses a risk to health and safety. I agree that buildings below 34%NBS are deemed to be earthquake prone under the relevant legislation. The application states on page [23] that the building has had minimal maintenance for several years.
31. The 2013 quantitative assessment report by GM Designs Limited states that the building is <20%NBS. The report did not assess building foundation or undertake soil investigation, although it assumes a Southland District Lifelines Study Soil Classification D. No settlement was observed on site.
32. GM Designs Limited suggest that there are possible solutions to bring the building up to a point where it can withstand a code earthquake but considers that this *“reflects costs of an additional capital investment many times greater than what can be recovered from any possible future rentals as the building form stands at present”*. GM Designs promotes this position based on *“the non-commercial shape and lack of structural mechanism present in the current building”*.
33. There are no costings included for any repair work in this report nor is it clear what financial expertise GM Designs Limited relied upon when making the statement regarding commercial yield. It is also unclear if this economic analysis is still applicable five years after the writing of the report. The GM Designs report recommends that the building be demolished immediately because of the high degree of risk collapse or a falling hazard should the building be exposed to high winds and weathering.
34. The building was also assessed by Stevenson Brown Limited who also assessed the building at <20%NBS. This later (2015) report notes that the assessment of unreinforced masonry buildings is the subject of on-going research and assessment techniques are constantly being updated and improved. This report states that it is to be considered a “living” document that can be updated and refined as more information comes to light and as seismic improvement work on the building proceeds. The report as submitted has not been updated since it was created in 2015.
35. The Stevenson Brown report states that all walls appear plumb, there are no significant cracks in the building and no obvious signs of foundation settlement. This assessment appears to contradict the statement at page [11] of the application which states *“evidence of major structural movement and deterioration is now obvious”*.
36. The findings in the Stevenson Brown report also assume a Southland District Lifelines Study Soil Classification D. This report assumes that the brick walls will remain intact

during earthquake shaking and notes that mortar at higher levels of the walls has been eroded and that exterior mortar joint repair or repointing is necessary a minimum level of on-going building maintenance.

37. At Table 3 of the Stevenson Brown report, a minimum level of maintenance is identified to bring the building up to 34%NBS. Buildings between 34%NBS to 66%NBS are considered medium risk by the NZ Society for Earthquake Engineering. Table 5 of that report identifies the approximate work required to bring the building up to 67%NBS. No costings have been provided for this work. The conclusions in the Stevenson Brown report differs from those in the GM Design report which recommended immediate demolition because "*there is no viable option to move forward with this building as it stands*". The Commissioners may wish to resolve the contradictions in the engineering reports before coming to a determination.
38. It is the applicant's view that it would not be economically viable to bring the building up to 60% or 80% of new build standards. I cannot comment as this matter falls outside of my area of expertise. However, no reliable economic analysis has been provided with the application. On Page [25] of the application, Mr Michael Sheridan (the author of the GM Design report) has been quoted as estimating the cost of the strengthening works as in the region of \$250,000. Mr Sheridan did not include any formal costings in the GM Design report. This figure is then extrapolated out to \$400,000 to account for increase in costs over the past five years. The accuracy of the estimate or extrapolation is uncertain.
39. I also note that the reported commentary included at the bottom of page [25] and on page [26] of the application does not form part of the GM Design report. The Commissioners may wish to settle the outstanding economic questions before making a determination on the application.

Hazards Summary

40. The contradicting solutions of the engineering assessments should be resolved and an accurate cost and return analysis be prepared to support the applicant's financial argument before the merits of repairing or demolishing the building are considered and determined. If the Commissioners are of a mind to grant consent, it is recommended that the applicant be advised that floor levels should take into account increased flood risk arising from climate change.

Heritage Values

41. The Gore District Plan was made operative in 2006 and the subject building was deemed worthy of inclusion in Table 2.5.1 Scheduled Heritage Structures at that time. The subject building is one of only 32 heritage structures throughout the Gore District to be included in the schedule.
42. The Heritage Structures Schedule discussion document issued as part of the Gore District Council 2005 consultation states:

Former National Mortgage Building (façade above veranda line) Corner Main Street and Civic Avenue



This façade represents a period in Gores history from 1896 to 1906 when the main commercial area transformed itself into a streetscape of substantial brick two and three storied buildings.

A series of fires and subsequent modernisations have all but erased this building style on the east side of Main Street. This, along with three other key facades, represents an era when commercial affluence influenced a particular style of architecture, and significant civic development within a very short space of time. This building was the original National Mortgage, and further extended buildings on either side with similar facades (since demolished) housed Johnstone's Hotel (Civic Avenue) and the first H & J Smith store (Criterion Building) on Main Street.

It is considered that this building should be protected in order to retain a tangible turn-of-the century streetscape and discourage inappropriate cosmetic or structural additions or demolitions. Alterations to the external appearance (excluding painting) of the building will require approval from Council.

43. According to Council records, the discussion document generated no response in respect of this building and there were no objections lodged when the Schedule was notified. Further archive information relating to the building is annexed as Appendix 3 of this report.

Applicant's Assessment

44. Having reviewed the application, I requested that, (pursuant to s92(2) of the RMA), an independent report assessing the heritage values and historic character contribution of the building be commissioned by Origin Consulting Limited. The applicant declined to agree to the commissioning of this report stating that "*Heritage issues were addressed in the Assessment of Environmental Effects (AEE) supplied with the application and have also been addressed in consultation with Heritage New Zealand.*" (see letter from the applicant at Appendix 2 of this report).
45. I note that the consultation identified at page [20] of the application (and cited in the letter in Appendix 2 as a reason for declining the commissioning of the Origin Report) was undertaken under repealed legislation with the dissolved New Zealand Historic Places Trust. In my reading of the reported consultation, this appears to be outlining of the legal obligation to obtain an Archaeological Authority (AA) prior to demolition rather than an

assessment of the heritage value of the building. I discuss the relationship between the HNZPTA and district plans at paragraphs [51-53] below.

46. With regard to the assessment undertaken in the overview of the AEE on page [23] of the application, the heritage assessment states that *“the proposal will result in the demolition and removal of a heritage structure listed in the Gore District Plan but not listed with Heritage New Zealand”*. The application is silent on the reasons why the building was deemed worthy of scheduling in 2006.
47. At page [24] when assessing the townscape values, the application notes in respect of historic context that *“the building is a relic of a previous townscape which will be lost with the proposed demolition”*. The assessment is silent on the environmental effects on heritage values resulting from the loss of the “relic”.
48. The comments, identified in paragraphs [46-47] above, appears to be the extent of the heritage assessment contained within the AEE overview. However, the application provides some history of the site, and an assessment of the relevant heritage objectives and policies, as discussed below.
49. In the description of the proposal on page [7] the application states that building is *“typical of two-storey commercial buildings constructed in Gore and other southern provincial towns in the early 20th century, reflecting the confidence and relative prosperity of that time”*. The application goes on to give a description of the building and provides historic photographic context. The photographs included with the application show that the building is now the single remaining heritage remnant in that block.
50. Within the objectives and policy assessment, the application on page [37], recognises the heritage values of the building but is silent on what these values are. The existing building is also assessed against The Streetscape Strategy for Gore District (The Streetscape Strategy) and, at pages [38] and [39], the application observes that the environment has changed and advises that redevelopment to the north and west has removed the context within which the subject building sits. There is no assessment as to what implications this changing environment has had on the heritage values of the subject building.

HNZPTA and district plans

51. District plan heritage schedules provide an opportunity for local communities to identify and protect those heritage items which are of value to them. The New Zealand Heritage List/Rārangī Kōrero identifies New Zealand's significant and valued historical and cultural heritage places. The Heritage List replaces the former register, created under the Historic Places Act 1993.
52. The Heritage List is an information tool only and does not equal automatic protection under the HNZPTA. However, inclusion on the Heritage List may lead to items being considered for inclusion in district plan heritage schedules. In fact, the relationship between the HNZPTA and district plans is such that often the only protection for national heritage items is afforded through district plan scheduling.
53. In my opinion, an approach where heritage values are assessed as worth less because items are not included on the Heritage List, perverts the intention of district plan schedules to undertake heritage protection at a local level. I consider it would be nonsensical to consider that, because an item does not pass the tests for national significance, its heritage value to the local community is not significant and may be disregarded. Otherwise, the schedules are redundant and items that are not also included in the Heritage List should be struck off. For Gore District, this would mean

that 26 of the 32 scheduled items would not be deserving of protection, including much of the main street of Gore.

54. The Gore District Plan identifies many reasons to value heritage sites, including cultural, spiritual, social and historical significance and notes at section 2.5 that:

“Protection of structures and places with heritage value can help to enable people and communities to provide for their cultural, social and economic wellbeing, and to sustain these resources for the needs of future generations.”

55. In terms of those values identified in the district plan, I do not consider that cultural significance relates solely to Tangata Whenua, as it appears to be assessed at page [23] of the application. Cultural values should be applied broadly to all cultures within New Zealand, including the cultural significance associated with those early settlers who contributed to Gore’s early development at the turn of the 20th century. I also consider that the application establishes the potential historical and social significance for the building when it noted at page [7] the building’s reflection of Gore’s relative confidence and prosperity of that time.
56. Heritage falls outside of my specific area of expertise and I cannot advise the Commissioners with any surety how significant or of little importance the loss of this heritage structure would be, although the discussion document mentioned at paragraph [42] above suggests that it would be of some significance.
57. The building at that location could be viewed as a historic remnant, bookending the heritage structures associated with the main street of Gore. The building could also be seen as contributing to the heritage narrative by continuing comparable or evolving patterns, elements and architectural styles and providing context to other scheduled heritage buildings. The changing environment surrounding the subject site could also mean that the building’s historic value has increased rather than decreased. Or it might be that the position promoted in the application is the preferred one. I do not consider that I have sufficient information or expertise to make any such assessment and I respectfully defer to the Commissioners in this matter.

Proposed conditions and advice notes

58. For completeness, I note that the application offers a condition requiring an AA to be obtained prior to demolition. As an AA is required by legislation other than the RMA, and failure to obtain or comply with an AA is an enforcement matter under the HNZPTA, I consider that an AA requirement cannot be imposed as a condition on this consent. Should the Commissioners be of a mind to grant consent, then this should be included as an advice note only.
59. However, I do consider that a condition imposing an accidental discovery protocol is appropriate during the demolition and construction phase of the site works and have recommended this as a condition should the Commissioners be of a mind to grant consent. I also note here Environment Southland’s request that the historic fabric be salvaged and re-used for the new building where appropriate and this has been recommended as an advice note. A full suite of recommended conditions of consent and advice notes are attached as Appendix 1 of this report.

Heritage Summary

60. Overall, I recognise that there are underlying safety and potential structural issues with the building and there are economic drivers associated with the proposed demolition but

I consider that this must be balanced against the heritage contribution offered by the scheduled building. A lack of inclusion on the HNZPTA Heritage List should not undermine the local heritage value of scheduled heritage items. In my opinion, there is insufficient evidence to assess any potential adverse effects on heritage values and therefore, the competing tensions between safety and economics, and heritage cannot be fairly and evenly assessed. If the Commissioners are of a mind to grant consent, then the AA requirement and adaptive re-use and salvage of the historic fabric discussed above should be included as advice notes.

Townscape and Streetscape Values

Gore District Plan - Central Townscape Area

61. The subject site is prominently located within the Main Street of Gore and within the Central Townscape Area identified in Planning Map 7A of the Gore District Plan. The Gore District Plan states at Paragraph 4, Section 3.1
- “The central commercial area however continues to maintain much of the character that it developed in its early years, including a wide main street, continuous building facades, provision of verandas and a high amenity for pedestrians.”*
62. The proposal is for a single-storeyed commercial building. The proposed building will be constructed from pre-cast concrete with an architectural detail finish, wood feature cladding, aluminium vertical windows and a glass canopy above the entrance. No roof detail has been provided with the plans. The building will occupy 100% of the site. The application states that the building does not meet the criteria (a-d) set out in Rule 4.5.1 relating to continuous frontages, veranda, construction to the boundary and a minimum façade height of 8 metres. Rule 4.15.1(e) does not apply to this proposal.
63. Where a district has *“notable absence of recent commercial development”* as stated on page [38] of the application, I believe the effects of new development, both positive and negative, are likely to be more keenly observed. This potential can place a greater responsibility on the developer and decision makers to ensure that any development contributes positively to the surrounding environment. Ill-considered developments are not as easily absorbed in low-growth area as they are in high growth areas, which have significant amounts of new development, and therefore may sit conspicuously for years to come.
64. Urban design falls outside of my specific area of expertise. As per the heritage assessment above, I requested that, (pursuant to s92(2) of the RMA), an independent report assessing the architectural merits of the proposed building be commissioned by Origin Consulting Limited. The applicant declined to agree to the commissioning of this report, with the applicant’s planner, Mr Watt, stating that *“I addressed urban design issues in my AEE and we believe I was a suitably qualified and experienced person to do so with respect to the application and in the context of Gore.”* (Appendix 2 of this report).
65. The application states at page [15] that *“the building will be economic to build but will offer an appropriate civic presence in the townscape context of the site”*. No clarification has been offered regarding what is *“an appropriate civic presence”* and, as such, I am uncertain as to what is meant by this statement.
66. As mentioned earlier at paragraph [47] of this report, the application states that *“the [existing] building is a relic of a previous townscape which will be lost with the proposed demolition”* (page [24] of the application). The application does not explain what is

meant by “a previous townscape” nor does it compare and contrast the differing values of the “previous” townscape and the “current” townscape or evaluate the proposal against either set of values.

67. At page [38] in the objectives and policies assessment, the application states that “*the proposed development is an attractive building and is of a form and scale appropriate to the character of Gore’s commercial area*” and “*the new building will provide a frontage to Main Street with enough visual character to be reasonable[y] pedestrian friendly*”. I consider that the plans submitted with the application contain insufficient detail and context to support these statements.
68. When commenting on the overall effects on the townscape in the AEE overview, the application states at page [24] that “*the building currently on site contributes little to the townscape looking east down Civic Avenue*” and “*the [new] building will be complimentary in appearance to the building to the north and the buildings fronting onto Main Street and to the south of Civic Avenue*”. The assessment is silent on the contribution of the current building to the townscape looking north and south and the application does not explain what elements make the new building “*complimentary in appearance*” and if this design style is desirable.
69. The subject site marks the southern, eastern and western termination of the Central Townscape Area in the district plan and the Gore Central Commercial Area in the Streetscape Strategy. As such, building styles to the south, east, and west of the subject site are not directly comparable in a planning context as they were established under different rules and design criteria.
70. The building to the north at 120 Main Street is located within the same planning zone as the subject site but could be viewed as quite utilitarian. As the building proposed by this application is seemingly designed to complement this style, the Commissioners will need to consider if this is a design style to be encouraged and continued in the Central Townscape Area and Central Commercial Area.

Assessment of specific design performance standard breaches

71. At page [33], the application addresses the breaches of Rule 4.15.1(1) by the proposed building. I accept that the windows along the south face of 120 Main Street makes a separation between the buildings necessary. I also consider that the proposed door recess does not defeat the intention of the plan which requires buildings to be built up to the boundary, as Rule 4.5.1(1)(a) provides for entrance recesses. I also recognise that the proposed canopy, located above the recess, will extend into the road reserve, thereby occupying the space along the boundary shared with Main Street.
72. With regard to the lack of veranda, the application states that “*the adverse effects of not providing a full veranda are minimal because other buildings do not have one*” (page [33]). There is no discussion regarding the merits of a veranda on a corner site where pedestrians may have to wait for traffic to pass in inclement weather nor is any other urban design assessment regarding the lack of veranda provided. Furthermore, I note that there is no requirement for the buildings to the south, east, and west of the subject site to provide a veranda, as these sit outside of the pedestrian-focussed townscape area.
73. The application proposes a maximum building height of 4.38m, approximately half of the height required by Rule 4.15.1(d). The application suggests at page [33] that this height reduction is mitigated by a generous stud height and a parapet to the street frontage. The application is silent on how the stud height will mitigate the reduced height in terms of proportion, scale and rhythm or any other architectural element. Furthermore, there

is no discussion regarding the parapet detail and how this serves the building in a design context. The plans submitted with the application do not show a parapet.

74. The application does not appear to meaningfully assess the urban design effects of the proposed height reduction rather promoting an economic reason for buildings of only one storey. The application suggests that the requirement of a building height of 8m is “*stifling necessary redevelopment in Gore*” (page [33] of the application). There is no evidence included with the application to support this statement. Furthermore, I note that one of the more recent applications (LU2016/204) approved for a commercial redevelopment in Gore did include two storeys and provides for first floor office space. This development is cited in the application on page [19] as the Methodist Church redevelopment.

Streetscape Strategy

75. The Streetscape Strategy also identifies, at Policy 4(b), those elements of design the Council will require at street frontage within the central commercial area of Gore; including continuous building frontage, provision of verandas and a building height of two stories. The proposed building does not meet these requirements.
76. In the assessment of the Streetscape Strategy at page [39], the application refers to Figure 16 (the subject building and 120 Main Street) and considers this shows “*the rather bizarre contrast between the styles of the two buildings. Both have architectural merit but visually they are strange neighbours*”. However, no assessment is offered on the architectural merit of each building. This omission is particularly relevant given that the new building has been seemingly designed to complement the building at 120 Main Street. In addition, there has been no comparable assessment discussing the change in scale and height of the proposed building against the building at 120 Main Street and how these will juxtapose.

Applicant’s Strategy

77. The applicant does not intend to construct the proposed building but to “*hopefully sell the property with its associated concept plan, resource consent and intellectual property*.” The property is “*currently being marketed as a cleared site, subject to Council Approval*” (page [16] of the application). The applicant seeks two years to give effect to the demolition and a further three years after demolition is completed before construction is required to commence.
78. One of the significant resource management issues, that arise in relation to land use issues, is given at Point 8, Section 3.2 of the Gore District Plan which states that:
- “the Gore Commercial area [as shown on the district plan maps] has a special character that may be at risk if buildings are removed wholly or in part”.*
79. In my experience, the applicant’s strategy poses risks in respect of the Central Townscape Area. The first risk is if the site is cleared, no buyer is forthcoming and the time period within which to commence construction expires. The second risk is if a buyer is found but they have no intention of building on the site or building to the approved plans and allow the consent to expire. Even in the best-case scenario where a buyer is found and adopts the plans approved by this consent, the site could still remain vacant for three years. Each scenario risks an enduring vacant site in the main street of Gore which, in my opinion, is highly undesirable in terms of what the district plan and the streetscape strategy are trying to achieve.

80. One way to minimise this risk, is to link the demolition of the existing building to the approval of the building consent. The application notes that demolition can be completed within 10 working days and, as such, I do not consider this would be an unreasonable delay for any new build project. While there is no guarantee that any owner of the site will actually give effect to the building consent once issued, this approach does require a greater level of investment before demolition commences. There is a risk of course that the property will not sell and the existing building, with its earthquake prone status, would remain in-situ indefinitely. However, on balance, if the Commissioners are of a mind to grant consent then it would be my recommendation to impose such a condition.

Townscape Values Summary

81. Overall, I consider that there is insufficient detail, either in the assessment or with the plans submitted with the application, to confidently and accurately assess the architectural elements and urban design merits of the proposed building and any resulting positive or adverse effects on the townscape and streetscape values. In my opinion, the applicant's strategy poses a risk that Gore's main street will end up with a vacant site for an open ended-period and steps should be undertaken to address this risk if consent is to be granted.

Demolition and Construction effects

82. If the Commissioners are of a mind to grant consent then, it is noted that demolition and construction can have adverse effects on the environment such as dust, sediment, traffic and noise. These effects have been identified in the application and should be managed through the preparation and implementation of a site management plan which should be submitted to Council for approval prior to any site works commencing. This is recommended as a condition of consent. The applicant is reminded that the construction noise standard NZS 6803:1999 Acoustics – Construction noise applies in this situation. Furthermore, should consent be granted then all demotion and development works will need to comply with the Gore District Council Subdivision and Land Development By-Law 2011. A full suite of recommended conditions of consent is attached as Appendix 1 of this report.

Transportation

83. The site currently has no parking and this situation will not change with this proposal. The parking demand for the proposed building will depend on the type of activity occurring on the site. The applicant has offered a condition requiring that the consent holder secure up to four leased carparks within a 500m radius at the time that the building is occupied. I recommend that this condition be accepted if the Commissioners are of a mind to grant consent.
84. No access is proposed onto the State Highway. With regard to the access provided via the Right of Way, I note that Section 6 of the Gore District Council Subdivision and Land Development By-Law 2011 imposes standards to be met and compliance with the bylaw is recommended as a condition of consent. A Traffic Management Plan (TMP) will also be required during any demolition and construction work to control vehicle movement while loading and unloading from the site, should the Commissioners be of a mind to grant consent. A full suite of recommended conditions of consent is attached as Appendix 1 of this report.

Transportation summary

85. Overall, it is determined that subject to the provision of leased parks and compliance with the By-law and TMP, the effects on the transportation network are considered to be acceptable.

Cumulative Effects

86. Due to the slow growth environment of Gore District, the cumulative effects of this proposal in the area are presently not significant. The demand to replace old buildings with new is currently not significant and as such the effects from this proposal are not expected to result in cumulative effects are more than minor. Future applications for similar proposals in the area, will be assessed as and when they arise and the potential for cumulative effects considered again at that time.

Positive effects

87. If the Commissioners determine that the effects of the demolition on heritage values are acceptable and the design of the proposed building is appropriate, then, in my opinion, the opportunity for a new development in Gore will have positive effects including providing new commercial space on the main street (although it remains unclear if this new space will attract new commercial operators or simply result in a relocation of existing businesses) and may signal a growing confidence in the Gore economy. Done well, a new building could provide a valuable contribution to Main Street and the central commercial area.

OBJECTIVES AND POLICIES ASSESSMENT

88. Section 104(1)(b) requires consideration of relevant planning documents. In this instance the most relevant planning instrument is the Gore District Plan. But as noted in paragraphs [18-21] above, assessment of the RPS and Part 2 is also considered necessary. Also noted in paragraphs [22-23] of this report, the Court has directed that objectives and policies should be considered in a suite. There is no clear objective and policy hierarchy identified in the district plan, in that there are no specific policies linked to specific objectives. Where appropriate, I have reasonably linked relevant objectives and policies by topic.

Gore District Plan:

Objective 2.5.3: Recognise and protect the heritage values of buildings, sites, structures and archaeological sites	
Policy 2.5.4 (1) Schedule archaeological, historic and cultural sites, places and items of heritage value	The building (H13) is one of 32 scheduled heritage structures in the district.
Policy 2.5.4 (2) Avoid adverse effects of land use activities on heritage sites.	The application seeks to demolish a scheduled heritage structure. The proposal does not seek to avoid adverse effects, maintain or avoid changes that would adversely affect values of heritage significance. The proposal is considered contrary to this suite of policies.
Policy 2.5.4 (3) Provide for the maintenance of heritage structures.	
Policy 2.5.4 (4) Avoid changes to heritage structures that adversely affect values of significance.	
Policy 2.5.4(6) In considering any application seeking changes to, or demolition of, any registered heritage structure listed in Table 5.1 have regard to:	The applicant has submitted two engineer assessments with the application. While these reports both assess the building as earthquake prone and that the building poses a risk to the safety of people, the reports seem to promote different solutions. These

<p>(i) the structural integrity of the building, as assessed by a suitably qualified and experienced professional engineer;</p> <p>(ii) any risk that is posed to other property and the safety of people within or near to the structure; and</p> <p>(iii) where demolition is sought, the financial implications of other options.</p>	<p>differences need to be resolved. I do not consider that the financial implications have been sufficiently proven at this stage. There is insufficient information to make an assessment on this policy.</p>
<p>Conclusion: Overall, it is determined that, subject to provision of additional information, the application does not recognise and seek to protect the heritage values of the building identified as H13 in Table 2.5.1 and is assessed as contrary to the objective and its relevant suite of policies.</p>	

<p>Objective: 3.3(9) Maintain and enhance the built character and other characteristics of the Gore commercial area.</p>	
<p>Policy 3.4(13) Within the Gore commercial area protect:</p> <p>(a) the character of the existing buildings in the Central Commercial Area</p> <p>(b) the streetscape of the Central Commercial Area</p> <p>(c) the form and function of the locality</p> <p>(d) the safety and amenity of pedestrians.</p>	<p>The proposed demolition does not seek to protect the character of the existing buildings in the Central Commercial Area, however, if necessary repair works are not undertaken the demolition will protect the safety of pedestrians. I do not consider that the application has established that the new building will protect the streetscape or the character of the Central Commercial area. It is uncertain how the new building will protect the form and function of the locality or the amenity of pedestrians (especially given the lack of veranda). It is considered that given the information contained within the application, the proposal is contrary to this policy.</p>
<p>Conclusion: Overall, it is considered that, based on the information contained within the application the proposal does not seek to maintain and enhance the built character and other characteristics of the Gore commercial area and is contrary to this objective and policy.</p>	

<p>Objectives 4A.3(2) Minimise the risk to people and property from inundation.</p>	
<p>Policy 4A.4 (2) On sites subject to actual or potential flooding, promote:</p> <p>(a) identification and use of elevated ground for those activities that could be adversely affected by flooding; and</p> <p>(b) elevated floor levels within any buildings.</p>	<p>No elevated floor levels are offered by the applicant but maybe be required at the time of building consent. Wiring will be installed at higher levels inside the walls to prevent it getting inundated. It is noted that this is intended to be a commercial property and as such the risk to people is lower than if it were a residential property. The proposal is consistent with this policy.</p>
<p>Conclusion: The application is consistent with this objective and its policy.</p>	

<p>Objectives 5.3(1) Sustain the potential of the transportation routes to meet the reasonably foreseeable needs of future generations.</p>	
<p>Policy 5.4 (1) Control the adverse effects of land use activities on transportation networks.</p> <p>Policy 5.4(3) Protect the integrity of the through-route function of state highways.</p>	<p>The proposal does not seek to establish an access onto the State Highway and is considered consistent with these policies.</p>
<p>Conclusion: The proposal does not pose a threat to the potential of transportation routes and is considered consistent with this objective and its relevant policy.</p>	

Southland Regional Policy Statement 2017

89. The Southland Regional Policy Statement (RPS) became operative in 2017. The relevant sections with respect to this application are identified as Chapter 8 Natural Hazards, Chapter 14 Historic Heritage, and Chapter 17 Urban. I have identified the objectives and policies I consider relevant and have assessed these in the table below.
90. **Chapter 8 Natural Hazards** seeks to provide a framework for managing natural hazard risk in Southland. The aim of this section of the RPS is to reduce vulnerability to hazard events and build resilient communities that can cope with them should they occur. The vulnerability of any site to natural hazards is the sum of its vulnerability to one or several specific hazards. Risk is assessed by considering the probability of those hazards occurring and their potential effects on any proposed activity.
91. **Chapter 14 Historic Heritage** seeks to give effect to Section 6(f) of the Act, recognising that protecting historic heritage from inappropriate subdivision, use and development is a matter of national importance. The RPS acknowledges that historic heritage holds knowledge about the past not recorded in any other way and gives us an opportunity to learn from and connect with our past, and to learn about the attitudes and values that have shaped our society and environment. This information helps define the character of the region, the community and of individuals.
92. **Chapter 17 Urban** recognises that there is a need to create and maintain sustainable urban environments that function well, provide a safe, healthy and stimulating environment, housing choice, transport options and accessible services and transport. However, this chapter of the RPS acknowledges that this development can also result in a range of negative effects, including a loss of local identity, social problems or health issues.

Objectives	Relevant policies	Commentary
Chapter 8 Natural Hazards		
Objective NH.1 – Communities becoming more resilient	<p>Policy NH.3 – seeks to take a precautionary approach towards managing the effects of climate change and sea level rise, and any associated changes in the scale and frequency of natural hazards, to ensure potential adverse effects are avoided or mitigated.</p> <p>Policy NH.6 – Mitigate the effects of natural hazards on new subdivision and development in areas other than those at significant risk</p>	<p>Risks from natural hazards are expected to increase as a result of climate change. In areas where it is impossible or impractical to avoid natural hazard risks altogether then risks such as flood risks can be mitigated by measures such as minimum floor levels and flood proofing. The applicant has proposed steps to reduce the risk from flooding and it is expected that the Building Act will impose minimum floor levels which will address a reasonable flood risk. The proposal is considered to be consistent with this objective and policy suite.</p>
Chapter 14 Historic Heritage		
Objective HH.1 – Historic heritage values are identified and protected from inappropriate subdivision, use and development.	<p>Policy HH.2 – Avoid, mitigate and, where appropriate, remedy adverse effects on historic heritage values from inappropriate subdivision, use and development. On a case-by-case basis take into account factors such as the significance of heritage values, financial cost and technical feasibility when making decisions relating to the protection of historic heritage.</p>	<p>The application considers that the financial cost and technical feasibility mean that it is not viable to protect the historic heritage. I consider that these reasons have not been adequately established. The significance of the heritage values of the building also has not been satisfactorily identified. As such I consider that until these matters are resolved, the application is contrary to this objective and supporting policy.</p>

Objectives	Relevant policies	Commentary
<p>Objective HH.2 – The built heritage of Southland is appropriately recognised and where possible utilised in a sustainable manner.</p>	<p>Policy HH.3 – Integration with new use Encourage the integration of historic heritage with new subdivision, use and development in both rural and urban areas.</p> <p>Policy HH.6 – Adaptive reuse Encourage the adaptive reuse and maintenance of built historic heritage.</p>	<p>Integrating historic heritage with new use and development can help retain heritage values as well as enhance contemporary developments. The application contradicts this policy as the application infers that because the subject building is surrounded by new buildings its heritage value is diminished. The proposal is inconsistent with Policy HH3</p> <p>Alongside ongoing maintenance, adaptive reuse it is an effective way to prevent historic heritage buildings and structures from becoming degraded and unsafe due to neglect and to retain the usefulness of the building or structure to conserve historic heritage for future generations.</p> <p>In this instance, the application acknowledges that the subject building is an ill-maintained building and has had minimal maintenance for several years (page 23). The application does not seek to maintain and adaptively re-use built heritage and is assessed as contrary to Policy HH6.</p> <p>Overall, the proposal does not achieve the objective and is considered inconsistent with Objective HH.2.</p>
Chapter 17 Urban		
<p>Objective URB.1 – Urban development occurs in an integrated, sustainable and well-planned manner which provides for positive environmental, social, economic and cultural outcomes.</p>	<p>Policy URB.1 – Adverse environmental effects The adverse effects of urban development on the environment should be avoided, remedied or mitigated.</p> <p>Policy URB.4 – High quality urban design Encourage high quality urban design.</p>	<p>Development and construction can result in a number of adverse physical effects on the environment; including dust stormwater, noise and transport. In this instance, it is considered that the demolition and construction works will be of short duration and will be managed by a recommended Site Management Plan. Any activity on the site will need to comply with the permitted activity rules for the zone and is expected to assimilate well into the environment. The application is considered consistent with Policy URB.1</p> <p>The promotion of high quality urban design can enhance urban amenity and the quality of the environment, have positive effects on public health and reduce adverse environmental effects. It can also provide for the cultural wellbeing of people and communities. In this instance, I do not consider that the application has established the proposed development as high quality urban</p>

Objectives	Relevant policies	Commentary
		<p>design. The proposal is inconsistent with the Policy URB.4.</p> <p>Overall, I consider that until the merits of the new building design have been established, the proposal is assessed as inconsistent with the objective URB.1.</p>

PART 2 OF THE RESOURCE MANAGEMENT ACT 1991

93. The purpose of the RMA to promote the sustainable management of the natural and physical resources detailed below:

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

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

94. I support the Court's approach, as discussed at paragraph [151] of the *King Salmon* decision, that Section 5 is not intended to be an operative provision, rather it sets out the RMA's overall objectives. As such, I will proceed to assess the application against the remaining provisions of Part 2.

95. The following relevant matters of national importance listed in Section 6 are to be recognised and provided for:

- (f) the protection of historic heritage from inappropriate subdivision, use, and development:*
- (h) the management of significant risks from natural hazards.*

96. In this instance, Section 6 creates a tension between the protection of a historic heritage and the management of the risk to that building and the public from natural hazards such as an earthquake. The applicant has argued that the proposed use and development is not inappropriate but I consider that the application has not established this to any certain degree. As demonstrated in the Stevenson Brown report the risk to be managed in accordance with section 6(h) can be addressed through engineering solutions. As such, further information is necessary to ensure that the competing interests of sections 6(f) and 6(h) can be appropriately weighed.

97. With regard to Section 7, particular regards must be given to the following relevant matters:

- (d) the maintenance and enhancement of amenity values:*
- (f) the maintenance and enhancement of the quality of the environment:*
- (g) any finite characteristics of natural and physical resources:*

98. In my opinion, the heritage structure embodies what is meant by the finite characteristic of a physical resource as set out in section 7(g). Once demolished the heritage resource is gone for good. I do not consider that the application has adequately considered the finite characteristic of the heritage structure. With regard to the maintenance and enhancement of the amenity values and quality of the environment as set out in 7(c) and 7(f), I do not consider that the application has demonstrated adequately that the demolition of the scheduled building and establishment of the proposed building will achieve this.
99. In respect of Section 8, a copy of the application was served on the local iwi with a stewardship interest in this area and, as such, I consider that the principles of the Te Tiriti o Waitangi have been taken into consideration
100. Overall, until questions raised in this report have been addressed, I do not consider that the proposal promotes the principle of sustainable management as defined in Section 5 of the Act.

OFFSETTING OR COMPENSATION MEASURES

101. In accordance with Section 104(1)(ab) of the RMA, I consider that there is insufficient information to determine if there is a need for consideration of offsetting or compensation measures.

OTHER MATTERS

102. Section 104(1)(c) of the RMA requires the Consent Authority to have regard to any other matters considered relevant and reasonably necessary to determine the application.
103. Section 104(1)(c) provides an opportunity for an assessment of precedent. It would be remiss not to discuss the potential precedent that could be set should the existing scheduled building be approved for demolition.
104. Although earthquake prone, this building has not been damaged by an earthquake, rather, it has been weakened by former land uses (including the interior remodelling) and has been ill maintained with the application confirming minimal maintenance for several years. Both engineering reports identified minimum steps required to ensure public safety. The first of these reports was commissioned five years ago, however, no evidence of any maintenance since that time has been provided with the application.
105. According to Council records, the applicant has owned the subject site since 2002. It is assumed that the state of the building in 2002 is likely to have been reflected in the purchase price (to allow for any necessary improvements) and that any deterioration since 2002 is the responsibility of the applicant. The building was occupied for the first 10 years of the applicant's ownership, only being vacated in 2012. The site was in the applicant's ownership when the heritage structure schedule was made operative in 2006.
106. This particular building was one of only 32 buildings across the Gore District deemed worthy of being scheduled. However, in Main Street, Gore there are 14 Scheduled Heritage Structures, comprising a significant percentage of the central commercial area.
107. It is accepted that while the earthquake prone building legislation has been introduced since 2002, the responsibility of building owners to ensure that their buildings are safe and maintained is not new and dates back to 1900 when this building was built. Prior to any approval to demolish, the Commissioners may like some certainty as to what

percentage of the restoration costs are due to the design of the building and what percentage are incurred due to neglect of proper maintenance.

108. The precedent risk is that, if many of the issues associated with this building are due to neglect, then other heritage building owners (especially those operating under the same planning rules such as the 14 buildings identified above) could also follow suit, deferring maintenance until a building is so compromised that demolition is the only viable option.
109. To demonstrate this risk, I note that this application cites precedent as one of the reasons there was confidence to move forward with this proposal. The resource consent cited as setting precedent, was the approval of the demolition and redevelopment of the former Methodist Church on the corner of Irk and Fairfield Streets (LU2016/204).
110. For completeness, I note that there are a number of elements that sets that application apart from this proposal, including:
- there was an adaptive re-use and salvage plan for historic fabric to be incorporated into the new build,
 - the applicant was invested in the site and had a definite purpose and high quality and well considered design plan of how the site was to be developed,
 - the site is not located on the main street of Gore,
 - the new building was located in the Secondary Commercial Area of the Gore District Plan not in the Central Townscape area;
 - the new building complied with the zone design requirements except for access and parking.
111. In my opinion, without fully addressing and extinguishing the spectre of demolition by neglect, the granting of this consent could create a highly undesirable precedent, and one that the Commissioners may wish to be mindful of.

RECOMMENDATION

112. I recommend that the application be declined at this time on the basis that:
- a) There is conflict between the solutions identified in the engineering reports which needs resolved and evidence to support the financial arguments put forward by the applicant should be provided before a determination on this application can be made.
 - b) There is insufficient information to the adequately assess the effects on the proposal on heritage and townscape values.
 - c) There is potential for an undesirable precedent to be set if the possibility of demolition by neglect is not extinguished.

Report prepared by



Kirstyn Lindsay
PLANNING CONSULTANT

Report Dated:

7 May 2018

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APPENDIX 1 – DRAFT CONDITONS AND ADVICE NOTES

DRAFT CONDITIONS FOR LU2018/357

1. The demolition of Scheduled building H13 approved by this consent, must not commence until:
 - a) the building consent for the new building approved by this consent has been issued; and
 - b) evidence of site access and off-site storage areas agreements, necessary to undertake the demolition and new build works for the duration of the works, has been submitted in writing to the Chief Executive.

Once demolition has commenced, the consent holder must erect the approved building within two years.

2. All demolition and development works must comply with the Gore District Council Subdivision and Land Development By-Law 2011.
3. Prior to any works commencing on the site, a Site Management Plan (SMP) must be prepared and submitted to the Chief Executive for approval prior to any works commencing on the site. All contractors must be aware of the SMP plan and its procedures and all works undertaken on the site must be in accordance with the SMP. The SMP:
 - a) shall address the management of dust, noise, traffic and sediment effects within the site arising from any demolition and construction.
 - b) must not conflict with the Gore District Council Subdivision and Land Development By-Law 2011.
 - c) must be held on site at all times work is occurring and must be produced for a Gore District Council Officer upon request.
4. Prior to any works commencing on the site, a Traffic Management Plan (TMP) must be prepared and submitted to the Chief Executive for approval prior to any works commencing on the site. All contractors must be aware of the TMP plan and its procedures. The TMP must:
 - a) address any road closures or road management and traffic movements to and from the site.
 - b) must require that no material is tracked on the roading asset and any damage to the roading asset is repaired at the consent holder's expense.
 - c) must not conflict with the Gore District Council Subdivision and Land Development By-Law 2011.
 - d) must be held on site at all times work is occurring and must be produced for a Gore District Council Officer upon request.

5. Construction noise must comply with the time and noise limits imposed by the New Zealand Standard NZS 6803:1999 below:

Time of Week	Time Period	Leq (dBA)	L max(dBA)
<i>Weekdays</i>	<i>0730-1800</i>	<i>75</i>	<i>90</i>
	<i>1800-2000</i>	<i>70</i>	<i>85</i>
	<i>2000-0630</i>	<i>45</i>	<i>75</i>
<i>Saturdays</i>	<i>0730-1800</i>	<i>75</i>	<i>90</i>
	<i>1800-2000</i>	<i>45</i>	<i>75</i>
	<i>2000-0630</i>	<i>45</i>	<i>75</i>
<i>Sundays and public Holidays</i>	<i>0730-1800</i>	<i>55</i>	<i>85</i>
	<i>1800-2000</i>	<i>45</i>	<i>75</i>
	<i>2000-0630</i>	<i>45</i>	<i>75</i>

6. Prior to occupation of the building, the consent holder must lease four car parks within a 500m radius from 128 Main Street for use of the occupiers of the building. Proof of the lease must be provided to the Chief Executive in writing prior to occupation of the building.

7. If the consent holder:

- (a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:
- (i) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.
 - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered must be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation.

Site work must recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- (b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:
- (i) stop work within the immediate vicinity of the discovery or disturbance; and
 - (ii) advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to the Historic Places Act 1993; and
 - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may only recommence following consultation with the Consent Authority.

Advice Notes:

1. Minimum floor levels should take into account increased flood risk arising from climate change.
2. Adaptive re-use and salvage of historic fabric should be undertaken where possible.
3. An Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014 may be required for this work. The consent holder is advised to discuss the proposal with Heritage New Zealand.
4. The consent holder is advised that this consent does not confer any right to pass over or occupy any other person's land without that person's express permission.

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APPENDIX 2 – SECTION 92(2) REQUEST AND APPLICANT’S RESPONSE

RURAL CITY LIVING

13 April 2018

|
William Watt
William J Watt Consulting
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Dear William

Heritage Impact and Urban Design Assessment for LU2018/357 – 128 Main St, Gore

Having reviewed the application for 128 Main Street, Gore, the Council has determined that additional assessment is required in respect of the heritage value of the existing building and also in relation to the architectural merits of the proposed building with particular regard to the Gore Streetscape Strategy.

Pursuant to section 92(2) of the Resource Management Act 1991 (“the RMA”), the Council wishes to commission a Heritage Impact and Urban Design Assessment for the removal of the heritage building and erection of the new building. It is considered that this assessment is necessary to fully understand the effects of the proposal in respect of the loss of heritage and the impact of the new design on the streetscape.

The Council has sought a fee proposal from Origin Consultants to undertake this work. The quote for this assessment is between \$4,500.00 - \$5,000.00 plus GST. A copy of the full fee proposal can be provided to you on request.

This letter should be taken as notice of Council’s intention to commission the report as required by section 92(2)(b) of the RMA.

Pursuant to section 92B(1) of the RMA you have 15 working days to confirm in writing whether the applicant agrees to the commissioning of the report. If the applicant does not agree to the commissioning of the report, then the consent authority, in accordance with section 92B(2), must consider the application under section 104 of the Act.

Pursuant to section 88C(4) and (5) of the RMA the application will be placed on hold from today (being the date of the notice) until:

- a) The date the report is received by Council, (if the commissioning of the report has been agreed to by the applicant); or

PLANNING
SERVICES

- b) The date that Council has confirmation in writing that the applicant does not agree to the commissioning of the report.

In the event that the applicant does not agree to the commissioning of the report, then the Hearing Commissioner will need to determine whether there is adequate information to enable granting of the consent. It may be that the Commissioner requests the preparation of such a report and defers finalising their decision until the report is prepared and an opportunity is provided to all parties to consider and respond to the report.

Please feel free to contact me at 027 3088950 or email kirstyn@planningsouth.nz to discuss the matters raised in this letter.

Yours faithfully

A handwritten signature in blue ink that reads "Kirstyn Lindsay". The signature is written in a cursive, flowing style.

Kirstyn Lindsay
Consultant Planner
Under delegated authority of the Gore District Council

APPLICANT'S RESPONSE



PLANNING AND RESOURCE MANAGEMENT CONSULTANT

P O Box 6203
Invercargill North 9841
williamwatt@outlook.co.nz

18 April 2018

Ms Kirstyn Lindsay
Consultant Planner to the
Gore District Council
P O Box 8
GORE

Dear Kirstyn

LU2018/357 – 128 MAIN STREET GORE

I refer to your letter of 13 April.

My client Dr Jack Phillips wishes to advise that he does NOT agree to the commissioning of the Heritage Impact and Urban Design Assessment as detailed in your letter.

Dr Phillips does not consider this request is reasonable. Heritage issues were addressed in the Assessment of Environmental Effects (AEE) supplied with the application and have also been addressed in consultation with Heritage New Zealand. I addressed urban design issues in my AEE and we believe I was a suitably qualified and experienced person to do so with respect to the application and in the context of Gore.

Dr Phillips notes that to date, we have not been supplied with copies of any submissions opposing this publicly notified application. To our knowledge, no-one has questioned the assessment of these matters contained in my AEE.

Dr Phillips questions the choice of Origin Consultants as suitable and appropriate people to carry out this work and notes that he was not consulted on the Council's choice of consultant.

Please acknowledge your receipt of this letter.

Yours sincerely

William J Watt

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APPENDIX 3 – HISTORIC ARCHIVE

HISTORIC ARCHIVE - GORE DISTRICT COUNCIL ARTS & HERITAGE DEPARTMENT

The Heritage Research Officers of the Gore District Council Arts & Heritage Department researched the history of the site (see email excerpt below). They discovered documentary evidence within the Mataura Ensign of a baker located on the site in 1887. It appears to have operated for a year and then became known as “the Corner Store”. This building shared the section with the National Mortgage and Agency Co, a two storied brick building between the Corner Store and Carrington Hotel, which was there in 1895. According to the records, in 1898, AA MacGibbon, manager National Mortgage and Agency Co purchased the Corner Store for further building.

SUPPORTING DOCUMENTATION FROM THE HERITAGE RESEARCH OFFICER

ASHTON STREET BAKERY,
NEXT TEMPERANCE HOTEL,
GORE.

WILLIAM FLAWS desires to intimate that he has commenced business as above, and is prepared to supply **BREAD, BISCUITS & CONFECTIONERY** of all kinds to the inhabitants of Gore and surrounding districts, and can guarantee a first-class article.

Country orders will receive every attention
Wedding cakes and cakes of every description kept in stock and made to order.
CHARGE MODERATE. 908

Article 1 – Ashton Street Bakery – 7 January 1887

TO LET—A SHOP, corner of Ashton street and Main Road. Apply **SIMSON, ELSWORTH & Co.** n510

Article 2 – “To Let” – 8 March 1889

We understand that Mr A. A. MacGibbon (manager of the Gore branch of the National Mortgage and Agency Co.) has secured that valuable piece of land fronting on Main street at the junction of that thoroughfare with Ashton street, upon which at present stands what is familiarly known as “The Corner Shop.” It is the intention of the purchaser shortly to erect a handsome two-storey brick building, which should go a long way towards still further enhancing the already improved appearance of Main street.

Article 3 – Town Improvements - 31 December 1895

We understand that Mr A. A. MacGibbon (manager of the Gore branch of the National Mortgage and Agency Co.) has secured that valuable piece of land fronting on Main street at the junction of that thoroughfare with Ashton street, upon which at present stands what is familiarly known as "The Corner Shop." It is the intention of the purchaser shortly to erect a handsome two-storey brick building, which should go a long way towards still further enhancing the already improved appearance of Main street.

Article 4 – MacGibbon purchases "Corner Store" - 17 September 1898



Image A14 11v is of Gore's Main Street in 1896. – The subject building is located to the far left.

Attached are the Mataura Ensign articles showing continued occupancy on the corner of Ashton and Main Streets since at least 1887.

Article 1 – Ashton Street Bakery – 7 January 1887

Article 2 – "To Let" – 8 March 1889

Article 3 – Town Improvements - 31 December 1895

Article 4 – MacGibbon purchases "Corner Store" - 17 September 1898

Image A14 11v is of Gore's Main Street in 1896.

The image shows at the far left the New South Wales Bank, Ashton Street. On the opposite corner is the "Corner Store", previously Ashton Street Bakery and right next to it the National Mortgage and Agency Co building, of which AA MacGibbon was manager, referred to in Article 3 which is next to the Carrington Hotel. From the image, when blown up, a dentist/surgeon sign on the upper floor of the NM&A Co building can be clearly seen. The windows of the 1896 image of the building match those that can be seen today and suggests that the 1895 build was extended post MacGibbon's 1898 purchase.

Email excerpt of Heritage Research Officer's assessment – dated 7 May 2018