

**FORM 9**  
**APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE**  
**RESOURCE MANAGEMENT ACT 1991**

**TO:** Wellington City Council  
P O Box 2199  
WELLINGTON 6140

1. **IPG Corporation Ltd** (the Applicant) hereby applies for the following resource consents:

- **A land use consent:** For the demolition of a heritage building and creation of ground level vacant space.

2. **Activity & Classification:**

Land use consent to demolish a listed heritage building is a discretionary activity (restricted) pursuant to Rules 21A.2.1.

Land use consent to create vacant space in the Centres Area is a discretionary activity (restricted) pursuant to Rule 7.3.3.

3. **The location to which this application relates:**

Street Address: 114 Adelaide Road. Mt Cook



Figure 1: Location Aerial - Extract from WCC Web Maps

4. **The owner of the site is: -**

Lakhi Maa Ltd

5. **There are no other activities that are part of the proposal to which the application relates.**
6. **No additional resource consents are needed for the proposed activity.**

From our knowledge of the site, there are no National Environmental Standards that would apply to this proposal.

7. **Attached, in accordance with Clauses 6 & 7 of the Fourth Schedule of the Resource Management Act 1991, is an assessment of environmental effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.**
8. **Attached is an assessment of the proposal against Part 2 Resource Management Act 1991.**
9. **Attached is an assessment of the proposal against Section 104(1)(b) Resource Management Act 1991 including any relevant objectives, policies or rules.**
11. **Also attached is any information required to be included in this application by the District Plan, a Regional Plan, the Resource Management Act 1991, or any regulations made under that Act.**

The relevant assessment of environmental effects, proposal plans and other information required by the Wellington City Council District Plan are attached.

**IPG Corporation Ltd**

by their duly authorised agent



.....  
Ian Leary for Spencer Holmes Limited.

Date: May 2020

**Address for Service:**

Spencer Holmes Limited  
Surveyors, Engineers & Planners  
PO Box 588  
WELLINGTON 6140  
Telephone: (04) 472-2261

**All Invoices to:**

IPG Corporation Ltd  
Dennis@ipgnz.com  
021 876434

**ATTACHMENTS**

1. Record of Title – No relevant covenants or consent notices.
2. Notice from WCC on Section 133AS of the Building Act 2004
3. Copy of Application for orders under Section 133AS of the Building Act 2004
4. Seismic Strengthening review – Silvester Clark
5. Valuation Report – Colliers International Valuers
6. 114 Adelaide Road – Estimate of Costs – Malbys QS
7. A Heritage Effects Assessment report by Ian Bowman.
8. Copy the WCC’s recent Built Heritage Incentive Fund contributions – 2017-2019.
9. Copy of an email from WCC Planning to the applicant – Sept 2019

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**DESCRIPTION OF PROPOSAL & ASSESSMENT OF EFFECTS ON ENVIRONMENT**

**1 THE PROPOSAL**

**1.1 Site & Locality**

The site is known as 114 Adelaide Road. It has a total area of 455m<sup>2</sup>. It is located on the corner of Adelaide and Drummond Street, Mt Cook.

The site is occupied by an unreinforced masonry building, known as the former Tramway Hotel. The building occupies the whole site. Figure 2 below is a photograph of the building looking south west from Adelaide Road.



**Figure 2: Photograph of the Former Tramway Hotel**

The building is current vacant and is not in use. There has been no commercial use of building for approximately 10 years.

A detailed description of the buildings history and the location is contained in the attached report by Heritage Architect Ian Bowman<sup>1</sup>.

Mr Bowman’s research states that the current building on the site was constructed in 1899.

A further description of the building is contained in the report by Silvester Clark<sup>2</sup>.

The building has been identified as being Earthquake Prone under the Building Act 2004. The building is the subject of a notice under Section 133AS of the Building Act. In that regard, WCC is seeking authority to enter the building and carry out seismic strengthening work on behalf of the owner. Copies of correspondence from WCC are attached.

<sup>1</sup> See “Heritage Assessment former Tramway Hotel” – dated May 2020 – By Ian Bowman – Section 2.2 - Pages 6 to 9

<sup>2</sup> See “Seismic and Structural Strengthening Report” Dated April 2020 – By Silvester Clark Engineers – Section 2, pages 1 and 2.

## **1.2 Legal Description**

Lot 1 and 2 DP 21496

There are no covenants or consent notices registered on the RoTs which are relevant to the resource consent process.

## **1.3 Description of Proposal**

The proposal is the demolition and clearance of the building from the site.

As part of the proposal, the applicant will undertake prior to the commencement of demolition of the building, a full photographic record of the building which will be provided to WCC.

In respect of the replacement building, the owner has not yet identified an alternative use and therefore no building or activity is proposed as part of this application. The owner is forced to take action to address the Earthquake Prone status and WCC's intent to exercise its powers under S133AS of the Building Act.

In that regard, the applicant intends to clear the building from the site and grass the surface until a new building/activity is approved.

## 2 PLANNING PROVISIONS

### 2.1 Zoning

The site is located in a **Centres Area** (Map 6)

Extracts from the WCC Planning Maps are shown in Figure 3 below.



**Figure 3: Extract from Planning Map 6**

The site shows that it contains a listed heritage building 397. The listing in the Heritage Inventory is as follows:

*Adelaide Road, cnr Drummond Street – 114 Adelaide Hotel 1899 Map Ref 6 – Symbol 397*

### 2.2 Compliance with District Plan Standards

#### 2.2.1 Demolition of a Heritage Building

The demolition of the building does not meet any of the permitted activity standards under Chapter 21 of the District Plan. Rule 21A.2.1 states:

Any modification to any listed heritage building.....or the demolition....of any listed heritage building.....is a discretionary Activity (Restricted) in respect of:

21A.2.1.1 Historic Heritage

21A.2.1.2 Height, coverage, bulk and massing of buildings (to the extent that these historic heritage)

#### 2.2.2 Creation of a Vacant Space

Under the Centres Area provisions, Rule 7.3.3 states:

The demolition of buildings to create vacant land, open land or parking areas (at ground level) and not associated with an activity for which consent is required under Rule 7.3.6 or 7.3.7 that are on sites that are visible from public spaces, or that have a primary or secondary street frontages as identified on maps 46 to 49D, is a Discretionary Activity (Restricted) in respect of:

- 7.3.3.1 The effect on the vitality of the Centre.
- 7.3.3.2 The effect on the visual quality of the streetscape.

Non-notification/service In respect of Rule 7.3.3 applications will not be publicly notified (unless special circumstances exist) or limited notified.

## 2.3 Activity Status

The assessment of the provisions of the District Plan shows that the proposal is a discretionary restricted activity under Rules 21A.2.1 and 7.3.3.

- Land Use Consent to demolish the building and create vacant space in a centres area is a discretionary restricted activity pursuant to rules 21A.2.1 and 7.3.3 with the matters of discretion limited to:
  - Effects on historic heritage
  - Effects on vitality of the Centre
  - Effects on visual quality of the streetscape.

## 3 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

### 3.1 Introduction

This assessment of environmental effects on neighbouring properties and the wider community has been prepared in such detail as corresponds with the scale and significance of the effects that the proposal may have on the environment.

As discussed above, the proposal is a discretionary restricted activity. Pursuant to S94D(c), when a consent authority is considering the effects of the proposal it is required to:

..in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion;

In respect to the substantive decision under s104C of the Act it states:

- (1) When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—
  - (b) it has restricted the exercise of its discretion in its plan or proposed plan.

Therefore in respect to the relevant matters to consider and the effects arising out of this application that we consider would potentially impact on the amenity of neighbours and the wider community, including physical effects are listed below:

- Historic Heritage;
- Effects on the Vitality of the local Centre
- Effects on visual quality of the streetscape.

### 3.2 Heritage Effects

In reaching my conclusions on the potential heritage effects, I rely to a large degree on the conclusions of Ian Bowman and the information contained within his attached heritage report.

Prior to discussing the overall heritage effects, I intend on discussing the assessment criteria.



### The Assessment Criteria under Rule 21A.2.1

As is discussed above, the proposal is considered to be a discretionary restricted activity, with the relevant matters under Rule 21A.2.1 are limited to historic heritage. However this relevant rule includes the statement:

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to but will not be restricted to the following criteria:

The Rule then goes on to introduce the assessment criteria 21A.2.1.3 to 21A.2.1.22. The wording of the rule, states that the matters in the criteria, are to be considered when granting or declining the consent. This approach was confirmed in the High Court decision *Lambton Quay Properties Nominee Ltd v Wellington City Council* [2014] NZHC 878.

This Court case also confirmed that public safety was a factor to be considered in the consent process. The criteria below, focus or expand on the relevant issues in respect to *historic heritage*.

In that respect, I intend to discuss each of the assessment criteria. I partially rely on Ian Bowman's assessment to consider each of the criterion, however I also apply a wider planning view on each to determine overall consistency of the proposal.

21A.2.1.3 The extent to which the work significantly detracts from the values for which the building or object was listed.

The proposal to demolish will remove the heritage values of the building. The criterion would not be met.

21A.2.1.4 The extent to which proposals meet the provisions of any relevant Design Guide addressing additions or alterations to buildings of heritage significance.

The design guides would not technically be relevant to a demolition proposal.

21A.2.1.5 The nature, form and extent of the proposed work and the extent to which the work:

- retains the main determinants of the style and character of the building or object and in respect of buildings, particularly the street elevation. The Council seeks to ensure that modifications to street elevations are kept to a minimum, and if possible not altered at all. If necessary, preference shall be given to altering rear or secondary elevations.
- respects the scale of the original building or object. The Council seeks to ensure new work is not visually dominant, particularly where rooftop additions are proposed.
- is sympathetic in form, proportions, materials, colours and the patina of materials of the existing building or object.
- avoids the loss of historic fabric and the destruction of significant materials and craftsmanship.
- maintains the relationship of the building or object with its setting.
- respects the historic or other values for which the building was listed.

The proposed demolition would not be consistent with this criterion

21A.2.1.6 Whether the restoration of former architectural design elements maintains a high level of authenticity. The Council will require evidence of the design of missing elements.

The criterion is not relevant to a demolition proposal

21A.2.1.7 Whether the removal of existing unsympathetic additions to a building or object can be achieved without altering the significance of the building or object.

The criterion is not relevant to the proposal.

- 21A2.1.8 The extent to which the work is necessary to ensure structural stability, accessibility, and means of escape from fire and the extent of the impact of the work on the heritage values of the building. The Council will seek to ensure that in any case every reasonable alternative solution has been considered to minimise the effect on heritage values.

In this case, the building has been identified as being earthquake prone and is subject to a notice under Section 128 of the Building Act. The notice period has expired and WCC has now issued a further notice of its intention to seek orders to undertake the strengthening work itself, under Section 133AS of the Building Act. The applicant/owner is opposing these orders on various grounds.

However with regard to the criterion above, action is required to be taken to comply with the Building Act and either strengthen or demolish the building and therefore *work is necessary to ensure structural stability*. The applicant does not have a “do nothing” option.

The decision to demolish the building is largely driven by fact that Council are taking action to take possession of the building and carry out strengthening work, which ultimately will be uneconomic for both the owner and Council itself. In the view of the applicant, the Council option to carry out strengthening work will undermine the heritage values of the building in the long run for the following reasons:

- The work will likely only strengthen the building to 34% of New Building Standard (NBS). In order for the building to have a practical long term use, it will need to be strengthened to a minimum of 70% of NBS.
- Strengthening to 34% of the current code is unlikely to protect the heritage values of the building for the long term. Council’s main concern in carrying out this action is compliance with the Building Act and not protection of heritage values.
- The strengthening work will impose a significant cost on the applicant without facilitating a viable economic use for the building.
- The WCC will still be required to make substantial interventions on the heritage fabric of the building to facilitate strengthening.

The Applicant has considered a number of options in how to preserve the building. These included:

- Strengthening in its current form. The preliminary strengthening concept was developed by Silvester Clark<sup>3</sup> and was costed at \$6,138,000<sup>4</sup>. The value of the strengthened building based on 70% of NBS is \$2,550,000 + GST (if any)<sup>5</sup>. The financial option of strengthening the building is therefore grossly uneconomic.
- Silvester Clark also confirmed that they had looked at a number of alternative strengthening options<sup>6</sup>. None of the alternative options are considered practicable or viable.
- I have been advised by the applicant that they have made enquiries to funding organisations regarding loans to undertake the strengthening work. No funding

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<sup>3</sup> See Seismic Capacity and Strengthening Review For Tramway Hotel At 114 Adelaide Road, Wellington – Report by Silvester Clark - dated April 2020 – Section 4, Pages 6, 7 and 8.

<sup>4</sup> See 114 Adelaide Road, Concept Strengthening Estimate for IPG Corporation Ltd – Dated 4 March 2020 – By Maltbys – See Executive summary Page 4. – Note This is for a scheme of minimum of NBS 70%.

<sup>5</sup> See Letter Colliers International – Market Valuation – As if complete – 114 Adelaide Road, Mount Cook, Wellington – Page 2 Paragraph 7.

<sup>6</sup> See Seismic Capacity and Strengthening Review For Tramway Hotel At 114 Adelaide Road, Wellington – Report by Silvester Clark - dated April 2020 – Section 5, Pages 9 and 10

organisation has considered loaning on a proposal of this nature given the difference between cost and final value.

- The applicant has considered making additions and alterations to the building to increase its floor area and therefore value, to make the strengthening works financially viable. Consultation with WCC Heritage officers confirmed that this would not be supported to a level which is likely to be economically viable. The applicant had started the consent process on this, but has subsequently abandoned this option given the delays and low likelihood of support from WCC heritage officers.
- The applicant/owner has considered selling the building for land value. No purchasers have been found to date. Potential purchasers to date have wanted to redevelop the site. The option to find a buyer of the site, is unlikely as all purchasers will have the same issue as the current owner/applicant.
- The applicant has considered seeking funds for heritage preservation, such as the WCC Built Heritage Fund. The avenues for funding for private owners are limited. I have reviewed WCC's Built Heritage Fund and note the highest payment in recent years does not exceed \$50,000. This option would not provide any benefit to a strengthening project of this nature. A copy of recent payments is attached.

It must be accepted that the owner takes action to address the structural issues with the building. Given that there must be something done in a short period of time, the applicant has considered all options and can, on available evidence, only make one decision. The decision must be to demolish the building. The criterion requires that *Council will seek to ensure that in any case every reasonable alternative solution has been considered to minimise the effect on heritage values*. If there can only be one decision and this has been successfully demonstrated, then the proposal must be considered to be consistent with the criterion.

It is also important to note the conclusions of Silvester Clark in respect to what work would be required to bring this building to a reasonable seismic standard. The report (see Section 4) effectively outlines removal of the ground floor, large parts of the second floor and areas of the roof to allow machinery access to undertaken ground beams and piling to secure foundations. Potentially there is demolition of the parts of the main façade to allow access of this machinery. The works (if it were economically feasible) will be very disruptive of the heritage fabric of this building and would require substantial replacement of original elements. Nonetheless, this work is considered to be uneconomic.

21A2.1.9 Whether in respect of work involving listed interiors or listed interior items, the original plan form of the building, the primary spaces and their sequential layout, and any significant architectural features and significant finishes are respected or conserved.

This criterion is not applicable

21A2.1.10 The extent to which the work is necessary to enable the continued use of the building.

The work is required to enable a future use of the site. As it stands with the earthquake prone status of the building, no practical or economic use of the site is available without strengthening the building.

21A2.1.11 Whether professional heritage or conservation advice has been obtained from the NZHPT or any other professionally recognised expert in heritage conservation.

Expert heritage advice was obtained when considering development options for the site, which involved additions and alterations to the building. Ultimately, I understand that WCC Heritage advisers have indicated that they would not support additions and alterations to the building. The Heritage officers have not supported any additional floors to the building. Correspondence from

WCC planners indicates that it may be possible to add a floor to the building. This option would still not make the proposal economic.

21A.2.1.12 Whether work is in accordance with a conservation plan prepared for the building or object and peer reviewed by the Council.

There is no conservation plan.

21A.2.1.13 Whether the site has or is likely to have significant archaeological values, and whether the effects on those values by the proposal can be adequately avoided, remedied or mitigated.

The heritage report indicates that the building was constructed prior to 1900. Therefore under the Heritage New Zealand Pouhere Taonga Act 2014, an archaeological permit will be required for the demolition. This will be sought prior to undertaking the demolition works.

21A.2.1.14 Whether there is any change in circumstances that has resulted in a reduction of the building's heritage significance since the building was identified in the plan

There are no changes to the circumstances which would have reduced its heritage significance. There have however been huge changes to the environment and viability of heritage buildings following the Canterbury and Kaikoura Earthquakes which have intensified the public's reticence to occupy heritage buildings. Further to this, WCC has been more stringent on enforcement the requirements for strengthening buildings which are earthquake prone. In this case, this is evidenced by the issue of the notice under S133AS of the Building Act.

The earthquakes have resulted in it being more difficult to tenant buildings and increased the requirement by insurers, tenants and the public to require buildings to be at least 70% of NBS. To get to this standard, major works are required, which are discussed in the Silvester Clark report.

21A.2.1.15 The extent to which the building or object has been damaged by fire or other human generated disaster or any natural disaster.

The building has been subject to some internal vandalism, but otherwise the criterion is not relevant.

21A.2.1.16 Whether it is necessary to save the building or object from damage or destruction arising from ground subsidence, landslip, flooding or other natural disaster.

The criterion is not relevant.

21A.2.1.17 Where relocation is proposed to enhance the development potential of land, whether this should override the heritage value of retaining the building or object in its original location.

The criterion is not relevant.

21A.2.1.18 Whether the relocated building or object will remain in the immediate vicinity or neighbourhood.

The criterion is not relevant.

21A.2.1.19 Whether the proposed site for the relocated building or object is appropriate and will assist in mitigating the loss of heritage values arising from the relocation.

The criterion is not relevant.

21A.2.1.20 Whether a heritage building or object is to be relocated to its original location or site and the appropriateness of the original location or site to accommodate the building or object.

The criterion is not relevant

21A2.1.21 Whether adaptive reuse of a listed building or object will enable the owners, occupiers or users of it to make reasonable and economic use of it.

As discussed above, the owner/applicant is obligated by other legislation (the Building Act) to strengthen the building. The analysis of the costs of strengthening the building clearly demonstrate that it is uneconomic to strengthen the building without undertaking significant additions to the floor area of the building to attain an economic return.

Otherwise it is not possible to *make reasonable and economic use* of the building. As the building is not economic to strengthen and it is not possible to make reasonable use of the building, demolition can be considered consistent with the criterion.

21A.2.1.22 The public interest in enhancing the heritage qualities of the City and in promoting a high quality, safe urban environment.

This criterion has two arms to consider. The first is the public interest in enhancing the heritage qualities of the city. The second is the public interest in promoting a high quality, safe urban environment.

In this case there are potentially mutually exclusive interests at play. Given the economic issues with strengthening the building, it is not possible for the applicant/owner to carry out the strengthening works to preserve the heritage qualities of the building and therefore promoting a safe urban environment.

If the consent to demolish is approved, then there will be heritage qualities lost to the city. If the consent is declined, the risk to public safety is continued.

The proposal to demolish the building cannot be consistent with both arms of this criterion, but given the lack of options available to the applicant due to Council's own action, the effects are unavoidable.

### Conclusions of Heritage Effects/Assessment Criteria

The assessment criteria and the heritage rules, are "setup" to place the emphasis on the preservation of heritage buildings. Therefore, with a proposal for demolition, it is not surprising that it would be assessed against the relevant criteria and found to be inconsistent with those criteria which seek the preservation or enhancement of the heritage qualities.

However other criteria such as 21A2.1.8 and 21A.2.1.22, raise the issues of structural stability and public safety. Criterion 21A2.1.21 discusses the reasonable and economic use.

The applicant has the dilemma of having to meet the structural and safety requirements while not being able to have a reasonable and economic use for the subject building. The overall intent of the criteria, as well as the Rules relating to heritage, is that there is a very high threshold to reaching the point where a consent for demolition can be granted.

In this case, the difference between the cost of the strengthening works (in excess of \$6 million) and significantly less than the value of the finished product (around \$2.5 million), that threshold would be reached.

So in considering the overall heritage effects, I note that Ian Bowman has considered the status of the existing heritage building and states:

The building has **moderate** heritage significance as the second oldest hotel in Wellington and as a good representative example of the Late Victoria Commercial Italianate Style. Its style, use of material and corner location on a major arterial route contribute to the building having landmark status.....<sup>7</sup>

In respect to his final conclusions on the proposal, Mr Bowman has stated:

The proposal to demolish 114 Adelaide Street, Newtown will result in a moderate/large negative effect that will be permanent and irreversible to the heritage values inherent in the building. It is not consistent with the assessment criteria of the District plan which seeks to “recognise the City’s historic heritage and protect it from inappropriate subdivision, use and development, nor those of Heritage New Zealand. It will reduce the stock of heritage buildings in Wellington that provides a lens on the architectural, construction and commercial history of the city.

The applicant has provided engineering, construction costing and valuation evidence that the strengthening of the building without significant increased floor area, is not economically viable. I have assessed a previous option for adding four floors to the building and am now aware of the option assessed in this report for demolition. I am not aware of other options that could be explored for the existing building and site.<sup>8</sup>

In reviewing the report and conclusions of Mr Bowman, I accept that the Former Tramway Hotel has Moderate Heritage value and that the proposal to demolish that building will have a significant effect on the heritage values of the building itself (by removing them) and the heritage effects in respect to the subject building are significant, but are moderate with respect to the overall heritage values of the city.

### 3.3 Effects on the Vitality of the local Centre

The proposal is to demolish the existing building and to leave the site vacant in the short term. It is anticipated that if and when consent is granted to demolish the building, that would be carried out in a short period of time.

In the medium term, the applicant will want to make use of the site to provide for an economic return.

The existing situation is one where the existing building is vacant and therefore it provides no contribution to the vitality of the local area in terms of economic return, the generation of foot and vehicular traffic and provision of services.

Without being able to undertake strengthening work, which is uneconomic, there remains no change of the existing building and its contribution to the vitality of the area.

The contribution made to economic vitality of the centre by the existing building is therefore zero. By being able to demolish the building, it will allow for a new building to be constructed which would then make a positive effect on the vitality of the local centre.

Therefore, the short term effects on vitality of the local centre are neutral.

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<sup>7</sup> See *Assessment of Environmental Effects – Former Tramway Hotel, 114 Adelaide Road, Wellington* – Ian Bowman – Section 2.5.4, page 12.

<sup>8</sup> Ibid – Section 7, paragraph 1.

The medium to long term effects on the vitality of the centre will be positive, by allowing for the construction of a new building which would release the potential of the site.

### 3.4 Effects on visual quality of the streetscape.

The existing heritage building would make a positive contribution to the quality of the local streetscape. Its removal will have an adverse effect on the overall quality of the streetscape, given its relatively prominent location on the corner of Drummond Street and Adelaide Road.

The existing buildings contribution to streetscape is partially diminished by its derelict condition. The building is on a prominent street connecting the southern suburbs to the CBD.

The short term effects will be more than minor as it will remove a heritage building from the site. The site will however be grassed so as to minimise the effects of a bare site. Its appearance would be akin to a street corner park.

The applicant will construct a new building on the site in the medium term. That building will be required to meet the standards of the District Plan and Centres Design Guide.

The medium to long term effects of the demolition of the building and creation of vacant space will be less than minor.

## 4 DISTRICT PLAN ASSESSMENT

### 4.1 Objectives and Policies

Section 104(1)(b)(vi) of the Resource Management Act requires the Council to consider the relevant provisions of the District Plan when assessing applications for resource consent. This includes the relevant objectives and policies of the District Plan, which in this case are considered to be:

#### 4.1.1 Heritage Objectives and Policies

*Objective 20.2.1 To recognise the City's historic heritage and protect it from inappropriate subdivision use and development.*

*Policy 20.2.1.2 To discourage demolition, partial demolition and relocation of listed buildings and objects while:*

- *Acknowledging that the demolition or relocation of some parts of buildings and objects may be appropriate to provide for modifications that will result in no more than an insignificant loss of heritage values; and*
- *Giving consideration to total demolition or relocation only where the Council is convinced that there is no reasonable alternative to total demolition or relocation.*

In respect to Policy 20.2.1.2, this policy starts with *discouraging demolition* of listed buildings. It is understood and accepted that the intent of the District Plan is to protect historic heritage from *inappropriate use and development*. The policy does however recognise that consideration will only be given to total demolition when there is no reasonable alternative.

I have carefully considered the District Plan and its intent and what *no reasonable alternative* might be? In this case, the building must be strengthened. But the strengthening work is beyond

the means of the owner to achieve. The costs of strengthening will be more than double the cost of the finished building.

The option of extending the building (to a sustainable level) in order to preserve the overall heritage values of the main façade of the building has been rejected as an option by WCC officers.

There are no other funding options available which would reasonably be able to breach the substantial funding gap between the strengthening costs and final value of the building.

Therefore, without funding, there is no option to strengthen the building as it currently stands. Therefore whilst the proposal is inconsistent with the requirement of the objective to protect historic heritage, the applicant has demonstrated that there is no reasonable alternative to demolition.

*Policy 20.2.1.3 Promote the conservation and sustainable use of listed buildings and objects while ensuring that any modification avoids, remedies or mitigates, effects on heritage values of the listed buildings or objects and where relevant:*

- ensures that modifications to the main elevations are minimised, or if possible are unaltered;
- any modifications respect the scale of the building or object; and
- any modifications maintain the relationship of the building or object with its setting.

The proposal is not going to avoid, remedy or mitigate the effects on historic heritage and can be considered inconsistent with this Policy.

*Policy 20.2.1.11 Avoid, remedy or mitigate the adverse effects of development on the archaeological values of any site.*

The applicant will apply for an Archaeological Permit prior to carrying out any works. This will meet the intent of this Policy.

Overall, the intent of the District Plan is to maintain historic heritage. In this case however the owner is obligated to undertake strengthening works which are economically and practically not viable.

The applicant cannot avoid the strengthening works required by WCC's building resilience officers. They are aggressively seeking compliance and threatening to undertake the work and charge the applicant for the costs. But if those costs are not viable to the applicant, they are not going to be viable for Council to undertake. Council will not be able to recoup its costs through rating charges or possession of the building, as the value of the work will exceed the value of the building.

The situation must be considered one where the reasonable alternatives to demolition are not available.

#### 4.1.2 Centres Objectives and Policies

The relevant objectives and policies of the Centres area are as follows:

Objective 6.2.1 To provide a network of accessible and appropriately serviced Centres throughout the City that are capable of providing goods, services and facilities to meet the day to day needs of local communities, residents and businesses, and of accommodating anticipated population growth and associated development whilst maintaining Wellington's compact urban form.



- Policy 6.2.1.3 Maintain and enhance the viability and vibrancy of Regionally Significant Centres in the Wellington Region
- Policy 6.2.1.4 Promote the intensification of activities and buildings in and around Centres.
- Objective 6.2.2 To facilitate vibrant and viable Centres through enabling a wide range of appropriate activities to occur to meet the economic and social needs of the community, whilst avoiding, remedying or mitigating adverse effects.
- Policy 6.2.2.1 Enable and facilitate a wide mix of activities within Centres provided that character and amenity standards are maintained and adverse effects are satisfactorily avoided, remedied or mitigated.
- Objective 6.2.3 To ensure that activities and developments maintain and enhance the safety and amenity values of Centres and any adjoining or nearby Residential or Open Space Areas, and actively encourage characteristics, features and areas of Centres that contribute positively to the City's distinctive physical character and sense of place.
- Policy 6.2.3.1 Ensure that buildings, structures and spaces are designed to:
  - acknowledge, respect and reinforce the form and scale of the surrounding environment in which they are located; and
  - respect the context, setting and streetscape values of adjacent listed heritage items and Heritage Areas; and
  - promote a strong sense of place and identity within Centres; and
  - establish positive visual effects; and
  - provide good quality living and working environments; and
  - integrate environmental sustainability principles; and
  - provide conditions of safety and accessibility, including for people with restricted mobility.
- Policy 6.2.3.3 Maintain or enhance the street edge along identified primary and secondary street frontages.
- Policy 6.2.3.4 Maintain or enhance the streetscape by controlling the appearance of and/or limiting the creation of vacant land, or open land and ground level parking areas on identified primary and secondary streets frontages.
- Objective 6.2.5 To maintain an efficient and sustainable transport network to enable the provision of convenient and safe access for people and goods to and within Centres.

The overall intent of the District Plan is to maintain and enhance the economic and visual vitality of the various centres in the city. The objectives, policies and rules can be considered to discourage the creation of vacant space at ground level. It is accepted that creating vacant space as proposed in this instance, is not consistent with the outcomes sought by the District Plan.

It is not the applicant's intent to create ground level open space for the medium to long term. There is no economic benefit in maintaining a vacant site.

The building has not provided any economic vitality to the city for some time (around 10 years). The valuers (Colliers International) have stated:

The building is earthquake prone and in our opinion has reached the end of both its physical and economic life<sup>9</sup>.

The demolition of the building and replacement by another building will in the long run, contribute to the long term economic vibrancy of the local Centres area.

<sup>9</sup> Letter Colliers International – Market Valuation – As if complete – 114 Adelaide Road, Mount Cook, Wellington – Page 2 Paragraph 3.

The visual quality of the heritage building will be lost with the proposal to demolish and cannot be remedied or mitigated. Nor in fact can the effects be avoided, unless WCC allow for a substantial increase in floor area for the site which will increase the potential economic return and enable the strengthening works to be carried out. At the current time, the WCC Heritage advisors have indicated that this level of additional development will not be supported.

The demolition of the building will be neutral in respect to the economic vitality of the centre in the short term and positive effects in the long term when a replacement building is constructed.

The building is located on an important transport route. As such, it is accepted that there are health and safety risks with respect to the building which is earthquake prone and therefore at risk of collapse. Demolition of the building will be consistent with Objective 6.5.

Overall the proposal will be inconsistent with the objectives and policies in the short term. The replacement of the heritage building will have only less than minor to minor effects on visual vitality in the long term.

## **5 MITIGATION AND MONITORING MEASURES**

There are no available mitigation measures available in respect heritage effects of the demolition of the heritage building.

The mitigation measures proposed in terms of the vacant site, will be grassed and have the appearance of a corner park. This will mitigate the short term visual effects.

## **6 ALTERNATIVES CONSIDERED**

An assessment of possible alternative locations is required when the proposal would result in significant adverse effects.

As this is a discussion about a heritage building in situ, it is not practical to consider alternative locations.

The application has considered the alternatives in detail above.

## **7 CONSULTATION**

Consultation with WCC planning officers was undertaken by the applicant. The result of that consultation is contained in the attached email from Stephanie Steadman to the applicant. This set out Council's position in respect to the relevant likelihood of gaining consents and the notification process.

## **8 ASSESSMENT OF PART 2 RMA**

We have considered the matters of national importance and note that the site contains a listed heritage building and therefore section 6(f) is relevant.

Section s6(f) states:

*The protection of historic heritage from inappropriate subdivision, use, and development:*

In this case, the proposal will be the demolition of listed heritage building. This is deemed to have moderate adverse effects on the wider heritage values of Wellington City, but of course the complete removal of the heritage values from the site.

The key point in this situation is S6(f) provides for protection of historic heritage from *inappropriate* use and development. As discussed above, the proposal to demolish this building is not one which the applicant has lightly considered. They have obtained costings and valuations and demonstrated clearly that the strengthening work of the building is not sustainable from an economic perspective.

The main purpose of the Act under s5 of the Act is the sustainable use of 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.*

If the applicant/owner is required to maintain this building, it will not provide for their economic wellbeing. It is simply not economically viable.

Can the Act be used to impose economic hardship and potentially ruin on an owner? In these circumstances, it is unlikely that a buyer would be found to take the responsibility to strengthen the building.

There are some similarities to the Harcourts case [*Lambton Quay Properties Nominee Ltd v Wellington City Council – High Court and Environment Courts*] however the big differentiation to that case, is time. In the Harcourts case, the Earthquake Prone notice was only relatively recently issued and there was some time before the works were required to be done. In this case, the Council are seeking orders which enable them to enter the building and carry out the works immediately. There is no time and decisions must be made immediately.

The only option available, other than demolition would be potentially significant extension of the building floor area (by increasing its height) although it is my understanding that this is opposed by WCC's heritage advisors.

The preservation of historic heritage is an outcome which is sought by the Act and consequently the District Plan. The District Plan does allow for the demolition of heritage buildings where there are no other alternatives. This would appear to be one of those rare cases where there are no alternatives. The demolition of the building would provide for the economic wellbeing of the owner and the health and safety of the future occupants and wider community.

Sections 7(b) (efficient use of resources), 7(c) (maintenance of amenity values) and 7(f) (maintenance and enhancement of the quality of the environment) are relevant to the proposal. The proposal is essentially neutral on these matters as there are both pro's and con's to demolition from these considerations.

There are unquestionably tensions under the Act here between the economic wellbeing of the owner, the safety of the building occupants and the wider community and the requirement for the preservation of historic heritage.

The tension would appear unavoidable as there is no "do nothing option". I have posed the question as to whether the demolition is an inappropriate action? If it were appropriate to demolish the building to achieve the sustainable management of resources, then it can be concluded that S6(f) is met (which is about *inappropriate* use and development). Because the

proposal is appropriate S6(f) is met. It is acknowledged that the result is the loss of historic heritage.

I have also asked the question as to what are the appropriate alternatives to consider. My view is that extension to the building would be the lesser “evil” to demolition, but (I understand) has been discounted by WCC Heritage officers. Without other reasonable alternatives and due to the obligation of the owner to achieve immediate compliance with the Building Act, I would conclude that whilst the tensions are unresolved, the demolition of the building would be consistent with the main purpose of the Act, being the sustainable management of resources.

## 9 **CONCLUSION**

The proposal to demolish the building is a discretionary restricted activity pursuant to Rules 7.3.3 and 21A2.1 of the District Plan.

We have assessed the adverse effects of the proposal and are of the view that the proposal will have more than minor adverse effects on the environment. However those effects are effectively unavoidable as the applicant is obligated to take the action being sought, due to having no other viable options.

In respect to the Assessment Criteria, Objectives and Policies and Part II of the Act, there are many tensions between the provisions seeking the preservation of historic heritage and those which seek the health and safety of the community. Where an applicant has no choice and no reasonable alternatives, reaching a decision becomes somewhat simpler.

There is an unquestionable quandary which must be resolved. There cannot be a compulsion on Council to force an applicant to carry our works which they do not have the means to do. The applicant is unlikely to be able to sell the property which the inherent costs and responsibilities.

The proposal includes heritage issues and has been considered in terms of the section 6(f) requirement to protect historic heritage from inappropriate subdivision, use and development. In this case, I find the effects and outcomes “unavoidable”.

Therefore in my view, consent should be granted to the proposal pursuant to s104B and C of the Act.