



Application Form for a Resource Consent

50 The Octagon, PO Box 5045, Moray Place
Dunedin 9058, New Zealand
Ph 03 477 4000 | www.dunedin.govt.nz

PLEASE FILL IN ALL THE FIELDS

Application details

I/We McNay Somes Partnership

(must be the FULL name(s) of an individual or an entity registered with the New Zealand Companies Office. Family Trust names and unofficial trading names are not acceptable: in those situations, use the trustee(s) and director(s) names instead) hereby apply for:

☒ Land Use Consent ☐ Subdivision Consent

I opt out/do not opt out (delete one) of the fast-track consent process (only applies to controlled activities under the district plan, where an electronic address for service is provided)

Brief description of the proposed activity:

establish seven bedroom apartment on the ground floor and reconfigure the existing three apartments on the first floor to create one additional habitable room.

Have you applied for a Building Consent? ☐ Yes, Building Consent Number ABA _____ ☐ No

Site location/description

I am/We are the: ☒ owner ☐ occupier ☐ lessee ☐ prospective purchaser of the site (tick one)

Street Address of Site: 5 Clark Street Dunedin

Legal Description: Lot 2 DP 439708

Certificate of Title: 545479

Contact details

Name: Kirstyn Lindsay, Southern Planning Solutions Limited (applicant/agent (delete one))

Address: 29 Rosebery Street, Beileknowes, Dunedin Postcode: 9011

Phone (daytime): 0273089950 Email: kirstyn@planningsouth.nz

Chosen contact method (this will be the first point of contact for all communications for this application)

I wish the following to be used as the address for service: ☒ email ☐ post ☐ other _____ (tick one)

Address for invoices or refunds (if different from above)

Name: McNay Somes Partnerships C/O Southern Planning Solutions Limited

Address: 29 Rosebery Street, Belleknowes, Dunedin 9011

Bank details for refunds

Bank Account Name: Southern Planning Solutions Limited

Account Number:

0	2	0	9	1	0	0	0	7	5	8	8	8	0	0
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Bank Branch Account Number Suffix

Ownership of the site

Who is the current owner of the site? Christopher John McNay, David William Hercus and Nigel Robert Kirkpatrick

If the applicant is not the site owner, please provide the site owner's contact details:

Address: _____ Postcode: _____

Phone (daytime): _____ Email: _____

Occupation of the site

Please list the full name and address of each occupier of the site: _____
see attached

Monitoring of your Resource Consent

To assist with setting a date for monitoring, please estimate the date of completion of the work for which Resource Consent is required. Your Resource Consent may be monitored for compliance with any conditions at the completion of the work. (If you do not specify an estimated time for completion, your Resource Consent, if granted, may be monitored three years from the decision date).

One year from issue _____ (month and year)

Monitoring is an additional cost over and above consent processing. You may be charged at the time of the consent being issued or at the time monitoring occurs. Please refer to City Planning's Schedule of Fees for the current monitoring fee.

Detailed description of proposed activity

Please describe the proposed activity for the site, giving as much detail as possible. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please provide proposed site plans and elevations.

see attached

Description of site and existing activity

Please describe the existing site, its size, location, orientation and slope. Describe the current usage and type of activity being carried out on the site. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please also provide plans of the existing site and buildings. Photographs may help.

see attached

_____. (Attach separate sheets if necessary)

District plan zoning

What is the District Plan zoning of the site? Industrial

Are there any overlaying District Plan requirements that apply to the site e.g. in a Landscape Management Area, in a Townscape or Heritage Precinct, Scheduled Buildings on-site etc? If unsure, please check with City Planning staff.

N/A

Breaches of district plan rules

Please detail the rules that will be breached by the proposed activity on the site (if any). Also detail the degree of those breaches. In most circumstances, the only rules you need to consider are the rules from the zone in which your proposal is located. However, you need to remember to consider not just the Zone rules but also the Special Provisions rules that apply to the activity. If unsure, please check with City Planning staff or the Council website.

Breach of Rule 10.5.1

Assessed as non-complying activity pursuant to Rule 10.5.4

Affected persons' approvals

I/We have obtained the written approval of the following people/organisations and they have signed the plans of the proposal:

Name: N/A

Address: _____

Name: _____

Address: _____

Please note: You must submit the completed written approval form(s) and any plans signed by affected persons, with this application, unless it is a fully notified application in which case affected persons' approvals need not be provided with the application. If a written approval is required, but not obtained from an affected person, it is likely that the application will be fully notified or limited notified.

Assessment of Effects on Environment (AEE)

In this section you need to consider what effects your proposal will have on the environment. You should discuss all actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effect. i.e. small effect equals small assessment.

You can refer to the Council's relevant checklist and brochure on preparing this assessment. If needed there is the Ministry for the Environment's publication "A Guide to Preparing a Basic Assessment of Environmental Effects" available on www.mfe.govt.nz. Schedule 4 of the Resource Management Act 1991(RMA) provides some guidance as to what to include.

See attached

(Attach separate sheets if necessary)

The following additional Resource Consents from the Otago Regional Council are required and have/have not (delete one) been applied for:

☐ Water Permit ☐ Discharge Permit ☐ Coastal Permit ☐ Land Use Consent for certain uses of lake beds and rivers ☒ Not applicable

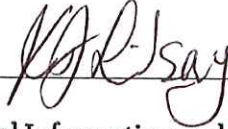
Declaration

I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.

I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.

Subject to my/our rights under section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Dunedin City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid.

Signature of Applicant/Agent (delete one):



30/10/2017

Date:

Privacy – Local Government Official Information and Meetings Act 1987

You should be aware that this document becomes a public record once submitted. Under the above Act, anyone can request to see copies of applications lodged with the Council. The Council is obliged to make available the information requested unless there are grounds under the above Act that justify withholding it. While you may request that it be withheld, the Council will make a decision following consultation with you. If the Council decides to withhold an application, or part of it, that decision can be reviewed by the Office of the Ombudsmen.

Please advise if you consider it necessary to withhold your application, or parts of it, from any persons (including the media) to (tick those that apply):

- ☐ Avoid unreasonably prejudicing your commercial position
- ☐ Protect information you have supplied to Council in confidence
- ☐ Avoid serious offence to tikanga Maori or disclosing location of waahi tapu

What happens when further information is required?

If an application is not in the required form, or does not include adequate information, the Council may reject the application, pursuant to section 88 of the RMA. In addition (section 92 RMA) the Council can request further information from an applicant at any stage through the process where it may help to a better understanding of the nature of the activity, the effects it may have on the environment, or the ways in which adverse effects may be mitigated. The more complete the information provided with the application, the less costly and more quickly a decision will be reached.

Fees

Council recovers all actual and reasonable costs of processing your application. Most applications require a deposit and costs above this deposit will be recovered. A current fees schedule is available on www.dunedin.govt.nz or from Planning staff. Planning staff also have information on the actual cost of applications that have been processed. This can also be viewed on the Council website.

Development contributions

Your application may also be required to pay development contributions under the Council's Development Contributions Policy. For more information please ring 477 4000 and ask to speak to the Development Contributions Officer, or email development.contributions@dcc.govt.nz.

Further assistance

Please discuss your proposal with us if you require any further help with preparing your application. The Council does provide pre-application meetings without charge to assist in understanding the issues associated with your proposal and completing your application. This service is there to help you.

Please note that we are able to provide you with planning information but we cannot prepare the application for you. You may need to discuss your application with an independent planning consultant if you need further planning advice.

City Planning Staff can be contacted as follows:

In Writing: Dunedin City Council, PO Box 5045, Moray Place, Dunedin 9058

In Person: Customer Services Centre, Ground Floor, Civic Centre, 50 The Octagon

By Phone: (03) 477 4000, Fax: (03) 474 3451

By Email: planning@dcc.govt.nz

There is also information on our website at www.dunedin.govt.nz.

Information requirements (two copies required)

- ☐ Completed and Signed Application Form
- ☐ Description of Activity and Assessment of Effects
- ☐ Site Plan, Floor Plan and Elevations (where relevant)
- ☐ Certificate of Title (less than 3 months old) including any relevant restrictions (such as consent notices, covenants, encumbrances, building line restrictions)
- ☐ Written Approvals
- ☐ Forms and plans and any other relevant documentation signed and dated by Affected Persons
- ☐ Application Fee (cash, cheque or EFTPOS only; no Credit Cards accepted)
- ☐ Bank account details for refunds

In addition, subdivision applications also need the following information

- ☐ Number of existing lots.
- ☐ Number of proposed lots.
- ☐ Total area of subdivision.
- ☐ The position of all new boundaries.

In order to ensure your application is not rejected or delayed through requests for further information, please make sure you have included all of the necessary information. A full list of the information required for resource consent applications is in the Information Requirements Section of the District Plan.

OFFICE USE ONLY

Has the application been completed appropriately (including necessary information and adequate assessment of effects)?

☐ Yes ☐ No

Application: ☐ Received ☐ Rejected

Received by: ☐ Counter ☐ Post ☐ Courier ☐ Other: _____

Comments: _____

(Include reasons for rejection and/or notes to handling officer)

Planning Officer: _____ Date: _____

30 October 2017

Senior Planner – Non-notified
Dunedin City Council
50 the Octagon
Dunedin

Dear Phil

RESOURCE CONSENT APPLICATION

The applicant, McNay Somes Partnership, seeks resource consent to authorise a non-complying activity to establish a seven-bedroom apartment on the vacant ground floor, and reconfigure the three existing apartments on the first floor, at 5 Clark Street, Dunedin. The area on the ground floor is currently vacant space. The reconfiguration of the three upstairs apartments will result in an additional habitable room. Access to the site is via a gated driveway through the building and leads to a parking area at the northwest corner of the site. Four carparks and two bicycle parks are to be provided. Outdoor amenity space will be provided for each apartment.

SITE DESCRIPTION

The site is legally described as Lot 2 Deposited Plan 439708 and comprises 525m² and was created by way of subdivision in 2011 (SUB- 2011-26). A search of Council records show that the building was constructed in 1927 and has been occupied by residential activity since that time. The residential activity on the site was authorised in 2001 (RMA2001-0593) and again in 2011 (LUC-2011-115).

The building is of brick and plaster construction. The current layout of the apartments is confused, with external access to two of the apartments via the bathroom. There is currently very little in the way of usable outdoor amenity space. Along the western, southern and northern boundaries are thick party walls shared with the adjacent buildings. The high double brick party wall, between the site and 61 Maclaggan Street extends along the entire length of the industrial building, providing significant acoustic attenuation.

The site is zoned Industrial 1 under the operative plan and industrial under the proposed plan. At the southern boundary, the district plan zoning changes to Residential 4 and across the road to the east is the Central Activity zone. The activities within the area do not always run true to the zoning. Immediately next door to the south within the Residential 4 zone is the Otago Motor Cycle Club while at the northern boundary within the Industrial zone is another residential unit at 9 Clark Street. Across Maclaggan Street, and also zoned Industrial, is a range of residential activities occurring at 66 and 28 Maclaggan Streets. On the eastern side of Clark Street is commercial office space which is compatible with its Central Activity zoning.



PLANNING FRAMEWORK

Operative District Plan

The subject site is zoned Industrial 1 in the Operative Dunedin City District Plan. Residential activities are not expressly provided for in the Industrial 1 zone. Therefore, the proposal is assessed as a non-complying activity pursuant to Rule 10.5.4 of the district plan.

Proposed District Plan

The subject site is zoned Industrial in the proposed Dunedin City District Plan. There are no rules which are operative or which have legal effect relating to the industrial zone of the proposed district plan.

SECTION 104(1) OF THE RESOURCE MANAGEMENT ACT 1991

Section 104(1) refers to Part 2 of the RMA. The recent High Court decision, *R J Davidson Family Trust v Marlborough District Council* [2017] NZHC 52, applies the Environment Courts reasoning in *EDS v NZ King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593 (commonly known as King Salmon). The High Court held that in most cases it is not necessary to refer back to Part 2 when determining an application for resource consent. This is because, unless the District Plan under which the resource consent is being considered, is deemed to be incomplete, invalid or uncertain, the District Plan is assumed to have given effect to the higher order planning documents including RPS, NES, NPS and Part 2 and no further consideration of those planning instruments is required. While it is noted that *RJ Davidson* is under appeal and this position may be reviewed in the future, for the purposes of determining this application it is considered that *RJ Davidson* is the appropriate approach. It is considered that the operative and proposed Dunedin City District Plans are complete, certain and valid and provide adequate guidance, such that there is no need to seek assistance from higher planning instruments.

Effects on the Environment

The following assessment of effects on the environment have been carried out in accordance with section 104(1)(a) of the Resource Management Act 1991.

Sustainability

Although the site is zoned Industrial, it is on the margin of two other zones where residential units are currently permitted, the Residential 4 zone and the Central Activity zone. The existing environment at this locality is that of a mixed-use area, where residential activity, commercial activity and industrial activity are already established in relatively close proximity. Residential activity on the site is well-established and although this proposal will increase the intensity of use on the site, it will not alter the sensitive nature of the existing activity. Given the existing residential use within the building, there would be very few permitted industrial uses available which would not result in adverse effects on the legitimate residential users of the site.

It is suggested that the proposal is consistent with the Sustainability section of the District Plan. Establishing residential activity on an industrial zoned site is not specifically provided for in the Plan because the development of residential activity is generally incompatible with an industrial environment. However, in this instance it is considered that no new adverse environmental effects will be introduced by the proposed activity as the existing residential activity is merely being extended.

The decision for LUC-2014-356 for the nearby 28 Maclaggan Street site stated that:

"the additional residential apartment will complement the existing authorised apartments and is not expected to further compromise the environment in which the existing industrial activities operate."

It is suggested that this is also the case for this site and that the proposal is compatible with the character and amenity of that environment, and represents a sustainable use of the existing resources in relation to the subject site.

Amenity, character and visual impacts

There are no changes proposed to the street frontage of the site, except that lower window treatments will be updated to match the recently upgraded upper level windows. The windows will have white thermal frames and clear double glazing in opening sashes providing ventilation to the new residential activity. The proposed window frames will provide a visual consistency to windows in the existing building face to enhance the street scape. Overall, it is considered that there will be no discernible change to the character of the neighbourhood or adverse effects on the streetscape as a result of this proposal.

It is internal to the site where the benefits of the development will be significantly noticed. The existing narrow veranda deck and awkward access to the first floor will be replaced by a large deck area with access from the living area of each apartment. Downstairs, the existing carport will be removed and a deck area will be created with access from the living area of each downstairs apartment. Upstairs the total deck area will have an area of 60m² plus service court, while downstairs will have an area of 40m² plus service court. Courtyard alterations will not be visible to Clark Street, however proposed alterations and additions to these elevations are intended to be consistent with the existing building character and traditional style of architecture.

It is noted that there are no outdoor amenity space requirements within the industrial zone nor are there outdoor amenity space requirements for permitted residential activity that could occur directly opposite the site in the Central Activity Zone. The outdoor amenity requirements recently identified as appropriate for the adjacent proposed Inner City Residential (ICR) zone can however provide useful guidance.

Within the ICR zone, 10m² of outdoor amenity space per apartment is considered appropriate for upstairs apartments with elevated outdoor space, while at ground floor this is calculated at 20m² of outdoor amenity space for three habitable rooms and then 5m² per room thereafter, resulting in a total outdoor space requirement of 40m² for a seven-room apartment. The outdoor amenity space proposed by this development exceeds the requirements deemed adequate for proposed ICR zone.

Furthermore, the acoustic attenuation provided by the party walls, appears to deaden the external noise effects within the courtyard, creating a quieter noise environment than one would typically expect at this location. This noise attenuation means that the amenity experienced from the outdoor space may be higher than outdoor amenity space found in other high noise environments. Overall, it is considered that the outdoor amenity space provided is appropriate for the inner city living model proposed by this development.

Noise and Reverse Sensitivity

The subject site is in a location and zone where noise levels could be expected to be higher than in a residential environment. This includes road noise as well as any excessive noise from industrial activities in the area. It is noted that Clark Street is a local road with a relatively steep gradient and time-restricted angled parking. Truck movements through this road are expected to be few and, as such, traffic noise is expected to be no greater than a typical local road, especially at night when the commercial activities across the road are not typically operating.

The upper level windows were upgraded in recent times. Given the low noise environment on the street frontage, it is considered that matching the lower windows to the existing upper level windows is an appropriate design improvement for the proposed building refurbishment.

The building is of solid brick and render construction, with solid double thickness party walls at the south, west and northern boundaries. Within the courtyard area at the rear of the site, the party walls and double brick wall along the entire western boundary provide a significant degree of acoustic attenuation. In fact, external noise is quite deadened within the courtyard.

Due to the existing party walls, solid construction of the building, and low road noise environment, it is not considered necessary to install acoustic insulation, beyond that required by the Building Act. However, if a demonstrable adverse effect is identified that could be addressed by acoustic insulation, then the applicant would need to consider the financial implications of this before accepting any such condition.

With regard to reverse sensitivity, it is noted that residential activity exists on the site. No record of any conflict between the existing residential activity on the site and adjoining industrial and commercial activities have been identified. While the intensity of the residential use will increase, the nature of the activity is unchanged and no new sensitive activities are being introduced to the site. As stated in the decision for LUC-2014-356 for the adjacent 28 MacLaggan Street:

"More intensive industrial operations are unlikely to be established in this locality due to the variety of non-industrial activities in close proximity, including other residential activity on Maclaggan Street and other nearby streets. The site is part of an area that has long been in transition between residential, industrial and commercial development."

It is considered that this statement can be applied equally to the subject site. The variety of non-industrial activities in close proximity, including other residential and commercial activities on Clark and Maclaggan Streets and the adjacent residential 4 zoning suggests that approval of this application is unlikely to influence whether heavy industry relocates to this area. Overall, no minor or more than minor adverse noise or reverse sensitivity effects have been identified.

Storm water, water and sewerage

It is anticipated that the industrial zoning provides for adequate water and waste water infrastructure serving. It is not anticipated that the introduction of the ground floor apartment will increase demand beyond the network service capacity.

Cumulative effects

Residential activity currently exists on the site. It is considered that there are few permitted industrial activities that the ground floor space could be put too. The proposed development will introduce additional residential activity but will not result in further residential sprawl within the industrial zone. The activity will be confined to a site already used for residential activity and is not expected to have a cumulative adverse effect

Transportation

Access to the site is via an established gated accessway through the building to a courtyard at the rear of the site. Four car parks are currently provided onsite and adequate manoeuvring is provided such that vehicles can exit the site in a forward direction. The application has been discussed with the Council's Transportation Planner, Grant Fisher. Mr Fisher accepts that one car park per each upstairs unit is appropriate, creating a demand for three car parks and that the downstairs unit will have a parking demand of two car parks. He accepts that there are four car parks on site and there is no capacity to increase the on-site parking. Consequently, there is a shortfall of one carpark for the development overall.

The applicant proposes to create two bike parks for use by the tenants. The current parking environment comprises time-restricted parks located on Clark and High Streets and free commuter parking is in use along Maclaggan Street. It is noted that the site is one block away from public transport routes and two blocks from the Exchange in the centre of the city. Based on the provision of the bike parks, the easy access to public transport and that the site is located two blocks from the main street of Dunedin, it is considered that the shortfall of one car park should not be fatal to the application.

Mr Fisher has suggested that the car parks be numbered and allocated to each apartment. If there is a demonstrable adverse effect on the transportation network that car park numbering will address, then the applicant would accept this as a condition of consent.

Overall, it is considered the proposed activity will not give rise to any additional adverse transportation effects that are considered more than minor.

Objectives and Policies

In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the District Plan have been assessed when preparing this application.

Operative district plan

Sustainability Section

Objective	Supporting policy	commentary
Objective 4.2.1 Enhance the amenity values of Dunedin.	Policy 4.3.1 Maintain and enhance amenity values	There is nothing in this proposal which will detract from the pleasantness of the area and adversely affect the amenity values in the vicinity of this site. The proposal is considered to be consistent with this set of objectives and policies.
Objective 4.2.3 Sustainably manage infrastructure	Policy 4.3.5 Require the provision of infrastructure services at an appropriate standard.	It is considered that the infrastructure has the capacity to service the development. The proposal is considered to be consistent with this set of objectives and policies.
Objective 4.2.5 Provide a comprehensive planning framework to manage the effects of use and development of resources.	Policy 4.3.8 Avoid the indiscriminate mixing of incompatible uses and developments.	The proposal will not introduce a new activity into the area. There are already significant residential activities in this area; including on the subject site. Where three zones meet in this manner, a blurring of zone boundaries is not unexpected. If heavy industry now chooses not to locate in this area, it will be because of existing development patterns and zone boundaries, not because of the approval of this particular consent. The application will not extend the range of uses in this zone. The proposal is not considered inconsistent with this set of objectives and policies.

Industrial Section

Objective	Supporting Policies	Commentary
Objective 10.2.3 Ensure non-industrial activities in industrial areas do not limit the operation of industrial activities.	Policy 10.3.2 Exclude activities not part of or associated with industrial activities from the Industrial 1 zone.	While the location of non-industrial activities in the industrial zone have the potential to constrain industrial activities, at this location there is already an indiscriminate mixing of uses in the area. Residential

		activity is already lawfully established on the subject site and this proposal will not change the nature of that use. The proposal is not considered inconsistent with this set of objectives and policies.
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Transportation Section

Objective	Supporting Policy	Commentary
Objective 20.2.2 Ensure that land use activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.	Objective 20.2.4 Maintain and enhance a safe, efficient and effective transportation network.	There is nothing in the proposal which will adversely affect the transportation network. Access is deemed to be adequate and safe. The proposal is considered to be consistent with these sets of objectives and policies.
Policy 20.3.4 Ensure traffic generating activities do not adversely affect the safe, efficient and effective operation of the roading network.	Policy 20.3.5 Ensure safe standards for vehicle access.	
	Policy 20.3.8 Provide for the safe interaction of pedestrians and vehicles.	

Environmental Issues Section

Objective	Supporting policy	Commentary
Objective 21.2.2 Ensure that noise associated with the development of resources and the carrying out of activities does not affected public health and amenity values.	Policy 21.3.3 Protect people and communities from noise and glare which could impact upon health, safety and amenity.	The proposal is well insulated against the noise environment and outdoor amenity space is more protected from noise effects than could reasonably be expected at this location. The proposal is considered to be consistent with this set of objectives and policies.

Overall, it is found that the proposal is not inconsistent with the objectives and the supporting policies of the operative district plan.

Proposed district plan

Objectives	Supporting Policies	Commentary
Objective 2.2.4: Compact and accessible city	Policy 2.2.4.1	The subject site has good access to public transport, has close proximity to the CBD, is

Dunedin stays a compact and accessible city with resilient townships based on sustainably managed urban expansion. Urban expansion only occurs if required and in the most appropriate form and locations.	Prioritise the efficient use of existing urban land over urban expansion by identify existing areas of urban land that could be used more efficiently in a range of locations to provide for medium density housing while minimising any effects on neighbourhood amenity.	compatible with the character of the existing environment, will not adversely impact on the streetscape, is on a relatively flat site with good access to sunlight, in not subject to hazards and meets the needs of the demographic in this area. The proposal is considered consistent with this set of objectives and policies.
Objective 6.2.2 Land use activities are accessible by a range of travel methods.	Policy 6.2.2.1 Require land use activities whose parking demand either cannot be met by the public parking supply, or would significantly affect the availability of that supply for surrounding activities to provide car parking either on or near the site.	The proposal will not unreasonably increase demand on street parking or restrict accessibility of the residents of the site. The proposal is considered consistent with this set of objectives and policies.
Objective 9.2.2 Land use, development and subdivision activities maintain or enhance people's health and safety.	Policy 9.2.2.1 Require activities to be designed and operated to avoid adverse effects from noise on the health of people or, where avoidance is not possible, ensure any adverse effects would be insignificant.	The proposal is well insulated against the noise environment and outdoor amenity space is more protected from noise effects than could reasonably be expected at this location. The proposal is consistent with this set of objectives and policies.
Objective 19.2.1 The industrial zones enable and protect the ability of industrial and port activities to establish and operate by only providing for a very limited range of specified non-industrial or non-port activities to establish and operate.	Policy 19.2.1.9 Avoid residential activity due to its high potential for reverse sensitivity to industrial or port activities, unless it would have significant positive effects on the successful operation of surrounding industrial or port activities	In this instance the indiscriminate mixing in this zone has already occurred. The introduction of the apartment on the ground floor is unlikely to increase the potential for reverse sensitivity as no new sensitive activity is being introduced to the site by this proposal. The proposal is not inconsistent with this set of objectives and policies.

It is noted that decisions on the proposed district plan have not been released and as such little weighting can be given to those objectives and policies. However, for the purposes of the sections 104D tests discussed below, the proposal is not contrary to the relevant objectives and the supporting policies of the proposed district plan.

Other matters

Section 104(1)(c) of the Resource Management Act 1991 requires that regard be given to any other matters considered relevant and reasonably necessary to determine the application. It is considered appropriate to discuss matters of precedent and plan integrity here.

The site is located on the edge of the Industrial 1 zone with Residential 4 zone immediately adjacent and the Central Activity zone directly opposite. Residential activity extends into the industrial zone at 9 Clark Street and at 28 and 66 MacLaggan Street. The subject site currently supports residential activity and the proposal seeks to extend this activity to the ground floor level. It is considered that there are few other reasonable and permitted uses that this ground floor space can be put to which would not adversely affect the legitimate residential activity within the building. It is considered that this situation has sufficient atypical elements to distinguish the proposal from other applications to establish residential units in industrial zones. It is respectfully submitted that the granting this application will not establish an undesirable precedent and undermine the integrity of the district plan.

Section 104D

Section 104D of the Resource Management Act 1991 specifies that resource consent for a non-complying activity must not be granted unless the proposal can meet at least one of two limbs. The limbs of section 104D require that the adverse effects on the environment will be no more than minor, or that the proposal will not be contrary to the objectives and policies of both the operative and proposed district plans. It is considered that the proposal meets both limbs of section 104D as any adverse effects arising from this proposed activity will be no more than minor, and the activity will not be contrary to the objectives and policies of the operative or proposed District Plan.

AFFECTED PARTIES AND NOTIFICATION

For the reasons explained above, no parties are considered to be adversely affected by this proposal. Furthermore, the s95D assessment of effects is deemed to be less than minor. No special circumstances, which would warrant notification, have been identified. We respectfully request that the application is accepted and processed on a non-notified basis.

CONDITIONS

Recent changes to the RMA, took effect on 18th of October 2017. Of these changes, the underlying principles introduced by Section 108AA are relevant when considering conditions to be imposed any resource consent. These principles set out the criteria the consent authorities must consider when imposing conditions.

Conditions can only be imposed on a consent if at least one of the following is satisfied:

- the applicant agrees to the condition;*
- the condition is directly connected to an adverse effect of the activity on the environment;*
- the condition is directly connected to an applicable district rule, regional rule, or national environmental standard; or*
- the condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.*

In this context, an 'applicable rule' means a rule that is the reason, or one of the reasons that a resource consent is required for the activity. (source: MfE Fact Sheet 10)

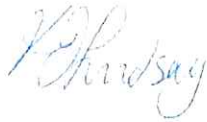
It is respectfully requested that section 108AA is given particular regard to when imposing conditions on this consent,

CONCLUSION

Resource consent is sought for a non-complying activity to establish a seven-bedroom apartment on the vacant ground floor, and reconfigure the three existing apartments on the

first floor, at 5 Clark Street, Dunedin. The site is located in the industrial zone and the application is assessed as a non-complying activity. No adverse effects have been identified and the proposal is not contrary to the objectives and policies of the operative and proposed district plan. It is respectfully requested that consent be granted to this proposal on a non-notified basis.

Yours Faithfully

A handwritten signature in blue ink, appearing to read 'K Lindsay', is positioned above the printed name.

Kirstyn Lindsay
Resource Management Consultant
Southern Planning Solutions Limited

Phone: 0273088950
Email: kirstyn@planningsouth.nz

Appendix 1 – Certificate of Title



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

Search Copy




R. W. Muir
Registrar-General
of Land

Identifier 545479
Land Registration District Otago
Date Issued 17 February 2012

Prior References
OT365/216

ate	Fee Simple
Area	525 square metres more or less
Legal Description	Lot 2 Deposited Plan 439708

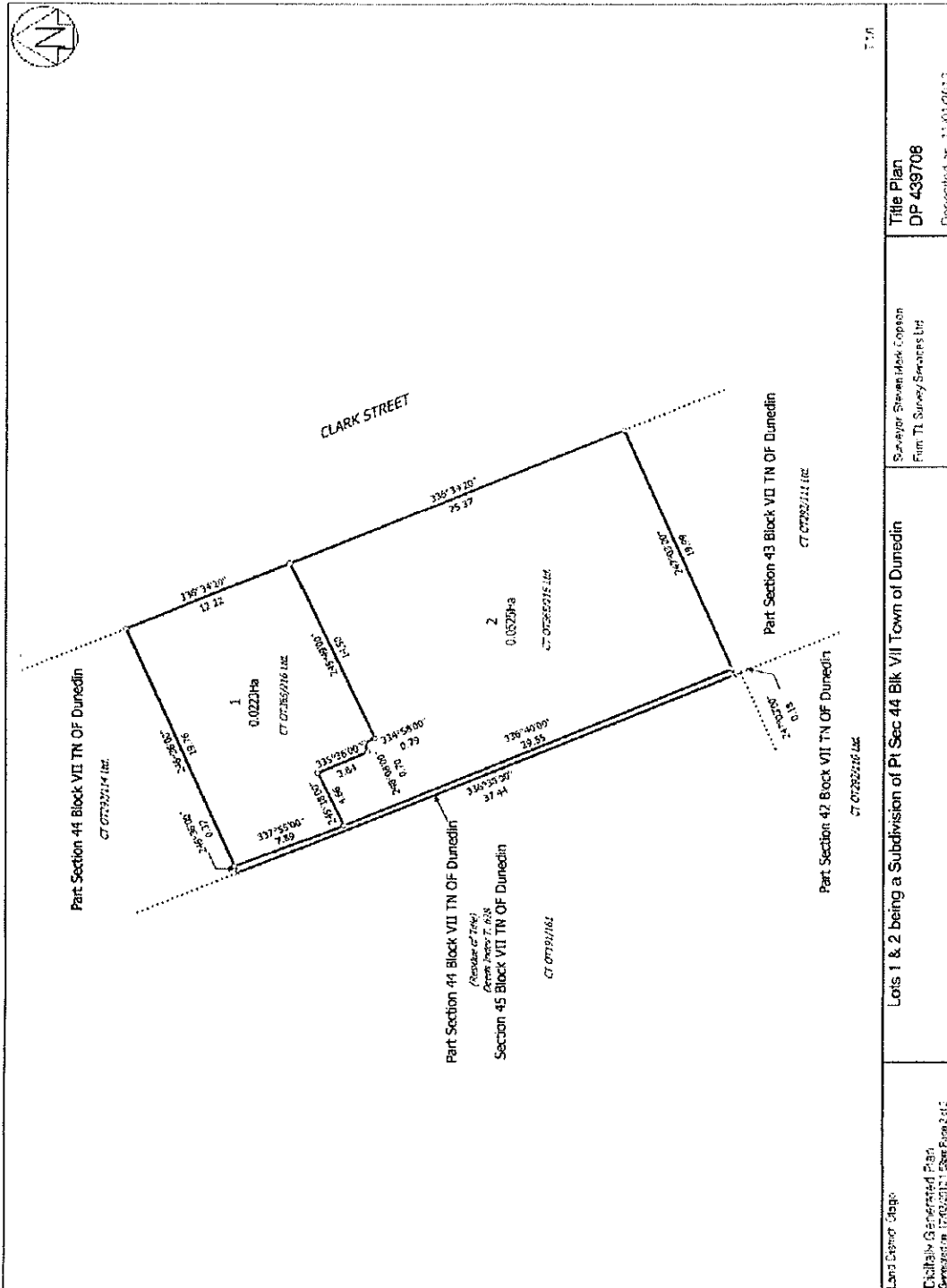
Proprietors

Christopher John McNay and David William Hercus as to a 1/2 share
Nigel Robert Kirkpatrick and David William Hercus as to a 1/2 share

Interests

Identifier

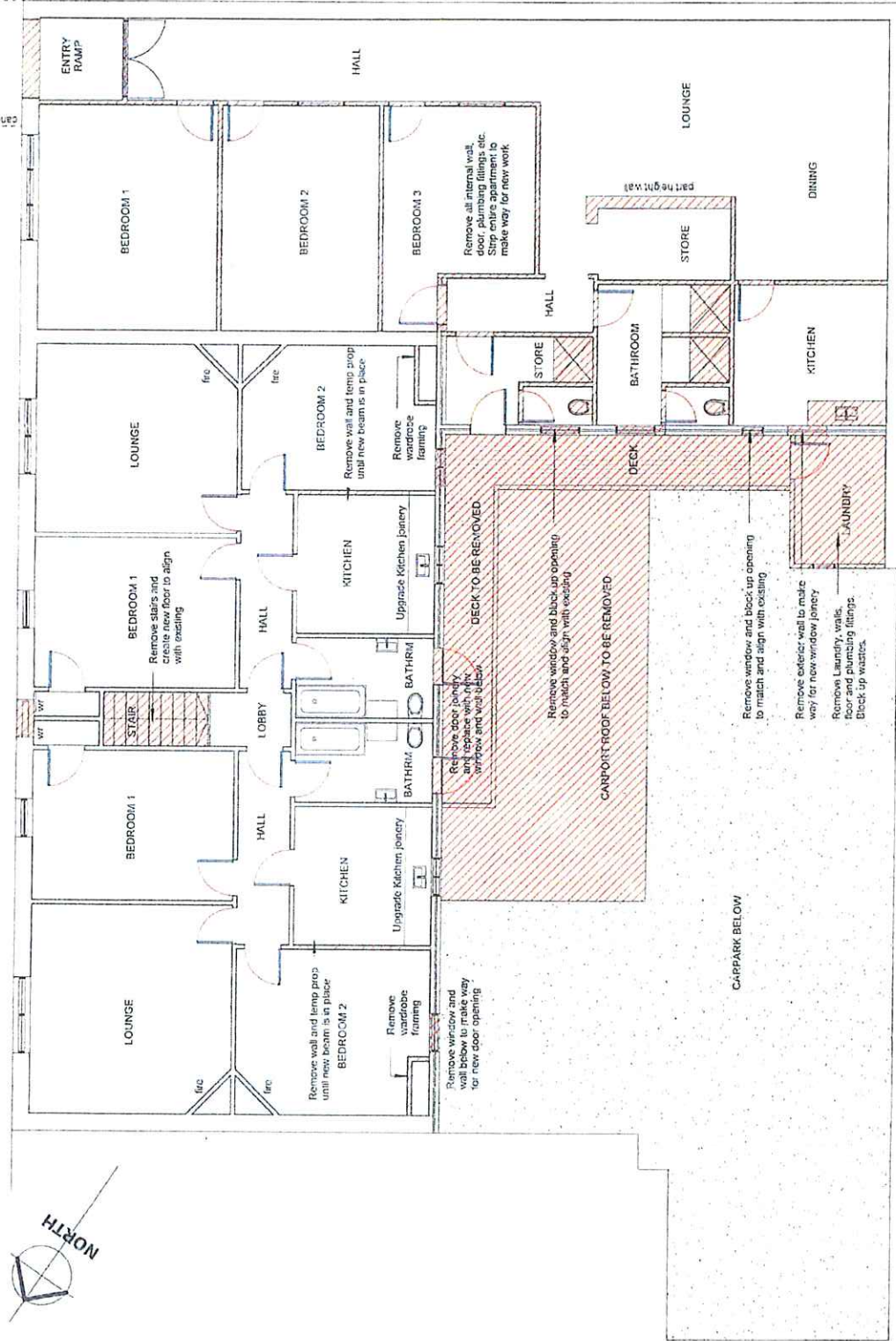
545479



Appendix 2 - Plans

CLARK STREET

FOOTPATH BELOW



EXISTING UPPER FLOOR PLAN
1:100

Demolition shown thus

LEGAL DESCRIPTION
Lot 2
DP 439708
OTAGO
Section 555am
Wind Zone Medium
Existing Site Coverage 75%



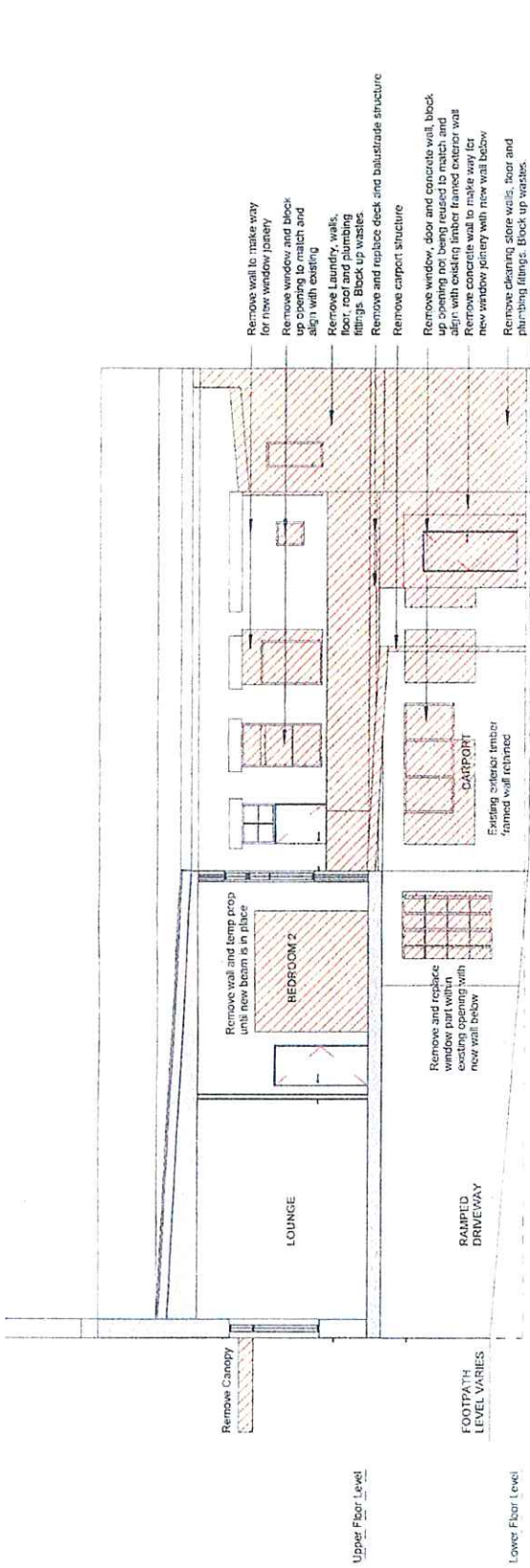
DEVELOPMENT OF 5 & 7 CLARK STREET - DUNEDIN

Page 02

Project: 1077
Date: 26/10/2017
Drawn: A. Miller

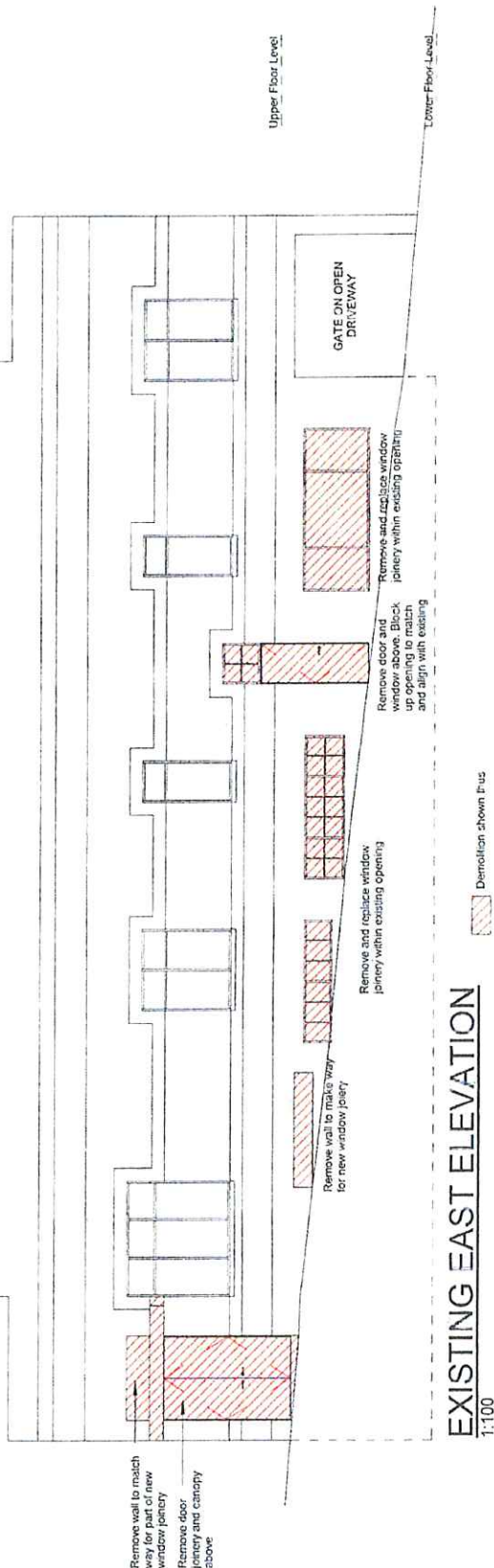
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GARY TODD ARCHITECTURE
PHOTOGRAPHY: JAMES WATSON
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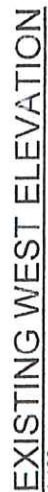
EXISTING NORTH ELEVATION

1:100



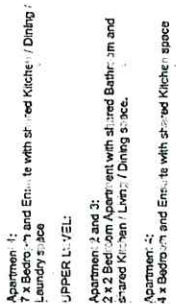
EXISTING EAST ELEVATION

1:100



 Demolition shown thus

provide raised floor to match existing raised floor level

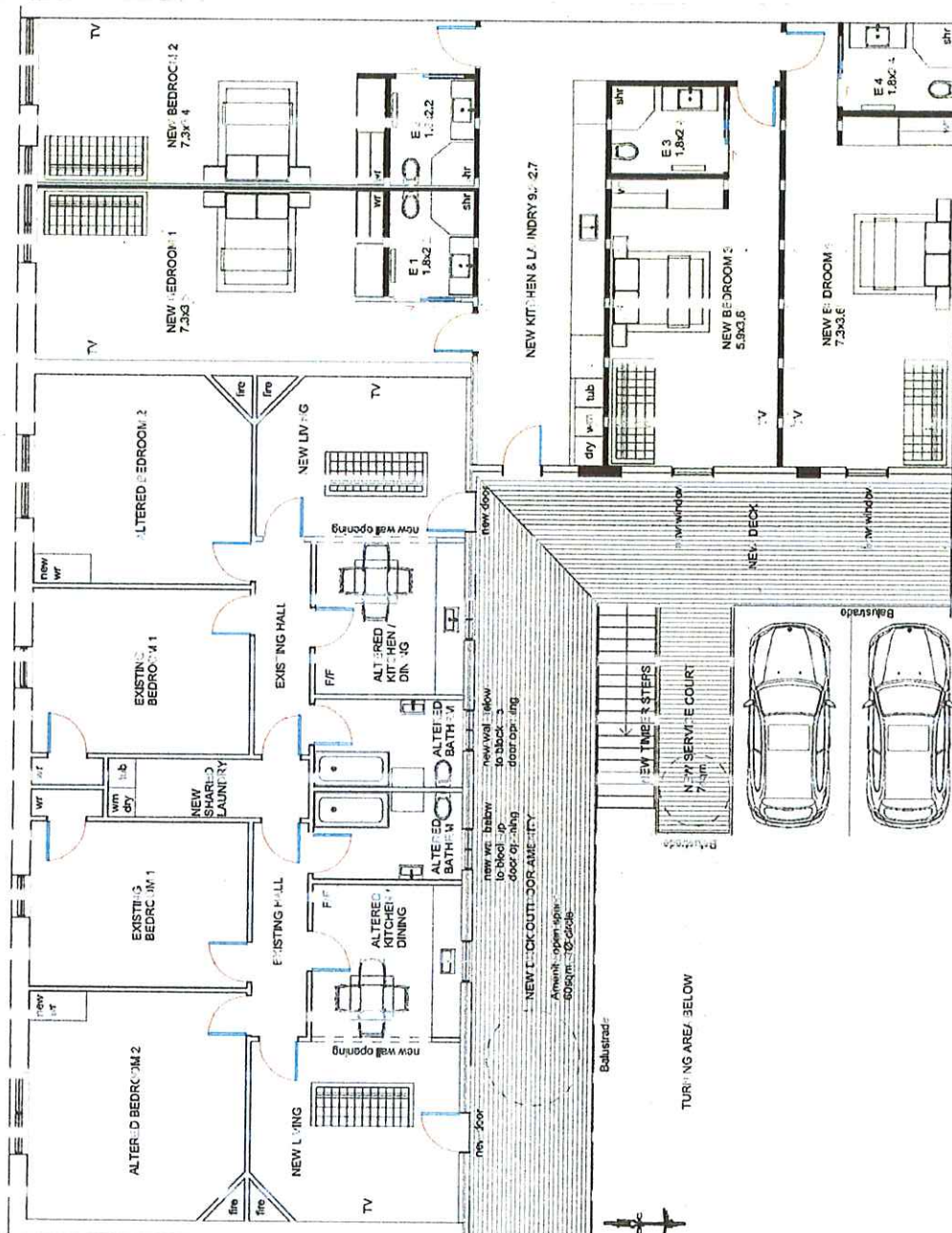


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Footnote below

LEGAL DESCRIPTION
L12
CP 439708
CTAGO
Site Area: 50.5 sqm
Wind Zone: Medium
Existing Site Coverage: 70%
Proposed Site Coverage:



CONVER LEV:

Apartment 1:
7 - Bedroom - En Suite with share Kitchen / Living /
Dining space.

UNIVERSITY OF LEICESTER

Armon 2013.

2-2 Bedroom Apartment with share Bathroom and shared Kitchen / Living / Dining space

Attachment 4:

1 Bedroom - 10 Ensuite - with shared Kitchen & Living Area

TURBIDIMETRIC AREA BELOW

PROPOSED UPPER FLOOR LAYOUT

GEARY TODAY RCHTECH



NZIA
PRACTICE

DEVELOPMENT OF 5 & 7 CARK STREET-DUNEDIN

1000

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Order 260 12012



1:100



20 December 2017
Kirstyn Lindsay
Southern Planning Solutions
Dunedin 9016

Dear Kirstyn,

**RE: 5 Clark Street, Dunedin –
Preliminary Site Investigation**

1.0 Introduction

McNay Somes Partnership is seeking resource consent to support a non-complying activity to establish a seven-bedroom apartment and reconfigure three existing apartments at 5 Clark Street, Dunedin. The site has a long landuse history including the operation of a funeral home and manufacturing of aluminium joinery. These landuses are included on the Ministry for the Environment (MfE) Hazardous Activities and Industries List (HAIL) and are subject to the provisions of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) should soil disturbance, subdivision or landuse change be proposed for the site.

On behalf of McNay Somes Partnership, Southern Planning Solutions lodged a consent application with the Dunedin City Council in October 2017. The DCC has reviewed the consent application and considers that the NESCS is triggered based on the application proposing a change to the zoned landuse of the site, notwithstanding the current residential landuse on the site. It is understood, any earthworks and/or offsite disposal of soil associated with the project would comply with the permitted volumes set out in the NESCS.

In order to address the provisions of the NESCS, Southern Planning Solutions engaged e3scientific Limited to undertake the following:

- review landuse history of the site including historical certificates of title aerial photographs and records held by council;
- assess the contaminants of concern that may be associated with the landuse;
- development of a conceptual site model for the site based on the proposed landuse;
- consideration of the risk to human health associated with the proposed development and the activity status of the proposed development under the NESCS.

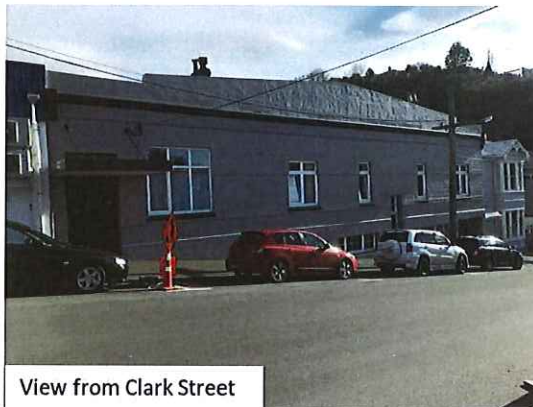
e3scientific Limited (e3s) is an environmental consultancy specialising in contaminated land, ecological and land and water quality services. Our experience in the provision of contaminated land services is provided in Attachment 1.

2.0 Site Location and Description

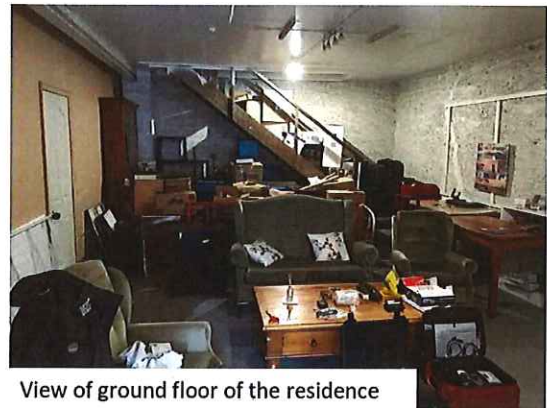
Figure 1 shows the location of 5 Clark Street, Dunedin. The site is legally described as Lot 2 Deposited Plan 439708 and covers an area of 525 m². Under the operative district plan the site is zoned Industrial 1 and under the proposed plan is zoned Industrial.



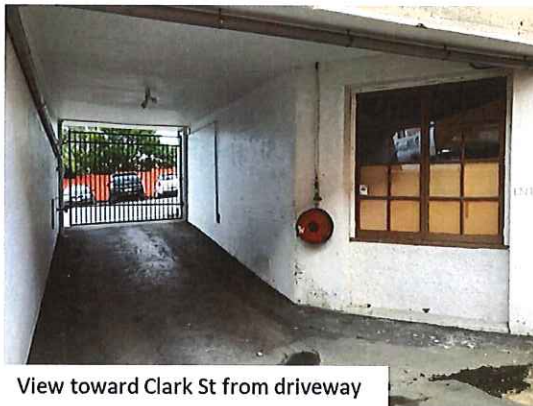
The site is currently utilised for residential activity. Plate 1 presents a series of photographs that show the condition of the outside of the property and a representative photo of the floor space of the building that is proposed for redevelopment. The photographs show the entire site is sealed.



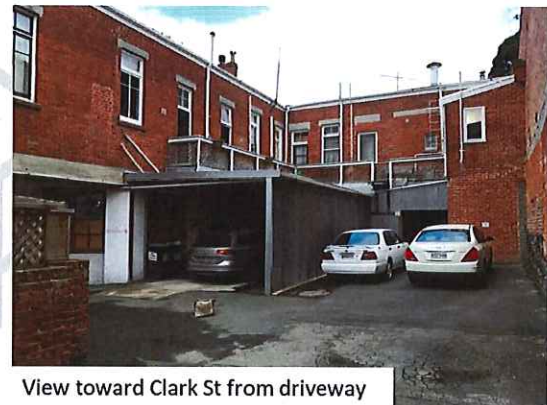
View from Clark Street



View of ground floor of the residence



View toward Clark St from driveway



View toward Clark St from driveway

Plate 1: Representative photographs showing the current layout and condition of the site

The surrounding landuses include:

- North – Precision Mechanical vehicle workshop
- East – Clark Street and then the Accident Compensation Corporation Dunedin premises
- South – Otago Motor Cycle Club
- West – Former G A Lubricants premise

2.0 Landuse History

2.1 Historical Certificates of Title

The following provides a summary of the information obtained from a review of the historical certificate of titles. The titles are provided in Attachment 1.

The first deeds information dates to 1854, when it was owned by Martell (Deeds Index C176). The property then goes through a number of owners and leases through the 1860s and 1870s, until Lund acquires it in 1877. He also leases the land from 1894, until 1899. A new entry is made into the deeds register because there are so many transactions on the deed under T628. In 1907 Lund dies, and under probate the land is bought by H. Gourley. Gourley subleases the property in 1908. Hugh Gourley Ltd is registered on the deed in 1921. It is likely that at this time a new house replaced an older Victorian one.

The deed is brought under the Land Transfer Act in 1939 (OT292/113) under Hugh Gourley Limited. This title is for part of Section 44, and cleans up several outstanding leases. A new title is issued in 1953 (OT365/216). The title is transferred to Francis Thompson, a chartered accountant, and Iain Gallaway a solicitor in 1973. Lindsay Young, a Dunedin hotelkeeper acquires the title in the same year. The Williams' buy it in 1982. In 1994 the title is transferred under the T J and M M Williams Limited. In 2003 Dunleahy Investments Limited buy the land and in 2006 Gourley Investments Limited buys it back. In 2012 a new title is issued (545479) and in 2017 McNay, Hercus, and Kirkpatrick acquire the title.

The site has a very long history of use for the South Island, and unusually a number of leases are registered on the deed/title. Due to its proximity to the city centre, any number of 19th century activities could have taken place on the site, and its likely a mid-19th century house was built on the land before being demolished.

Hugh Gourley Limited was an undertaker and took over ownership of the site in 1921. Drawings provided by the DCC (see Attachment 2) indicate Hugh Gourley Limited lodged plans with the council for the construction of the existing building in the 1920s. The footprint of the building is consistent with the building visible in the 1947 aerial photograph (see Figure 2).

In 1982 Factory Layout plans were approved by the council for Knox Joinery for the ground floor of the building (see Attachment 2). Based on information

provided by the DCC, e3scientific understands both aluminium joinery and timber joinery manufacture was undertaken in the ground floor of the building.

In summary, the information from the historical certificates of title and drawings provided by the DCC show the site has had a very long history. The first confirmed landuse in the 1920s is associated with the funeral home that was run by Hugh Gourley Limited. This funeral home was in operation until around the 1970s when the property was purchase by an accountant and solicitor. In the 1980s an aluminium and timber joinery manufacturer operated from the ground floor of the building.



Figure 2: 1947 Aerial Photograph (source: Dunedin City Council)

3.0 Potential Contaminants

The historical review has found that two HAIL activities have occurred on the property with the potential to impact soil quality. The HAIL activities, category and contaminants associated with the activities are provided in Table 1.

HAIL Activity	Category	Contaminants
Funeral Home	A2 – chemical storage	Lead, mercury, formaldehyde,
Aluminium joinery manufacture	D5 – Engineering workshop with metal fabrication	Metals and oxides of iron, nickel, copper, chromium, magnesium and manganese; range of organic compounds used for cleaning including BTEX, solvents

We note, that the research is unclear on whether the funeral parlour stored chemicals required for embalming. Without this evidence, the PSI assumes embalming was undertaken in the existing building.

e3scientific considers it is unlikely the joinery business would have impacted soil quality as the site was fully sealed and any contaminants lost would most likely have runoff from the site.

4.0 Conceptual Site Model

In order to assess if there may be a risk associated with the proposed development of the site, a conceptual understanding of contaminant sources, exposure pathways and receptors needs to be understood.

4.1 Contaminant Sources

Contaminants associated with the historical landuse of the site are set out in section 3 of this report. It is possible that contaminants associated with these activities may have migrated into the soils beneath the site. In our view the contaminants that are most likely present are heavy metals that are persistent in

soils. If formaldehyde was released to the environment it is unlikely to be in detectable concentrations as this organic compound is readily broken down in soils under both aerobic and anaerobic conditions.

It is highly unlikely volatile hydrocarbons that may have been used in the manufacturing of joinery would be present in soils. This view is based on the following:

- The site was fully sealed during when the joinery business was in operation and accidental loss of chemicals would more than likely run off the site;
- Joinery manufacturers are unlikely to store large volumes of the solvents or hydrocarbons; and
- Any volatile hydrocarbons would have degraded significantly if a release occurred in the 1980s during the period of the joinery operation.

Given the site will remain sealed, contaminants in the soil that could present a risk to people living in the apartments would only be associated with compounds that can migrate from the soil and into the apartments. This risk is confined to vapour or gas migration that may be associated with organic contaminants. In our view it is highly unlikely organic contaminants are present in soils beneath the site that would result in the migration of hazardous ground gas.

4.2 Receptors and Exposure Routes

Receptors associated with the development are the contractors involved in the building work and the people that live in the apartments. There is no credible exposure pathway for people living in the apartments to be exposed to soils with elevated heavy metal levels. As discussed above, it is also highly unlikely organic contaminants are present that would cause a hazardous ground gas to migrate into the apartment buildings.

The contractors undertaking the building of the site may be exposed to soils should excavation activities be required for the installation of services. This work (if any) will be confined to the permitted activity volumes set out under the NESCS. Notwithstanding this point, any contaminants that are present would most likely be heavy metals that bind strongly to soils and are persistent. Based on our understanding of the activities on the site it is highly unlikely heavy metals are

present at levels that would present a risk to construction workers given the short duration of the exposure to the soils.

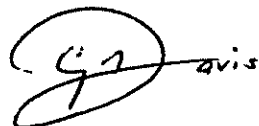
5.0 Conclusion

In summary, the PSI has found that while HAIL activities have occurred on the site, it is highly unlikely that there are contaminants present in the soil that could migrate through the sealed surface and expose the occupants of the proposed apartments. Furthermore, any subsurface work that may be required can be undertaken within the permitted activity volumes set out in the NESCS.

e3scientific concludes that it is highly unlikely there is a risk to human health associated with the construction of apartments within the existing building and the activity should be permitted under regulation 8(4) of the NESCS.

If you have any questions, please call Glenn Davis on 027 376 6588.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Glenn Davis', with a stylized flourish.

Glenn Davis
Principal Environment Scientist

Attachment 1: e3scientific contaminated land experience

Attachment 2: Historical Certificates of Title

Attachment 3: Building Drawings for the existing building and Know Joinery





Contaminated Land Services

e3Scientific is a New Zealand owned and operated environmental science consultancy. Our team deliver technical, innovative science; practical solutions; and expert advice to assist our clients in the smart management of the environment.

e3Scientific provides a range contaminated land services, including:

- Due Diligence Investigations.
- Preliminary Site Investigations.
- Detailed Site Investigations.
- Soil and groundwater remedial advice and management.

Our Contaminated Land Team has a sound understanding of New Zealand's regulatory environment with respect to the assessment and management of contaminated land and has been a major supplier of contaminated land services in Otago and Southland since the contaminated land National Environmental Standard (NES) took effect in January 2012.

Glenn Davis is the Technical Director of the e3Scientific Contaminated Land team and has over 20 years post graduate experience working as an Environmental Scientist. Glenn has completed preliminary site investigations, soil and groundwater investigations, detailed site investigations, and remediation projects for the oil and gas industry, transport, agricultural and land development industries and local and national governments in New Zealand, Australia, Asia, the United Kingdom and Ireland. Glenn is responsible for technical oversight of projects and sign off of contaminated land investigations and is supported by Fiona Rowley and Carrie Pritchard (Senior Environmental Scientists, specialising in Contaminated Land Investigation and Remedial Work), Alexandra Badenhop (Principal Hydrogeologist) and Project Environmental Scientists, Duncan Keenan and Dr Tapuwa Marapara.

e3scientific has completed multiple PSIs, DSIs and remedial projects across New Zealand and regularly provides peer review of site investigations for district and regional councils. Projects have involved investigations into the impact on soil quality associated with operational and historic timber treatment plants, fuel storage and distribution facilities, substations, sheep dips and yards, orchards, vineyards, agricultural activities, gasworks, service stations and operational and closed landfills.





The following provides a summary of key contaminated land work e3scientific is involved in or has completed:

- Hundreds of Preliminary Site Investigations and Detailed Site Investigations to support subdivision, landuse change and earthworks consent applications.
- Support Environment Southland's Selected Landuse Register including the identification of Hazardous Activities on properties across Southland and the registration of HAIL sites.
- Review of groundwater contamination associated with the former Invercargill gasworks site including the completion of a groundwater investigations and an environmental risk assessment to support a discharge consent application.
- Large scale remedial works of former timber treatment plants and sheep dips including the completion of detailed investigations to delineate the extent of contaminated soils, design of remedial action plans, project management of remedial works and completion of site validation and council close out reports.
- Investigations into an area of arsenic impacted soils in Frankton including the completion of detailed investigations to delineate the horizontal extent, consideration of the source of the arsenic, liaison with property owners and council.
- Project management of a bioavailability study of arsenic impacted soils in Gibbston Valley to support a Tier 2 risk assessment associated with a residential development.
- Oversight of the removal of multiple underground fuel storage systems for private residences, schools and oil and gas clients.

The e3Scientific team is committed to professional development, and employing new technologies in the prevention, assessment and remediation of contaminated land. e3Scientific is an active member of the Australasian Land & Groundwater Association and WasteMINZ.





**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**

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Registrar-General
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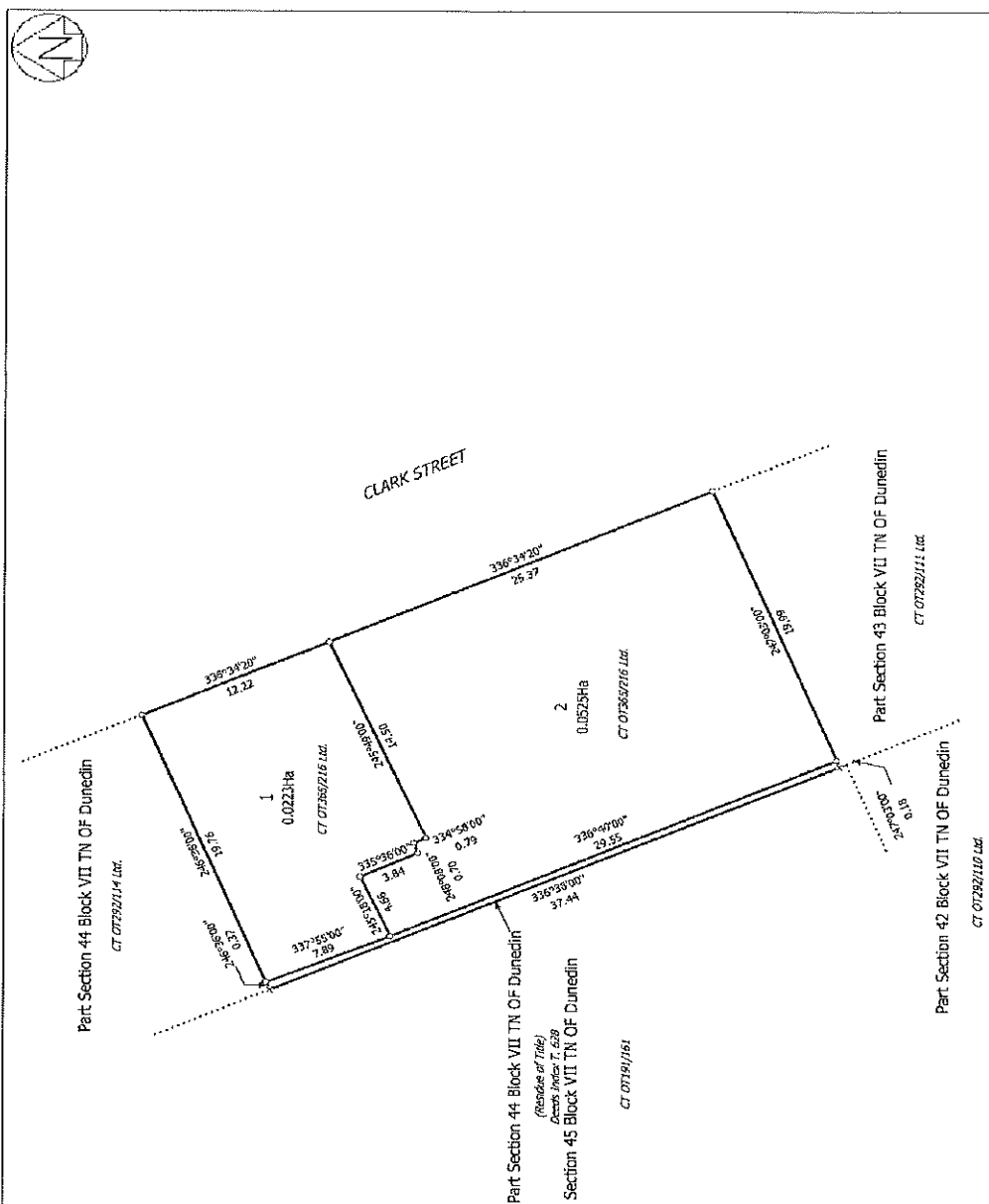
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Nigel Robert Kirkpatrick and David William Hercus as to a 1/2 share

Interests



Land District: Otago Digitally Generated Plan Generated on: 17/02/2012 1:50pm Page 2 of 2	Lots 1 & 2 being a Subdivision of Pt Sec 44 Blk VII Town of Dunedin	Surveyor: Steven Mark Copson Firm: TL Survey Services Ltd	Title Plan DP 439708 Deposited on: 11/01/2012	T.M.
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