

10 March 2017

D H Foote
5 Hawk Lane
Saint Leonards
Dunedin 9022

Dear David

RESOURCE CONSENT APPLICATION: LUC-2016-443
21 EAGLE STREET
DUNEDIN

Your application for land use consent to construct a dwelling with bulk and location control breaches requiring earthworks and retaining at the above site was processed on a limited notified basis in accordance with Sections 95A to 95G of the Resource Management Act 1991 (the Act). No submitters wished to be heard in respect of the application and therefore, pursuant to Section 100 of the Resource Management Act 1991, the application was considered by the Resource Consents under delegated authority, on 10 March 2017.

I advise that the Council has **granted** consent to the application. The decision is outlined below, and the decision certificate is attached to this letter.

DESCRIPTION OF ACTIVITY

The applicant has applied to construct a second dwelling at 21 Eagle Street which contains two titles. There is an existing dwelling on the site which straddles the boundary between the two existing titles with formed access off Kea Street. A small shed is located in the north west corner of the property. Dense hedges extend across most of the north eastern boundary and the north western boundary with a dense cluster of trees and shrubs at the corner of Eagle and Kea Street and some of the northern most area of the site scattered with shrubs and trees.

The proposed dwelling is two storeys and up to 6.5m high. Two vehicle accesses are proposed, one at Kea Street and another at Eagle Street. Attached garaging is located on Eagle Street in the north western corner of the site occupying the front and side yards and protruding through the height plane angle on the northern boundary. Additional garaging is provided beneath a large deck above garaging (supported by retaining wall) off Kea Street. This garage/deck/retaining structure creates an internal yard encroachment between the existing dwelling site and the proposed dwelling site.

The maximum proposed excavation depth is 2.3m required to bench the proposed garaging off Kea Street into the site. Additional retaining is proposed along the boundary with 18 Kea Street, involving cuts of up to 1.0m to site the Eagle Street garaging up to the boundary and other stepped cuts of up to 1.5m continuing along the boundary beyond the garaging.

The total excavation will be approximately 96m³, being 56m³ of excavated material to be removed from the lower level of the house and a further 35-40m³ of imported

quarried material to be utilised as bulk fill and drainage material under the floor of the double garage in the upper level off Eagle Street.

HISTORY OF THE SITE

The site already contains an existing dwelling however, a subdivision and land use consent was granted on 24 March 2016 (SUB-2016-9 and LUC-2016-62) to subdivide the land at 21 Eagle Street into two lots and for several internal bulk and location breaches of the existing house on proposed lot 2. Proposed Lot 1 comprises the site which is the subject of this application and is referred to as proposed Lot 1 in the effects assessment below.

The original subdivision approved bulk and location breaches of the existing dwelling involving a front yard breach by 3.0m and height plane angle breach which were already established.

The site is still legally described as Allotment 15 Deposited Plan 231 (contained in CFR OT132/75) comprising 390m² in area and Allotment 16 Deposited Plan 231 and Lot 2 Deposited Plan 362764 contained in CFR 675646 comprising 717m² in area. Following the issue of new titles, the subject site (proposed Lot 1 of SUB-2016-9) will have a new legal description. However, as the title process is not completed, the application has been assessed as if the site remains as being contained within one whole title, and also as proposed new Lot 1.

ACTIVITY STATUS

The subject site is zoned **Residential 1** in the Dunedin City District Plan. Eagle Street and Kea Street are classified as a **Local Roads** in the Plan's Roading Hierarchy. There are no designations registered against the site.

Residential activity is a **permitted activity** in the zone subject to compliance with performance standards outlined under Rule 8.7.2. The following assessment is split to show areas of non-compliance across the entire site of 19 and 21 Eagle Street and the areas of non-compliance affecting the individual site of (affecting the individual site of 19 Eagle Street): The proposal fails to comply with the following standards:

Whole Site Including 19 and 21 Eagle Street:

Rule 8.7.2(i)(a) requires a minimum 4.5m front yard and a minimum side yard of 2.0m. The proposed dwelling (with attached garaging) occupies up to 4.5m of the front yard and 1.9m of the side yard for a length of up to 8m.

Rule 8.7.2(ii) requires a height plane angle of 63° to be free of any structures. The proposed attached garaging protrudes through the height plane by 27°.

The proposed earthworks do not comply with Rule 17.7.3(i) Minimum Setback Distance, with respect to the distance of cut from the property boundary. As such, this part of the proposal is assessed as a **controlled activity**, pursuant to Rule 17.7.4(ii).

These earthworks are controlled in respect of:

- (a) Design and engineering of retaining structures and earthworks.
- (b) Effects on the stability of land and buildings.
- (c) Effects on the surface flow of water and on flood risk.
- (d) Effects on underground utilities.

Conditions that may be imposed include, but are not limited to:

- (e) Maximum slopes of cut and fill batters.
- (f) Supervision and monitoring requirements for:
 - retaining wall construction;
 - standard earthworks construction;

- earthworks construction to NZS 4431:1989.
- (g) Measures to control flooding and erosion.
 - (h) Set-back distances from easements for underground services.
 - (i) Time to completion of works.

The proposed earthworks do not comply with either Rule 17.7.3(ii) Scale Thresholds or Rule 17.7.4(iii). As such, this element of the proposal is assessed as a **restricted discretionary activity**, pursuant to Rule 17.7.5 (ii).

The Council's discretion under this rule is restricted to:

- (a) Adverse effects on the amenity of neighbouring properties.
- (b) Effects on visual amenity and landscape.
- (c) Effects on any archaeological site and/or any cultural site.
- (d) Effects on the transportation network, caused by the transport of excavated material or fill.
- (e) Effects from the release of sediment beyond site boundaries, including transport of sediment by stormwater systems.
- (f) Cumulative effects relating to any of these matters.

As the earthworks were not granted an earthworks permit prior to 1 July 2010 and do not form part of a project that was granted building consent on or after 1 July 2010, the Council's discretion will also extend to the following matters:

- (g) Design and engineering of retaining structures and earthworks.
- (h) Effects on the stability of land and buildings.
- (i) Effects on the surface flow of water and on flood risk.
- (j) Effects on underground utilities.

In assessing these effects, the Council will have regard to the matters in 17.8.1 to 17.8.6.

Under Rule 8.7.4(i) the activity is a **restricted discretionary activity**. Council's discretion is restricted to the condition or conditions with which the activity fails to comply.

Individual Site - 19 Eagle Street:

Rule 8.7.2(v) requires 40% maximum site coverage. 45% site coverage is proposed.

Rule 8.7.2(i)(a) requires a minimum 4.5m front yard. The proposed dwelling (with attached garaging) occupies up to 4.5m of the front yard.

Rule 8.7.2(i) requires a minimum side yard of 2.0m. Until titles are created, an internal side yard infringement exists on the south western boundary created by an extension of the deck and retaining structure. Additionally, the proposed dwelling (with attached garaging) occupies 1.9m of the northern side yard for a length of up to 8m.

Rule 8.7.2(ii) requires a height plane angle of 63° to be free of any structures. The attached garaging protrudes through the height plane by 27°.

The proposed earthworks do not comply with Rule 17.7.3(i) Minimum Setback Distance, with respect to the distance of cut from the property boundary. As such, this part of the proposal is assessed as a **controlled activity**, pursuant to Rule 17.7.4(ii).

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- (g) Design and engineering of retaining structures and earthworks.
- (h) Effects on the stability of land and buildings.
- (i) Effects on the surface flow of water and on flood risk.
- (j) Effects on underground utilities.

In assessing these effects, the Council will have regard to the matters in 17.8.1 to 17.8.6.

Under Rule 8.7.4(i) the activity is a **restricted discretionary activity**. Council's discretion is restricted to the condition or conditions with which the activity fails to comply.

Proposed Second Generation Dunedin City District Plan ("Proposed 2GP")

The site is located in the **Township and Settlement Zone** and is identified in an **Archaeological Alert Layer**.

The Proposed 2GP was notified on 26 September 2015, and some 2GP rules have immediate legal effect. In this instance, there are no relevant 2GP rules to consider.

Overall, the application is assessed as a **restricted discretionary activity** in accordance with the Operative Plan, whether assessed as one site (19 and 21 Eagle Street) or as an individual site (19 Eagle Street).

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 came into effect on 1 January 2012. The National Environmental Standard applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL

sites may need to comply with permitted activity conditions specified in the National Environmental Standard and/or might require resource consent.

It is considered, more likely than not, that no activities have been undertaken on the site that appear on the HAIL. As such, the National Environmental Standard is not applicable to the proposal.

WRITTEN APPROVALS, NOTIFICATION AND SUBMISSIONS

Following the close of submissions, the written approval of the person detailed in the table below has been obtained. In accordance with Section 104(3)(a)(ii) of the Resource Management Act, the Council cannot have regard to the effects of the activity on this person.

Person	Owner	Occupier	Address	Obtained
Elizabeth Ann Edwards	✓	✓	18 Kea Street	15/2/17

No other persons are considered to be adversely affected by this proposal. The assessment below outlines the consideration for adverse effects on the streetscape.

Note: The applicant is also the owner of proposed Lot 1 (19 Eagle Street) which forms part of the application site.

After initial consideration of the application, it is considered that the adverse effects of the proposal would be no more than minor, having regard to the surrounding environment and the mitigation measures proposed.

It was therefore determined that the effects of the proposal would be restricted to a limited number of parties being the owner and occupier of the property at 18 Kea Street due to potential dominance effects associated with a continuous breach of the side yard adjoining that property. The written affected party approval of this party was not obtained prior to the hearing and the application was, therefore, notified on a limited basis on 12 December 2017.

Copies of the application were sent to the following parties with submissions closing on 30 January 2017:

- Elizabeth Edwards of 18 Kea Street.

One opposing submission was received by the close of the submission period from the party notified on 17 January 2017 and they wished to be heard. The party considers the high structure on the boundary would be imposing and adversely affect privacy within their property. The party notes that there is scope to amend the proposal so that the building is entirely within the yard and height plane requirements.

Note: A revised plan also signed by the affected person (18 Kea Street) identifies the maximum site coverage breach of 45% (allowing for the garage to be located up to the boundary) however the plan also shows only a 7.5m long garage on the boundary with 8 Kea Street. It was not considered necessary to require the re-signing of the plans given the neighbour has signed the original plans showing 8m and the revised plan showing 7.5m. The other differences between the two plans which relate to site coverage and the degree of front yard encroachment are considered to have a negligible impact on the 18 Kea Street property owner. The increased site coverage relates to an interpretation as to whether the proposed deck area should be included in the site coverage rather than any physical increase in the building footprint on the site. And, the change in the degree of front yard encroachment whether 4.35m or 4.5m is not considered to have a visual impact on the adjoining property owner at 18 Kea Street.

An error in the scale of the Site Plan was identified on the Site plan signed by the Affected Person – the scale is shown at 1:100, however the scale should be 1:200. The correct garage length is identified correctly on all other accompanying plans also signed by the neighbour. Therefore, it was not considered necessary for the Applicant to re-obtain the written approval of the property owner.

Requirement for hearing

While the original opposing submission has not been formally withdrawn, the opposing submitter has now signed a written approval form which was submitted following the close of submissions. This is considered to have the same effect as a withdrawal of the original opposing submission. The submitter has confirmed that they do not wish to be heard. Therefore, it is considered that there is no need for a hearing of the application (section 100 of the Act). Accordingly, the Manager Resource Consents, in consultation with the Chairperson of the Consents Hearings Committee, determined that a hearing is not necessary and that the decision can be made under delegated authority.

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

Section 104(1)(a) of the Act requires that the Council have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in section 3 of the Act as including-

- a) *Any positive or adverse effect; and*
- b) *Any temporary or permanent effect; and*
- c) *Any past, present, or future effect; and*
- d) *Any cumulative effect which arises over time or in combination with other effects—
regardless of the scale, intensity, duration or frequency of the effect, and also includes –*
- e) *Any potential effect of high probability; and*
- f) *Any potential effect of low probability which has a high potential impact.*

1 Baseline Considerations

An important consideration for the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. The purpose of the permitted baseline assessment is to identify the non-fanciful effects of permitted activities and those effects authorised by resource consent in order to quantify the degree of effect of the proposed activity. Effects within the permitted baseline can be disregarded in the effects assessment of the activity. In this situation, a dwelling/garaging of up to 9m in height could be established on the site, covering 40% of the site. An accessory building, in association with a residential activity, may be constructed in any side or rear yard provided it complies with the height plane and does not exceed a maximum length of 6m (providing it is separate from the dwelling).

It is considered that this is the appropriate baseline against which the activity should be considered, and against which the proposal has been assessed. As a result, it is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements and these are considered further below.

BULK AND LOCATION

2 Bulk and Location, Amenity Values and Character and Design and Appearance (8.13.3, 8.13.5 and 8.13.6)

The proposed attached garage occupies the front yard for a distance of approximately 7.0m with a vehicle access width of 6.0m. The street facing profile of the garage portion of the dwelling is relatively wide, however, unobtrusive in design with a low sloping roof profile. The north elevation illustrates the profile of the garage when viewed from the adjoining property at 18 Kea Street. The profile of the existing garage is shown on the elevation to illustrate the changed scale. While the existing garage appears to be unauthorised, it is helpful to view the difference in scale from the existing complying structure to that of the proposed garage. A complying shed of 6.0m in height could be erected, albeit at a distance of 4.5m back from the road and 2.0m setback. The proposed attached garage is less than 1.0m higher than the height of the existing shed, approximately 2.0m longer than the existing shed, and occupies the front yard by an additional 2.0m. The proposed infringement areas are located on the southern side of the adjoining property. The owner of the southern adjoining property has provided their written approval therefore, no further consideration for the adverse effects on that property can be given.

The application was forwarded to the Council's Urban Design Officer for comment to assess the impact of the proposed front yard encroachment on the streetscape amenity. The Officer thought that there was potential for the proposed siting of the garage to cause less shading and bulk issue for the northerly neighbour (18 Kea Street) in the proposed location than if it was setback from the street in a complying position. The Officers noted the siting of the outdoor areas on 18 Kea Street which are located about 10m set back from Eagle Street. The Officer considered a location as far forward on the site as possible (and as proposed) avoided the garaging being directly adjacent to the neighbours outdoor space and outlook. The Officer noted the presence of two properties in the street with single garages at the front boundary which sets a bit of a precedence for structures located in the front yard on the street. The Officer agrees that the wide grass verge in Eagle Street also offers some mitigation from any adverse effects on the streetscape.

Additionally, the Officer made the following comments:

"We also felt that the effects of the garage at the street boundary would be largely mitigate by the existing topography as the hill slopes down quite sharply and this will keep the roof lines low when viewed from the street.

I also agree with your observation that the existing grass verge provides a sense of setback and further note that while setbacks are relatively regular on the north/west side of the street, they range between 0-20m on the south/east side and therefore there is no existing regular setback as part of the existing streetscape. The south/east side of the street has continuous and established vegetation/hedges along street boundaries and this is a positive aspect of the streetscape.

There are currently two properties in the street with garages at the front boundary (one is a double garage). Number 9 Eagle Street also has a small two storied building (possible sleep-out) at the street boundary – therefore there is some precedence for buildings at street boundaries and these provide a useful gauge of effects. In my view, the negative effects of these structures varies based how well (or not) they have been designed to integrate with the streetscape and main dwelling. Buildings on the west side of the street tend to be more prominent simply because they are raised on the high side of the street. The proposed garage is integrated with the main dwelling in terms of materials and roof lines. No

windows are proposed along the northern wall of the garage. In some circumstances this could be dominant and cause issues of bulk at the street however in this instance I feel it would not be the case because of the low profile (as viewed from the street) of the proposed building.

Views across the harbour to hills and bay settlements may be slightly blocked from some locations on Eagle street (less so from elevated sites on the north/west side of the street) however, I feel these are very minor and would have little effect on the overall amenity provided by the current outlook.

Overall, I maintain my opinion that the effects on streetscape and amenity values would be less than minor."

The site (21 Eagle Street) complies with the site coverage, however, individually, proposed Lot 1 (19 Eagle Street), does not comply being 5% above the minimum site coverage at 45%. The site is a long narrow site, sloping west to east, with the proposed dwelling stepping down across the length of the site. The additional site coverage largely results from a deck area extending off the southern elevation. Proposed Lot 2 (adjoining the site to the south) is the neighbouring property most affected by the additional coverage and is owned by the Applicant. At all other aspects, off the street facing elevations, the setbacks are maintained. Amenity open space areas at ground level are maintained, in addition to elevated deck areas on the south western elevation and a balcony on the northern elevation. Therefore, the effects of the bulk and location of the structure will not cause any adverse effects on the wider environment surrounding the site.

This two storey dwelling design of up to 6.5m in height with several cladding materials and is considered to be of a design and appearance that will not affect the general scale or character of the area and will not have an adverse effect on the amenity of the neighbourhood.

The proposal is for a residential activity in a residential zone and in this respect the effects of the activity on amenity values and the character of the area have largely been anticipated by the zoning of the site. I concur with the Urban Design Officer's assessment above, and consider the proposal will have effects on the streetscape and amenity that are less than minor.

3 Transportation (8.13.7)

The application was not forwarded to Council's Transport Department for comment. Sufficient on-site parking is provided and access complies with the provisions of the Plan with regard to access width. Advice notes are included in this decision regarding the required standard of formation for the access.

4 Cumulative Effects (8.13.13)

The effects of the existing activity in the area are presently not significant. The Urban Design Officer noted the presence of two single garages in the street in the front yard, however, no concerns have been raised with the cumulative adverse effect of a new double garaging occupying the front yard. The wide grass verges The effects from this proposal are not expected to add to the existing effects such that the cumulative effects will be no more than minor. Future applications for activity in the area, beyond that permitted 'as-of-right' by the District Plan, will be assessed as and when they arise and the potential for cumulative effects considered again at that time.

EARTHWORKS

5 Effects on Stability and Sedimentation Effects (Assessment Matter 17.8.1 and 17.8.6)

Given the integral retaining walls proposed for the dwelling and attached garaging and their proximity to the boundary, the application has been assessed by the Council's Consultant Engineer. The Engineer has noted the proximity of the

property to the east however, notes that the adjoining property (18 Kea Street) is significantly lower than the existing ground level on the subject property. The Engineer considers that stability hazards are likely to be reduced as a result of the works.

The Engineer notes that the proposed earthworks are terraced in an effort to minimise excavation volumes, and this results in an apparently low-risk construction. The Engineer has not identified any general potential instabilities of concern. Nor does the Engineer consider that the proposal will create or exacerbate instabilities on this or adjacent properties.

Based on the Engineer's assessment above and assuming compliance with the conditions of consent, I consider that the earthworks will have a no more than minor effect on site stability nor will result in sedimentation beyond the property boundary.

6 Design and engineering of retaining structures and earthworks and the effect on the stability of land and buildings.

The retaining proposed is of standard reinforced concrete block construction.

7 Effects on the surface flow of water and on flood risk.

The Consultant Engineers have not identified any potential adverse effect of the earthworks for the surface flow of water on the site or any adjoining property or any potential to exacerbate flood risk.

8 Effects on underground utilities.

There are no underground services affected by the works within the site.

9 Effects on Neighbours (Assessment Matter 17.8.2)

The proposed earthworks are associated with residential activity and are, therefore, anticipated within this zone. The earthworks will be contained within the subject site. At the boundary with 18 Kea Street, the earthworks will result in cuts rather than elevated ground levels, thereby, reducing the effect of the development on the neighbours rather than increasing the impact.

It is expected that there will be noise effects associated with the construction of any development. In regard to the proposed construction activity, this shall be limited to the times set out below and shall comply with the following noise limits as per New Zealand Standard NZS 6803:1999:

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

The discharge of dust can cause a nuisance in dry conditions and falls under the jurisdiction of the Otago Regional Council. An advice note has been attached to this consent instructing the developer to dampen any loose soil to prevent dust escaping from the property boundary. In regard to vibration, the applicant is advised to inform his neighbours of the timing and scale of the proposed works, prior to any works being undertaken.

Overall, I consider that the development of the site is associated with residential activity and is to be expected within this zone. Provided conditions of consent are adhered to and advice notes followed, I consider that the effects on the neighbours will be no more than minor. In addition, it is my opinion that the design and appearance of the activity will not affect the general scale or character of the area and will not have an adverse effect on the neighbourhood.

10 Effects on Visual Amenity and Landscape (Assessment Matter 17.8.3)

As set out under the effects on neighbour's discussion above, the excavated areas will be covered by the proposed development, thereby limiting any impact on the visual amenity of the site and surrounds.

11 Effects on Archaeological and Cultural Sites (Assessment Matter 17.8.4)

There is no indication that the site has any archaeological and cultural significance.

12 Effects on the Transportation Network (Assessment Matter 17.8.5)

The proposed earthworks are to be contained within the site. While there will be a number of truck movements associated with the earthworks, these are to be expected with any building project and given the scale and duration of the earthworks, it is unlikely to have a more than minor effect on the transportation network.

Proposed 2GP

In this instance, there are no applicable assessment rules.

13 Effects Assessment Conclusion

After considering the likely effects of this proposal above, overall, I consider the effects of the proposal to be minor.

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of Objectives and Policies of the Dunedin City District Plan (section 104(1)(b)(vi))

In accordance with Section 104(1)(b) of the Resource Management Act 1991, the following objectives and policies of the Dunedin City District Plan and the proposed 2GP were considered to be relevant to this application.

Dunedin City District Plan

The proposal is considered to be consistent with the following objectives and policies:

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)** – the proposal is considered to be consistent with this objective and policy which seek to enhance and maintain the amenity values of the Dunedin area.
- **Objective 8.2.1 and Policy 8.3.1 (Residential Section)** – the proposal is considered to be consistent with this objective and policy which seek to ensure the adverse effects on the amenity values and character of residential areas are avoided remedied or mitigated.
- **Objective 17.2.3 and Policy 17.3.9 (Earthworks Section)** - the proposal is considered to be consistent with this objective and policy which seek to control the location and scale of earthworks and to ensure that earthworks are undertaken in

a manner that is safe and in a manner that minimises adverse effects on the environment.

- **Objective 20.2.1 and Policy 20.3.1 (Transportation Section)** the proposal is considered to be consistent with this objective and policy which seek to avoid, remedy or mitigate adverse effects on the environment arising from the use of the transportation network.

Proposed 2GP

The objectives and policies of the 2GP must be considered alongside the objectives and policies of the current district plan. The proposal is considered to be consistent with the following 2GP objectives and policies:

- **Objective 15.2.2 and Policy 15.2.2.1 (Residential Zones)** - the proposal is considered to be consistent with this objective and policy which seek to ensure that residential activities, development, and subdivision activities provide high quality on-site amenity for residents.
- **Objective 15.2.3 and Policy 15.2.3.1 (Residential Zones)** - the proposal is considered to be consistent with this objective and policy which seek to ensure that activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.
- **Objective 15.2.5 and Policies 15.2.5.1, 15.2.5.2 and 15.2.5.3 (Residential Zones)** - the proposal is considered to be consistent with this objective and policy which seek to ensure that earthworks associated with permitted or approved land uses are enabled, while avoiding or mitigating adverse effects on visual amenity and character, the stability of land and buildings, and surrounding properties.
- **Objective 6.2.3 and Policy 6.2.3.10 (Transportation Section)** - the proposal is considered to be consistent with this objective and policy which requires carports to be set back an adequate distance from the road boundary to allow pedestrians and cyclists sufficient space from garage doors opening over the footpath.

As the Proposed 2GP is not far through the submission and decision-making process, the objectives and policies of the Dunedin City District Plan have been given more consideration than those of the Proposed 2GP.

Having regard to the relevant objectives and policies individually, and considering these in an overall way, the above assessment indicates that the application is consistent with those provisions.

Assessment of Regional Policy Statements (section 104(1)(b)(v))

Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. The Regional Policy Statement for Otago was made operative in October 1998 and has been taken into account. The regional policy statement has a regional focus that includes development in hazard areas. The proposal was assessed against the objectives and policies of Chapter 4: Manawhenua, and Chapter 5: Land.

The Proposed RPS (PRPS) is under review and Otago Regional Council has released its decisions on Saturday 1 October 2016. Appeals on the PRPS are still being resolved. The proposal was assessed against the PRPS, in particular, objectives and policies of Chapters 1 (Kāi Tāhu Values, Rights and Interests/Kaitiakitaka and Chapter 3 (Resilient, Safe and Healthy Communities).

Objective 1.1 and 1.2 seek to take the principles of the Treaty of Waitangi into account and sustain Kāi Tāhu values, rights and customary resources. Policies 1.1.2 and 1.2.1 seek to manage the natural environment to support Kāi Tāhu wellbeing.

Objective 3.4 seeks to achieve good quality infrastructure and services that meet community needs. Policy 3.4.1 seeks to achieve the integration of infrastructure with land use by designing to meet the actual and reasonably foreseeable land use change. Policy 3.4.2 seeks to manage infrastructure activities to maintain or enhance health and safety of the community and to reduce adverse effects of those activities including cumulative adverse effects on natural and physical resources.

Objective 3.7 seeks to ensure a high quality built environment that is well designed and integrates effectively with the adjoining urban environment, thereby reducing pressure on the surrounding productive and natural environment and policies designed to achieve objective 3.7 seek to promote low impact design techniques and warmer buildings. The proposal is not considered to be inconsistent with these objectives and policies.

Overall, the proposal is not considered to be inconsistent with the relevant objectives and policies of both the current and proposed Regional Policy Statement for Otago.

As such, overall, the proposal is considered to be consistent with the relevant objectives and policies of the statement.

DECISION MAKING FRAMEWORK

Part 2 Matters

There is no ambiguity, incompleteness or illegality in the District Plan which necessitates assessment in terms of Part 2 matters of the Resource Management Act 1991.

Section 104

Section 104(1)(a) states that the Council shall have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall will be minor.

Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be consistent with the key objectives and policies relating to the Residential Zones, Transportation and Earthworks Sections of the Dunedin City District Plan and the Proposed 2GP.

Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it was concluded that the application is consistent with the relevant objectives and policies of the Regional Policy Statement for Otago, in particular [State Relevant Policies].

Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.

CONCLUSION

Having regard to the above assessment, I recommend that the application be granted subject to appropriate conditions.

CONSENT DECISION

That, pursuant to Sections 34A(1), 104 and 104C of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council grants consent to a discretionary (restricted) activity to construct a dwelling with attached garaging that

breaches the bulk and location rules and associated earthworks on the site at 21 Eagle Street, legally described as Allotment 15 Deposited Plan (CFR OT132/75), Allotment 16 Deposited Plan 231 and Lot 2 Deposited Plan 362764 (CFR 675646) and proposed Lot 1 subject to the conditions imposed under Section 108 of the Act, as shown on the attached certificate.

REASONS FOR DECISION

Provided that the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated and will be minor.

The proposal is considered to be consistent with the key relevant objectives and policies of the Dunedin City District Plan and the Proposed 2GP.

The proposal is considered to be consistent with the objectives and policies of the Operative Regional Policy Statement for Otago and the Proposed Regional Policy Statement.

There is no ambiguity, incompleteness or illegality in the District Plan which would necessitate an assessment in terms of Part 2 matters of the Resource Management Act 1991.

Overall, the proposed development has been assessed as not being likely to give rise to adverse effects on those elements of the Residential 1 Zone that the Dunedin City District Plan seeks to protect.

COMMENCEMENT OF CONSENT

As stated in section 116 of the Resource Management Act 1991, this consent shall only commence once the time for lodging appeals against the grant of the consent expires and no appeals have been lodged, or the Environment Court determines the appeals or all appellants withdraw their appeals, unless a determination of the Environment Court states otherwise.

RIGHTS OF APPEAL

In accordance with section 120 of the Resource Management Act 1991, the applicant and/or any submitter may appeal to the Environment Court against the whole or any part of this decision within 15 working days of the notice of this decision being received. The address of the Environment Court is:

The Registrar
Environment Court
PO Box 2069
CHRISTCHURCH 8140

Any appeal must be served on the following persons and organisations:

- The Dunedin City Council.
- The applicants.
- Every person who made a submission on the application.

Failure to follow the procedures prescribed in sections 120 and 121 of the Resource Management Act 1991 may invalidate any appeal.

Please direct any enquiries you may have regarding this decision to Melissa Shipman whose address for service is City Planning, Dunedin City Council, P O Box 5045, Dunedin 9058.

Prepared by:



Melissa Shipman
Planner

10 March 2017

Approved by:



Alan Worthington
Resource Consents Manager

10 March 2017

Consent Type: Land Use Consent

Consent Number: LUC-2016-443

Pursuant to Sections 34A(1), 104 and 104C of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **discretionary (restricted)** activity to construct a dwelling and attached garaging that breaches bulk and location rules and associated earthworks on the site at 21 Eagle Street, legally described as Allotment 15 Deposited Plan 231 (CFR OT132/75) and Allotment 16 Deposited Plan 231 and Lot 2 Deposited Plan 362764 (CFR 675646), subject to the conditions imposed under Section 108 of the Act.

Location of Activity: 21 Eagle Street, Dunedin

Legal Description: Allotment 15 Deposited Plan (CFR OT132/75)
Allotment 16 Deposited Plan 231 and Lot 2 Deposited Plan 362764 (CFR 675646)
Proposed Lot 1 of SUB-2016-9

Lapse Date: 10 March 2022, unless the consent has been given effect to before this date.

Conditions:

- 1 *The proposed activity shall be undertaken in general accordance with the site plan, elevations and the information provided with the resource consent application, received by the Council on 20 September 2016 and additional information received on 14 October 2016, revised plans received on 14 November 2016 and additional information (18 Kea Street written approval) received on 28 February 2017, except where modified by the following conditions of consent.*
- 2 *The consent holder shall provide notice to the Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz of the start date of the works. This notice shall be provided at least five (5) working days before the works are to commence.*
- 3 *The entire building including roof eaves and guttering (and associated drainage) must be contained within the property boundaries. As the proposed building extends to the front and side boundaries care should be taken by the consent holder to accurately identify the position of these boundaries prior to building construction. Confirmation by a licenced cadastral surveyor may be required.*
- 4 *The consent holder shall establish a construction phase vehicle access point to the site and ensure it is used by construction vehicles. The access is to be stabilised by using a geotextile fabric and either topped with crushed rock or aggregate. The access is to be designed to prevent runoff.*
- 5 *The earthworks and construction work is to be under the control of a nominated and suitably qualified person (civil/environmental engineer or technician).*
- 6 *Any earth fill over 0.6m thick supporting foundations shall be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development. If cut material is used on site for fill purposes then moisture controls may be required to meet this standard.*

- 7 *Slopes may not be cut steeper than 1:1 (45°) without specific engineering design and construction.*
- 8 *Slopes may not be filled steeper than 2h:1v (27°) without specific engineering design and construction.*
- 9 *Where the long-term stability of other's land or structures may rely upon the continued stability of retaining works, the designer must confirm that the retaining structure can be safely demolished following a complete design life without creating hazards for neighbouring properties.*
- 10 *All walls retaining over 1.5m, or a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s.*
- 11 *Earthworks may not commence until a building consent has been issued.*
- 12 *Any change in ground levels is not to cause a ponding or drainage nuisance to neighbouring properties.*
- 13 *Any fill material to be introduced to the site shall comprise clean fill only.*
- 14 *The earthworks shall be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater management, traffic management, along with dust and noise controls at the sites.*
- 15 *To ensure effective management of erosion and sedimentation on the site during earthworks and as the site is developed, measures are to be taken and devices are to be installed, where necessary, to:*
 - a. *divert clean runoff away from disturbed ground;*
 - b. *control and contain stormwater run-off;*
 - c. *avoid sediment laden run-off from the site'; and*
 - d. *protect existing drainage infrastructure sumps and drains from sediment run-off.*
- 16 *No soil disturbance or soil shifting, unloading, loading will take place if wind speed is higher than 14 metres per second if the soil is dry and prone to becoming airborne, unless a dust suppressant is applied.*
- 17 *All loading and unloading of trucks with excavation or fill material is to be carried out within the subject site.*
- 18 *The consent holder shall:*
 - a. *be responsible for all contracted operations relating to the exercise of this consent; and*
 - b. *ensure that all personnel (contractors) working on the site are made aware of the conditions of this consent, have access to the contents of consent documents and to all associated erosion and sediment control plans and methodology; and*
 - c. *ensure compliance with land use consent conditions.*
- 19 *Should the consent holder cease, abandon, or stop work on site for a period longer than 6 weeks, the consent holder shall first take adequate preventative and remedial measures to control sediment discharge/run-off and dust emissions, and shall thereafter maintain these measures for so long as necessary to prevent sediment discharge or dust emission from the site. All such measures shall be of a type and to a standard which are to the satisfaction of the Resource Consent Manager.*

- 20 *If at the completion of the earthworks operations, any public road, footpath, landscaped areas or service structures that have been affected/damaged by contractor(s), consent holder, developer, person involved with earthworks or building works, and/or vehicles and machineries used in relation to earthworks and construction works, shall be reinstated to the satisfaction of Council at the expense of the consent holder.*
- 21 *The vehicle access on Kea Street shall be a minimum 3.0m formed width, hard surfaced from the edge of the carriageway of Kea Street to a distance not less than 5.0m inside the property boundary, and be adequately drained for its duration.*
- 22 *The vehicle access on Eagle Street shall be a minimum 3.0m formed width, hard surfaced from the edge of the carriageway of Eagle Street to a distance not less than 5.0m inside the property boundary, and be adequately drained for its duration.*

Advice Notes:

- 1 In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through Sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
- 2 Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
- 3 The lapse period specified above may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.
- 4 It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
- 5 This is a resource consent. Please contact the Council's Building Control Office, Development Services, about the building consent requirements for the work.
- 6 Neighbouring property owners should be advised of the proposed works at least seven days prior to the works commencing.
- 7 All measures (including dampening of loose soil) should be undertaken to ensure that dust, resulting from the proposed earthworks, does not escape the property boundary.
- 8 The vehicle crossing, between the carriageway and the property boundary, is within legal road and is therefore required to be constructed in accordance with the Dunedin City Council Vehicle Entrance Specification (available from the DCC Transport department).
- 9 All construction noise should comply with the following noise limits as per New Zealand Standard NZS 6803:1999:

Time of Week	Time Period	Leq (dBA)	L max(dBA)
Weekdays	0730-1800	75	90
	1800-2000	70	85
	2000-0630	45	75
Saturdays	0730-1800	75	90
	1800-2000	45	75

		2000-0630	45	75
Sundays public Holidays	and	0730-1800	55	85
		1800-2000	45	75
		2000-0630	45	75

Issued at Dunedin this 10 March 2017



Alan Worthington
Resource Consent Manager

Appendix One - Approved plans for LUC-2016-443
 [Scanned image –Not to Scale]



