

12 October 2017

Housing NZ Dunedin
PO Box 830
DUNEDIN 9054

Attention: Bill Sharp

RESOURCE CONSENT APPLICATION: LUC-2017-266
5 & 7 BLUNDELL STREET
DUNEDIN

INTRODUCTION

- [1] Your application to remove a tree listed in Schedule 25.3 of the District Plan – a Douglas Fir (T207) – was processed on a notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991 (the Act). No submissions were received in respect of the application and no hearing was considered necessary. Therefore, pursuant to Section 100 of the Resource Management Act 1991, the application was considered by the acting Resource Consents Manager, under delegated authority, on 12 October 2017.
- [2] 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.
- [3] Please note that the issue of this decision on the application could not be completed within the 20 working day time limit (from close of submissions) prescribed under section 115(4) of the Resource Management Act 1991. The time limit for issue of the decision has been extended pursuant to section 37A(4)(b)(ii) of the Resource Management Act 1991.

DESCRIPTION OF PROPOSAL

- [4] Resource consent is sought to remove a scheduled tree – T207 – which is located on the properties at 5 and 7 Blundell Street, Pine Hill. 7 Blundell Street is an auxiliary property to 5 Blundell Street, and both properties are owned by Housing NZ and used for state housing.

The tree, a Douglas Fir (*Pseudotsuga menziesii*), is located in the front yard of the subject site. The subject site is approximately 616 square metres, and contains two attached three-bedroom units. The applicant states that the tree causes shading and interferes with power lines, and that there is a protruding galvanised pipe embedded in the base of the trunk which causes health and safety concerns.

- [5] A copy of a site plan and photos of the tree subject of the application are contained in Appendix 1 of this report.

DESCRIPTION OF SITE AND LOCATION

- [6] The subject site is relatively flat, and contains housing of a similar age and condition to the surrounding properties. There are no other scheduled trees in

the immediate area, and many of the nearby properties have little or no vegetation near their front boundaries.

The site is legally described as Lot 3 Deposited Plan 18137, and is held in Computer Freehold Register OT9C/51. The site area is 616 square metres more or less.

ACTIVITY STATUS

- [7] The subject site is zoned **Residential 1** in the Dunedin City District Plan. Blundell Street is a relatively small cul-de-sac located off Allenby Avenue. It is classified as a Local Road in the District Plan Rooding Hierarchy. The site is not subject to any designations or known hazards.

Operative District Plan

- [8] Trees that make a significant contribution towards the maintenance and enhancement of amenity and the quality of the environment are identified in Schedule 25.3 of the District Plan, and on the District Plan Maps. Trees on the schedule are subject to management controls for the purpose of ensuring their protection. The schedule is reviewed by the Council on a regular basis and amended (if required) by way of a plan change.
- [9] Resource consent is required as the Rule 15.5.1(i) of the District Plan states the following is a discretionary (unrestricted) activity:
- The removal or modification of any tree or pruning, trimming or any other modification or activity within the canopy spread of any tree listed in Schedule 25.3.
- [10] Overall the application is assessed as a **discretionary (unrestricted)** activity pursuant to Rule 15.5.1(i) of the District Plan.
- [11] The assessment matters for resource consent applications in Section 15 of the Plan are outlined in 15.6, and are as follows:
- The health and quality of the tree, and the effect of any proposed pruning, trimming or other modification to the tree.
 - The reasons for carrying out such proposed work and any alternative methods or locations which may be available to the applicant to achieve his or her purposes.
 - The impact of the proposed work upon the amenities of the locality, and the values of the tree.

Proposed District Plan

- [12] The subject site is zoned **General Residential 1** in the proposed plan, and is not subject to any designations or known hazards. Blundell Street remains a Local Road in the proposed roading hierarchy. In terms of the proposed rule provisions for scheduled trees, the removal and any other work on a scheduled tree that will lead to the death or terminal decline of a scheduled tree is a non-complying activity.
- [13] The Proposed 2GP was notified on 26 September 2015, and some 2GP rules had immediate legal effect from this date. In this instance, the application was lodged on 15 May 2017 and none of the relevant rule provisions were in effect at that time
- [14] Overall, the application is assessed as a **discretionary (unrestricted)** activity, in accordance with the operative district plan.

WRITTEN APPROVALS, NOTIFICATION AND SUBMISSIONS

- [15] In accordance with section 104 of the Act, where written approval has been obtained from affected parties the consent authority cannot have regard to the effects of the activity on that person. Written approval from the occupier of 7 Blundell Street was submitted by the applicant to the Council..

- [16] The application was publicly notified in the Otago Daily Times on 5 August 2017.
- [17] Copies of the application were sent to those parties the Council considered could be directly affected by the proposal. This included the occupiers of both 5 and 7 Blundell Street, and other nearby properties. Submissions closed on 1 September 2017.
- [18] No submissions were received by the close of the submission period.

Requirement for hearing

- [19] As it is recommended in the assessment below that resource consent be granted to the activity, no submission was received in respect of the application and the applicant does not wish to be heard, 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

- [20] 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.*
- [21] 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.
- [22] The permitted baseline for modifications to trees listed in Schedule 25.3 are:
- The work amounts only to minor trimming and maintenance undertaken by hand-operated pruning shears or secateurs in accordance with accepted arboricultural practice.
 - The work is required as emergency work to safeguard life or property and is carried out by the Council or a statutory authority. In such cases the authority concerned shall notify the Council in writing as to the reason for the trimming within 10 working days.
 - The tree or trees are subject to an order for removal or modification in terms of Section 129(C) 5(a), (b) and (c) of the Property Law Act 1952.

In this instance, it is not considered appropriate or necessary to apply the permitted baseline, as it is not practical to make any worthwhile comparison between the complete removal of the tree, and the tree remaining with an unknown amount of modification in the different circumstances described above.

- [23] The receiving environment consists of low to medium density residential activity, with many of the dwellings being of similar age and condition to those on the subject site. There are no other scheduled trees in the nearby area.
- [24] The assessment of effects is guided by the assessment matters in Section 15.6 (Trees) of the Dunedin City District Plan considered relevant to the proposed activity. Accordingly, assessment is made of the following effects of the proposal:
- Effect of Modification (15.6.1)
 - Reasons and Alternatives (15.6.2)
 - Amenity Values (15.6.3)

Operative District Plan

Effect of Modification (Assessment Matter 15.6.1)

- [25] Although the removal of a tree is not strictly a modification (in terms of what is envisaged by the plan), this assessment matter provides a logical starting point for consideration, as it addresses the condition of the tree. In terms of the health and quality of the tree, a Standard Tree Evaluation Method (STEM) assessment was carried out by Council's Senior Landscape Architect, Barry Knox, and Consultant Arborist Elena O'Neill of Treescape Environmental.

- [26] With regard to the condition of the tree, Elena O'Neill has commented as follows:

In general, at the time of the assessment the tree was of good health but is indicating a degree of stress. There is some defoliation and yellowing of foliage.

If a Standard Tree Evaluation Method (STEM) assessment was carried out on the tree in its current condition, it is unlikely that it would substantiate its position on the significant tree schedule. Due to the overall condition, appearance of decline, and the unbalanced form, this is not a particularly good example of the species. Specifically in relation to the first five categories of STEM:

Form: Moderate (9 points). The tree's canopy is not evenly conical at the top northern side and is over extended on the lower southern side.

Occurrence: Common (9 points). Douglas fir are not uncommon in the local area.

Vigour & Vitality: Good (15 points). The tree is relatively young and vigorously growing, but has excessive small internal branches and poor wound closure indicating a degree of stress.

Function: Useful (9 points). In relation to the site the tree offers minor physical and/or conservation benefits [function], but it is the only tree of any size and stature in the immediate vicinity.

Age: (15 points). 40 years plus

Douglas fir are a very large tree that can be expected to reach heights exceeding 60 metres when growing in the company of their species. This tree has not yet reached maturity. Due to the exposed nature of the site in Blundell Street and compaction of the ground, coupled with the lack of organic replenishment within the root zone this tree, it is likely that the maximum potential height of this tree will be approximately 25 metres.

The tree appears to be free from structural defects. It has good trunk taper and root flare and has a stable root plate.

The tree has a history of branch failure and there are small hanging branches within the canopy.

Relying on the above, it is evident that the tree is generally in a healthy condition, but the qualities that contribute to STEM value are not high and are not likely to improve over time. It is considered that the condition of the tree provides little support to justify the ongoing protection of the tree as it is unlikely to warrant continued inclusion in Schedule 25.3 if it were assessed on its current condition. As such, the effects of its removal are considered to be no more than minor.

Reasons and Alternatives (Assessment Matter 15.6.2)

- [27] The applicant states that the tree interferes with power lines, causes shading and will become progressively further unmanageable. There is a protruding galvanised pipe embedded in the base of the trunk. The applicant provided supporting comment from Simon de Lautour of Dunedin Housing Maintenance Contractors Limited as follows:

The large Douglas Fir tree outside 5 Blundell St blocks sunlight into the house and its branches are very close to power lines as well, a forest tree like this in a built up area needs to be removed. In addition, there is a 25mm galvanized steel pipe embedded into the lower trunk and it appears the trunk is growing around the pipe, it is therefore assumed the steel penetrates the trunk for some distance. The pipe sticks out enough to present an EXTREME HAZARD, particularly to children. If the tree was to be removed immediately before this property is relet, the steel pipe needs to be retained to alert an arborist there is steel in the trunk otherwise it presents a deadly hazard to an arborist using a chain saw.

Since the tree is protected under the DCC significant tree list, it is understood a resource consent is required before the tree can be removed. I would recommend the DCC be alerted to these hazards immediately (both the immediate hazard of the pipe sticking out, and hazard in the future for an arborist) in an attempt for the tree to be removed before the property is relet. If the tree cannot be removed immediately, I would recommend remedial work to shorten the steel pipe and plug the end to reduce its potential hazard.

- [28] The above comments indicate that there is some degree of risk or nuisance effects from the tree, but the reasons for removal of the tree are more to do with the long term management of the properties on which the tree is situated. The proximity of the tree to the powerlines and dwellings necessitates ongoing maintenance work. The presence of the galvanised steel pipe embedded in the tree is a hazard which must be managed. Given the condition assessment above, these issues may be best addressed by the removal of the tree.

Amenity Values (Assessment Matter 18.6.3)

- [29] In terms of the amenity of the locality and the values of the tree, Council's Senior Landscape Architect, Barry Knox, has commented as follows:

The tree's amenity values have two components – the wider community effects, and site specific, local effects.

Overall, it is my opinion that although this tree retains particular amenity values which make it a useful addition to the Blundell Street streetscape, these values appear to me to have diminished since the original STEM assessment was completed. I consider the tree no longer merits continued inclusion on the protected tree schedule from an amenity perspective and my updated STEM assessment, attached, reflects this. I acknowledge that the "Condition Evaluation" part of the assessment has not been updated as yet, but assuming these values remain unchanged or not improved, the updated STEM assessment just incorporating my evaluation would be 144.

This would not be enough for the tree to pass an updated STEM assessment.

Wider Community Benefits

The tree adds a “softening” visual effect for the local community. It provides a natural character element which offsets the less natural impact of built dwellings along the road.

There would be a moderate reduction in the value of community visual amenity if the tree were to be removed. There are other much smaller nearby trees which assist with providing a “softening” natural impact, but the removal of the fir tree would initially be noticed as a marginally negative impact. In time, however, other nearby vegetation would continue to assist with maintaining the natural character.

Localised Amenity Effects

The fir tree has outgrown the site space it occupies, and its scale is such that it now encroaches too close to the nearby dwelling. It is also very close to nearby power lines.

Concluding Comments

Overall, given the likely inability to achieve a STEM pass mark in the STEM reassessment completed by the landscape architect (and probably the consultant arborist, when this has been included) and given that from an amenity aspect the effect of removal would be able to be partially compensated by other existing vegetation, in my opinion T207 does not warrant continued inclusion on Schedule 25.3.

- [30] Consultant Arborist Elena O'Neill also briefly commented on amenity, and noted *“The tree is a single free standing tree in a row of houses otherwise devoid of trees and shrubbery”*.
- [31] Relying on the above advice, the removal of the tree will result in some loss of amenity as it is the only solitary tree of substantial size in the vicinity of the site. However, given the form of the tree and location under power lines the amenity value of the tree is limited, and there are smaller trees and large shrubs in close proximity to the site. The other vegetation in the front yard of the subject site and adjacent properties is relatively modest in scale, but the front yards of 4 and 6 Blundell Street feature a mass of vegetation, and there are individual trees of some substance further along Blundell Street. It is therefore considered that the removal of the tree will not give rise to amenity effects that are more than minor.

Proposed District Plan

- [32] In this instance, there are no applicable assessment rules.

Effects Assessment Conclusion

- [33] After considering the likely effects of this proposal above, overall, I consider the adverse effects of the removal of the tree to be no more than minor.

OBJECTIVES AND POLICIES ASSESSMENT

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

- [34] Section 104(1)(b)(vi) of the Act requires the Council to have regard to any relevant provisions of the Dunedin City District Plan and the proposed 2GP.
- [35] The following objectives and policies of the Dunedin City District Plan were considered to be relevant to this application:

Sustainability Section

Objective / Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 4.2.1 Enhance the amenity values of Dunedin.	In its current condition tree T207 is not considered to have significant amenity value. The removal of the tree on balance does not harm the amenity values of the site and neighbourhood, and may to some extent enhance these amenity values. The loss of vegetation is offset by the improvement to the safety of residents, solar access for the adjacent dwellings, and usability of the front yard space. As indicated by Council's Landscape Architect and Consultant Arborist, the tree does not pass the STEM test, and would therefore not warrant inclusion on the protected trees schedule if considered today. As such, the proposal is consistent with this objective and policy.
Policy 4.3.1 Maintain and enhance amenity values.	

Residential Section

Objective / Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 8.2.1 Ensure that the adverse effects of activities on amenity values and the character of residential areas are avoided, remedied and mitigated.	As outlined above, the tree in its current condition would not warrant inclusion on the protected trees schedule. Its removal will not harm amenity values, and may potentially enhance these values for reasons noted above. For example, the removal of the will eliminate the present shading which can adversely affect residents of the property. As such, its removal is generally consistent with the objective and policy.
Policy 8.3.1 Maintain or enhance the amenity values and character of residential areas.	

Trees Section

Objective / Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 15.2.1 Maintain and enhance the amenity and environmental quality of the City by encouraging the conservation and planting of trees.	Council's Landscape Architect and Consultant Arborist have assessed that the tree does not pass the STEM test, and would therefore not warrant inclusion on the protected trees schedule if considered today. As such it is no longer considered to warrant protection as one of Dunedin's significant trees. Council's experts have assessed that the tree does not make a significant contribution towards amenity and environmental quality. However, the application does nothing to promote the conservation and planting of trees. As such, the removal of tree T207 is inconsistent with, but not contrary to these objectives and policies.
Objective 15.2.2 Protect Dunedin's most significant trees.	
Policy 15.3.1 Ensure that landowners and developers are aware of the environmental benefits of trees and encourage them to conserve trees and undertake new plantings whenever possible.	
Policy 15.3.2 Identify and protect trees that make a significant contribution towards amenity and environmental quality.	
Policy 15.3.3 Require tree planting or other landscape treatment associated with development where this will avoid, remedy or mitigate any adverse effects on the environment.	

Proposed District Plan

The objectives and policies of the 2GP must be considered alongside the objectives and policies of the current district plan. The following objectives and policies of the Proposed District Plan were considered to be relevant to this application:

Strategic Directions Section

Objective / Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 2.4.1 The elements of the urban environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected and enhanced. These include: 1. important green and other open spaces; 2. trees that make a significant contribution to the visual landscape and history of neighbourhoods; 3. built heritage; 4. important visual landscapes and vistas; 5. the amenity and aesthetic coherence of different urban environments; and 6. the compact and accessible form of Dunedin.	As noted above, Council's Landscape Architect and Consultant Arborist have assessed that the tree does not pass the STEM test that is discussed under Policy 2.4.1.2, and would therefore not warrant inclusion on the protected trees schedule if considered today. As such it is no longer considered to warrant protection as one of Dunedin's significant trees. Council's experts have assessed that the tree does not make a significant contribution towards amenity and environmental quality. The tree is not considered to make a significant contribution to the visual landscape or vistas, or the amenity of urban environments as outlined in Objective 2.4.1. As such, the removal of tree T207 is inconsistent with, but not contrary to these objectives and policies.
Policy 2.4.1.2 Identify in a schedule (see Appendix A1.3) trees that make a significant contribution to the visual and historical landscape and amenity of neighbourhoods and other places, and use rules to restrict removal or modification of these trees. Identify significant trees based on the following criteria: 1. health and condition of the tree, including: 1. vigour and vitality, and 2. age; and 2. contribution to the amenity of an area, including: 1. occurrence of the species and historic and scientific values, 2. function (usefulness), for example biodiversity supporting or fruit bearing, 3. stature, 4. visibility, 5. proximity of other trees, 6. role in the setting, and 7. climatic influence; and 3. any potential adverse effects, including: 1. risk to safety, and 2. risk of potential damage to existing infrastructure, buildings or structures.	

Trees Section

Objective / Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 7.2.1 The contribution made by significant trees to the visual landscape and history of neighbourhoods is maintained.	The application cannot be said to maintain the contribution of trees to the visual landscape, in that the proposal is to remove a tree and not replace it. However in this case, based on the expert assessments, the tree in question is considered to not be a significant tree in terms of the district plan. The risk to safety is mentioned in the application, as are shading effects as reasoning for the removal of the tree. As such, the removal of tree T207 is inconsistent with, but not contrary to these objectives and policies.
Policy 7.2.1.2 Avoid the removal of a scheduled tree (except as provided for in Policy 7.2.1.1) unless: 1. there is a significant risk to personal/public safety or property; or 2. the tree is shading existing residential buildings to the point that access to sunlight is significantly compromised; or 3. the removal of the tree is necessary to avoid significant adverse effects on public infrastructure; and 4. these adverse effects cannot be reasonably mitigated through pruning and the effects outweigh the loss of amenity from the removal of the tree	
Policy 7.2.1.3 Only allow the modification of a scheduled tree where: 1. the work is undertaken in accordance with best arboricultural practice, by a suitably qualified arborist and will maintain or improve the health of the tree; 2. any adverse effects from the modification of the tree on amenity values are avoided or, if avoidance is not possible, no more than minor; and 3. the modification is necessary to improve the health of the tree or to mitigate adverse effects of the tree on safety, sunlight access, or damage to property or infrastructure	

Residential Section

Objective / Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 15.2.2 Residential activities, development, and subdivision activities provide high quality on-site amenity for residents.	As outlined above, the tree in its current condition would not warrant inclusion on the protected trees schedule. Its removal will not harm amenity values, and may potentially enhance these values for reasons noted above. For example, the removal of the will eliminate the present shading which can adversely affect residents of the property. As such, its removal is generally consistent with these objectives and policies.
Policy 15.2.2.1 Require residential development to achieve a high quality of on-site amenity by: 1. providing functional, sunny, and accessible outdoor living spaces that allow enough space for on-site food production, leisure, and recreation; 2. having adequate separation	

distances between residential buildings; 3. retaining adequate open space uncluttered by buildings; and 4. having adequate space available for service areas	
Objective 15.2.3 Activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.	
Policy 15.2.3.1 Require buildings and structures to be of a height and setback from boundaries that ensures there are no more than minor effects on the sunlight access of current and future residential buildings and their outdoor living spaces.	

[36] 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.

[37] Having regard at the relevant objectives and policies individually, and considering these in an overall way, the above assessment indicates that the application is generally consistent with the relevant provisions. Where inconsistent it is not contrary to the provisions.

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

[38] 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. Given its regional focus, the regional policy statement does not have a great bearing on the current application. However, Chapter 5: Land is relevant in that it seeks to promote sustainable management of Otago's land resources.

[39] The RPS addresses trees in terms of biodiversity and water, but not in terms of residential amenity. As such, the proposal is considered to be consistent with the relevant objectives and policies of the statement.

DECISION MAKING FRAMEWORK

Part 2 Matters

[40] When considering an application for resource consent, an assessment of the proposal is to be made subject to the matters outlined in Part 2 of the Act. This includes the ability of the proposal to meet the purpose of the Act, which is to promote the sustainable management of natural and physical resources. Furthermore, the matters of national importance in section 6 must be recognised and provided for, and particular regard must be had to the matters listed in section 7.

[41] Of particular relevance to this application are sections 5(2)(c) "avoiding, remedying or mitigating any adverse effects of activities on the environment", 7(c) "the maintenance and enhancement of amenity values" and 7(f) "the maintenance and enhancement of the quality of the environment".

[42] As discussed in the assessment of effects above, the proposed development is not considered to create adverse effects on the environment that are more than minor when considered in the context of the receiving environment and the provisions of the Dunedin City District Plan and the Proposed 2GP.

[43] I therefore consider that the proposal will avoid, remedy or mitigate adverse effects to a degree that satisfies the provisions of the Dunedin City District Plan and the Proposed 2GP. When considering the proposal overall, and in

considering the positive effects that would result for the subject and neighbouring sites, the proposed development would be consistent with the purpose of the Act outlined in section 5 of that legislation.

- [44] Having regard to section 6 of the Act, there are no matters of national importance which can be considered to be affected by the development of this site.
- [45] Having regard to section 7(c) and 7(f), the tree is assessed as being unlikely to pass a current STEM assessment, and as such its removal is not considered as causing more than minor adverse effects in terms of amenity values and the quality of the environment.
- [46] Overall, I consider the proposal is consistent with those matters outlined in Part 2 of the Act.

Section 104

- [47] 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 tree removal overall will not be significant and can be adequately avoided remedied or mitigated provided recommended conditions of consent were adhered to.
- [48] 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 has concluded that the application would be generally consistent with the key objectives and policies relating to the relevant provisions, including those in the relating to the Residential Zone and Trees sections of both the Dunedin City District Plan and the Proposed 2GP.
- [49] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. The RPS addresses trees in terms of biodiversity and water, but not in terms of residential amenity. In this report it was concluded that the application is not contrary to the Regional Policy Statement for Otago.
- [50] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.

CONCLUSION

- [51] Having regard to the above assessment, I recommend that the application be granted.

CONSENT DECISION

*That, pursuant to sections 34A and 104B and after having regard to Part 2 matters and section 104 of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan, the Dunedin City Council **grants** consent to a **discretionary (unrestricted)** activity, being the removal of a tree listed in Schedule 25.3 of the District Plan, on the site at 5 & 7 Blundell Street, Dunedin, being that land legally described as Lot 3 Deposited Plan 18137, held in Certificate of Title OT9C/51, subject to the conditions imposed under section 108 of the Act as shown on the attached certificate.*

Further, having taken into account:

- *the interests of any person who may be adversely affected by the time extension;*
- *the interests of the community in achieving an adequate assessment of effects of a proposal , policy statement or plan, and*
- *its duty under Section 21 to avoid reasonable delay*

the Dunedin City Council has, pursuant to section 37A(2)(a) and 37A(4)(b)(ii) of the Resource Management Act 1991, extended the requirement outlined in section 115(4) regarding the time in which notification of a decision must be given after the hearing is completed.

REASONS FOR DECISION

- [52] The proposal is considered to be generally consistent with the key relevant objectives and policies of the Dunedin City District Plan and the Proposed 2GP.
- [53] The proposal is considered to be consistent with the objectives and policies of the Regional Policy Statement for Otago.
- [54] The proposal is considered to be consistent with the Part 2 matters of the Resource Management Act 1991.
- [55] 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 and the wider environment that the Operative and Proposed Dunedin City District Plans seeks to protect.

COMMENCEMENT OF CONSENT

- [56] 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.

RIGHT OF APPEAL

- [57] 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

- [58] 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.
- [59] Failure to follow the procedures prescribed in sections 120 and 121 of the Resource Management Act 1991 may invalidate any appeal.
- [60] Please direct any enquiries you may have regarding this decision to James Coutts whose address for service is City Planning, Dunedin City Council, PO Box 5045, Dunedin 9058.

Prepared by:

Approved by:

James Coutts
Planner

John Sule
Acting Resource Consents Manager

Date

Date

Consent Type: Land Use Consent

Consent Number: LUC-2017-266

*That, pursuant to sections 34A and 104B and after having regard to Part 2 matters and section 104 of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan, the Dunedin City Council **grants** consent to a **discretionary (unrestricted)** activity, being the removal of a tree listed in Schedule 25.3 of the District Plan on the site at 5 & 7 Blundell Street, Dunedin, being that land legally described as Lot 3 Deposited Plan 18137 and held in Certificate of Title OT9C/51, subject to the conditions imposed under section 108 of the Act as shown below:*

Location of Activity: 5 & 7 Blundell Street, Dunedin

Legal Description: Lot 3 Deposited Plan 18137 (Computer Freehold Register OT9C/51)

Lapse Date: 12 October 2022

Conditions

- 1 The activity shall be carried out generally in accordance with the application dated 7 June 2017, received by the Council on 8 June 2017, and except where modified by the following conditions of consent.*
- 2 The removal of the tree shall be undertaken by suitably qualified and experienced professional contractors to ensure that no damage is done to adjacent properties or to the powerlines.*
- 3 All debris from the tree removal shall be removed from the front yard space.*
- 4 All work associated with felling the tree and removing the debris shall be limited to the times set out below and shall comply with the following noise limits (dBA):*

	<i>L10</i>	<i>L95</i>	<i>Lmax</i>
<i>Monday to Friday 7.30 am – 6.00 pm</i>	75	60	90
<i>Saturdays 8.30 am – 5.00 pm</i>	75	60	90
<i>Sundays and Public Holidays</i>	<i>No work permitted</i>		

Sound levels shall be measured and assessed in accordance with the provisions of NZS 6803: 1999 Acoustics – Construction noise.

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 It is the consent holder's responsibility to comply with any conditions imposed on their 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.
- 4 This consent shall lapse after a period of five years from the date of granting of this consent. This period may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

Issued at Dunedin this 12th day of October 2017

John Sule
Acting Resource Consent Manager

APPENDIX 1: SITE PLAN AND PHOTOS OF TREE T207

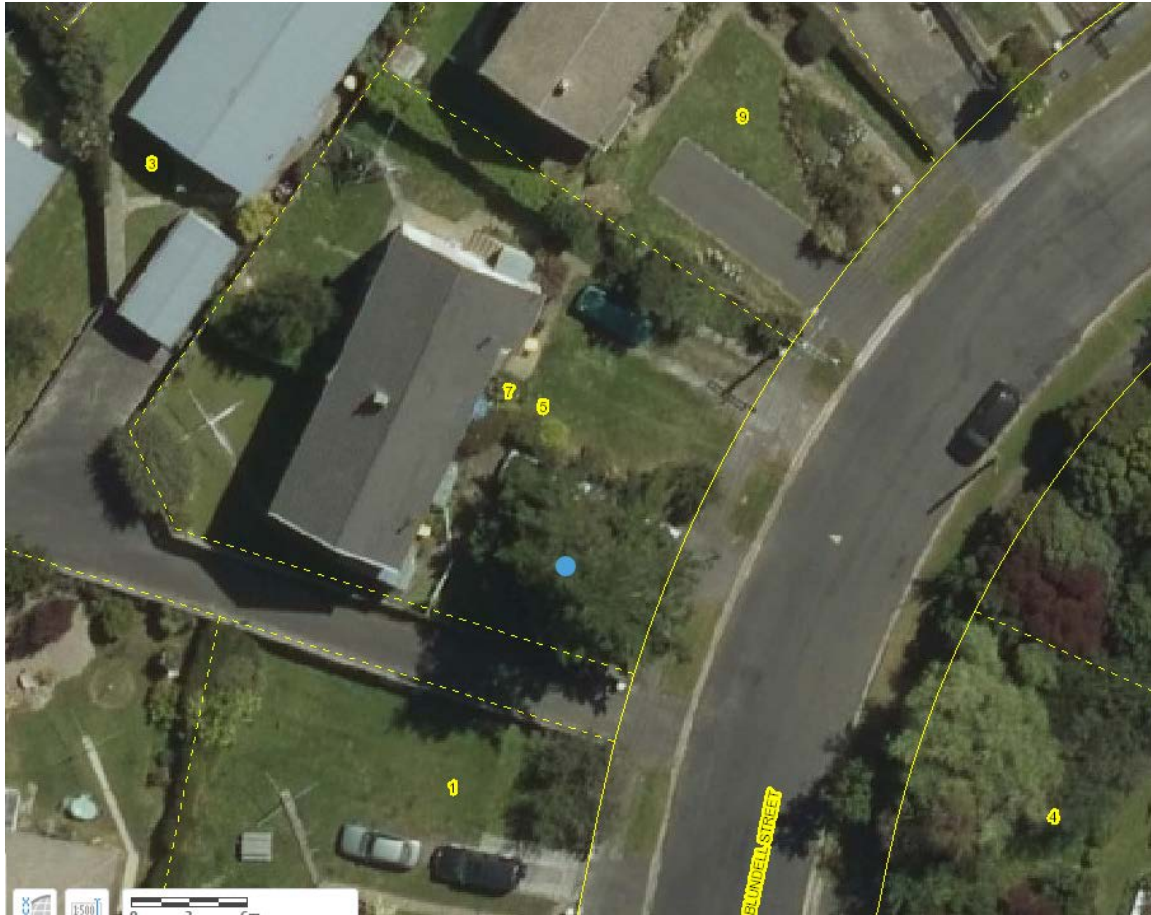


Figure 1: T207 shown by dot in centre of aerial photograph



Figure 2: T207 from Allenby Avenue



Figure 3: T207 from Blundell Street