

27 March 2025

C Paton
C/- SLR Consulting NZ
Level 1, 426 Moray Place
Dunedin, 9016

Via email: chris.pearse-smith@slrconsulting.com

Dear Campbell

CERTIFICATE OF COMPLIANCE:

**COC-2024-20
76 SILVERTON STREET
DUNEDIN**

The Council has authorised your application for a certificate of compliance for the demolition of the church and church hall buildings at 76 Silvertown Street.

The assessment of the application is set out in the report attached to this letter. The certificate of compliance is attached to the rear of this letter.

Consent Processing Fees

You will be contacted soon if you are due a partial refund or you need to pay additional costs for the processing of your application.

Contact for any Questions

Please feel free to contact Jeremy Grey if you have any questions.

Yours faithfully



John Sule
Consultant Planner

ADVICE NOTES

1. It is recommended that the applicant undertake a survey of both buildings in relation to possible lead and asbestos contaminants prior to any demolition works being undertaken. The applicant should ensure demolition follows best practice to avoid contamination occurring during the demolition process.
2. The site is identified as being a confirmed HAIL site for an underground fuel tank, associated boilers and fuel lines and may also be HAIL for accidental lead contamination given the age of buildings on the site. If asbestos is found within the buildings Categories E1 and/or I on the HAIL may also be applicable for asbestos contamination for the site in relation to future development.
3. Any unanticipated soil disturbance must be undertaken in accordance with the permitted activity standards in Regulation 8 of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 or a resource consent will be required.
4. An Archaeological Authority from Heritage New Zealand is required prior to the demolition of any building established before 1900. Please ensure appropriate authorisation for demolition is obtained from Heritage New Zealand prior to any demolition of the buildings on the site commencing.

APPLICATION COC-2024-20: 76 SILVERTON STREET, DUNEDIN

Department: Resource Consents

BACKGROUND

This application, similar to a number of recent Certificate of Compliance applications, appears to have been precipitated by the proposed upgrading of the list of scheduled heritage buildings in the Partially Operative District Plan by the DCC through Plan Change 1. The Plan change was notified on Wednesday 21 November 2024 and the application was received two days before on Tuesday 19 November 2024. Therefore, it can be processed having regard to the District Plan provisions in effect on the date it was received.

The application identifies that the applicant Campbell Paton is seeking certainty that the existing buildings on the site can be demolished to allow the site to be redeveloped in the future for multi-unit development that is consistent with its General Residential 2 zoning. The applicant is the owner of the property, and he has previously obtained subdivision and land use consent for redevelopment of the site that were issued in 2022 (SUB-2022-14 and LUC-2022-54). The site is a confirmed Hazardous Activities and Industries List (HAIL) site under the records search undertaken in association with the proposed subdivision (HAIL: 2022-22).

During processing of the application further information was sought on compliance with National Environmental Standards and 2GP construction noise and light spill rules. Information was provided on light spill and national standards on 15 January 2025 and an acoustic report was provided on 12 March 2025. Processing resumed on that date.

DESCRIPTION OF ACTIVITY

The subject site at 76 Silverton Street is a corner site with frontage to Silverton and Spottiswood Streets. It contains a two storey brick church with a tower, and single storey buildings that the application refers to as the church hall buildings. The proposal is to demolish the former Presbyterian Church and church hall buildings on the site. The further information response identifies that to avoid triggering a consent under the NES-CS associated with soil disturbance the demolition activity will be only down to ground level at the first development stage. Earthworks and foundation removal to be progressed under a separate stage.

The further information response identifies that works will occur during daytime hours to ensure compliance with 2GP light spill rules. An acoustic report was provided as part of the further information request response.

The application notes that the hall buildings may be retained. Figure 1 below shows the location of the site and the extent of existing buildings on the site.



Figure 1: Aerial Photograph of the site 2023/24 (Source – DCC GIS)

The church building is level with the street at its Silverton Street frontage, but it has a storey located below the road in relation to the Spottiswood Street frontage. The church building has deteriorated over time and there are sections of the brick work where mortar is missing and other obvious condition issues. It is not safe for public assembly.

The frontages are of the site shown in Figures 2 & 3 below.



Figure 2: View from Silverton Street (Source – Google Maps)



Figure 3: View from Spottiswood Street (Source – Google Maps)

The closest residential neighbour is located at 8 Spottiswood Street.

The application identifies that demolition of the buildings identified as the church and church hall in Figure 2 will be undertaken by a suitably qualified contractor, and it is anticipated that the majority of the structure of the buildings can be demolished within less than 14 calendar days.

A HAIL search was undertaken by the applicant (HAIL-2022-22) when a subdivision application was made in 2022. The report identified at that time that it was a confirmed HAIL site under the follow Category

A17: Storage tanks or drums for fuel, chemicals or liquid waste

There is also likely to be a potential lead soil contamination source through painting and repainting of some of the non-brick buildings on the site and the buildings may contain asbestos. The proposal for the first redevelopment stage will be demolition down to foundations of the buildings on 76 Silverton Street to avoid soil disturbance that will potentially contravene the permitted soil disturbance thresholds in the NES-CS. The potential NES-CS issues will be addressed as part of the next development stage.

The 2362m² subject site is legally described as Lots 1- 4 Deeds Plan 17 (held in Records of Title OT84/10).

CERTIFICATES OF COMPLIANCE

Sections 139(2) and 139(5) of the Resource Management Act 1991 state that a person may request the consent authority to issue a certificate of compliance; and that the authority must issue the certificate if the activity can be carried out lawfully in the particular location without a resource consent, and if the person pays the appropriate administrative charge.

DISTRICT PLAN RULES

Dunedin has two district plans: the Operative Dunedin City District Plan 2006 (the “District Plan 2006”), and the Proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). However, from 19 August 2024, the Proposed 2GP became partially operative and almost completely superseded the District Plan 2006, except for specific provisions and identified areas that are still subject to appeal. Where these provisions and appeals are relevant, the District Plan 2006 must still be considered.

In this case there are no identified areas or specific provisions that are subject to appeal. Accordingly, this application has been processed with reference to the 2GP only.

Partially operative 2GP

The subject site is located within the General Residential 2 zone and a wastewater constraint mapped area. There are no other relevant planning overlays or mapped areas that apply to the site.

Silverton Street is an Urban High Density Corridor under the 2GP Road Hierarchy and Spottiswood Street is a Local Road.

Assessment of Compliance

Demolition of the Buildings

Demolition falls within the category of development activities, and it is defined in the 2GP as:

Demolition

The complete or partial destruction of a building or structure.

Demolition is an activity in the building and structures sub-category, which is in the development activities category.

The residential zone activity status table for development activities that identifies whether a development activity is permitted is contained in Rule 15.3.4. The rule table has a number of rows which the proposal needs to be assessed against. Demolition is identified as restricted discretionary activity under Rule 15.3.4.8 when buildings are visible from a public place and located within a heritage precinct and under Rule 15.3.4.18 demolition is a non-complying activity when it affects the protected part of a heritage building. Neither of these rules apply in this case as the buildings are not in a precinct and were not scheduled at the date the application was lodged.

As demolition is not covered by the rules discussed above or any other rules in Rows 5 to 22 of the rules table for development activities, the proposal is assessed as being subject to Rule 15.3.4.4 shown in the table below. This rule identifies the activity as permitted subject to compliance with performance standards.

All buildings and structures activities not covered in rows below		Activity status	Performance standards
3.	Signs attached to buildings and structures	P	a. Number, location and

			design of ancillary signs
4.	All other buildings and structures activities not covered in rows 5 to 22 below	P	a. Fence height and design b. Number, location and design of ancillary signs

In addition to the specific performance standards in the row there are general standards that apply to all development and buildings and structures activities as follows:

1.	Performance standards that apply to all development activities	a. Natural Hazards Performance Standards b. Maximum building site coverage and impermeable surfaces c. Setback from scheduled tree d. Structure plan mapped area performance standards (where relevant) e. Service connections - stormwater for development (in a new development mapped area)
2.	Performance standards that apply to all buildings and structures activities	a. Boundary setbacks b. Building length c. Firefighting d. Height in relation to boundary e. Maximum height f. Setback from coast and water bodies g. Setback from National Grid h. Setback from Critical Electricity Distribution Infrastructure i. Setback from designated rail corridor j. Area of buildings and structures (SNL Overlay Zone) k. Reflectivity (SNL Overlay Zone)

These development performance standards have been assessed in the application and reviewed. No signs are proposed, and the remaining performance standards do not apply to the proposed demolition activity as they relate to new activities or establishment of new buildings. Following a review, I am satisfied that the proposal is a permitted activity under the Residential Zone rules in the 2GP.

I also note that demolition is an activity that is also subject to temporary activities rules related to construction which is defined as follows:

Construction

The use of plant, tools, gear or materials as part of the erection, installation, repair, maintenance, alteration, dismantling or demolition of any building or structure; or site development. This definition includes all work from site preparation to site restoration.

This definition does not include any resultant buildings, structures or site development activities (including demolition or removal for relocation), which are separately defined under development activities or city-wide activities.

Construction is an activity in the temporary activities category.

The proposal will therefore be subject to relevant temporary activity rules. Rule 4.3.2.2 identifies construction (demolition) as a permitted activity subject to performance standards. Development Standards, Light Spill and Noise are all applicable to demolition works. The application provides information to identify there will be compliance with temporary activity development and light spill standards and has supplied an acoustic report from Marshall Day Acoustics.

The writer of the acoustic report identifies that compliance can be achieved with the demolition method proposed (excavator with a pulveriser or grapple attachment) but that the proximity of the residential unit at 8 Spottiswood Street necessitates some mitigation to ensure compliance with construction noise limits for a *short duration* demolition activity. This will be achieved through the installation of an acoustic barrier to reduce the noise received at the 8 Spottiswood Street dwelling. The application identifies that no demolition of building foundations will be included in the first phase of the demolition works and the acoustic report identifies compliance with construction noise rules is dependent on the demolition only being undertaken from 7.30am to 6pm Monday to Saturday. The acoustic report writer identifies that vibration limits will be complied with within a few metres of the demolition activity.

I have reviewed the relevant temporary activity performance standards relevant to a demolition activity and the acoustic report and I am satisfied that the proposed activity can comply with the relevant rules and is a permitted activity in relation to the construction rules in the 2GP.

NATIONAL ENVIRONMENTAL STANDARDS

National environmental standards may trigger a requirements for a resource consent and therefore they are considered relevant under the Section 139 assessment requirements. The only relevant national environmental standard in relation to the proposed demolition activity is the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).

NES-CS

The NES-CS is considered applicable in this case as the process of demolition may lead to the disturbance of soil which is regulated under the NES-CS where the soil is potentially contaminated by an activity on the Hazardous Activities and Industries List (HAIL) and a potential risk to human health. The applicant's agent has obtained a HAIL search of the subject sites (HAIL-2022-22). This report identifies that the soils on the site may be contaminated through use of fuel storage tanks for heating, and I also note there are pre-1945 wooden buildings on the site. These buildings may have resulted in lead contamination from painting and repainting the building given its age. The site at 76 Silverton Street therefore may also be a HAIL activity under the following category:

I: Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment.

I also note that If asbestos is present within the buildings to be demolished the demolition process itself could result in widespread contamination of the site with asbestos if care is not undertaken with the demolition and the site clean-up. Building products containing asbestos were widely used in New Zealand. If any buildings containing asbestos are not demolished in accordance with best practice, then Categories E1 and/or I on the HAIL may be applicable to the sites in relation to future development.

E1: Asbestos products manufacture or disposal including sites with buildings containing asbestos products known to be in a deteriorated condition

I: Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment

In this case the applicant advises that the demolition will be down to foundation level and disturbance of the soil is not proposed as part of the demolition activity at 76 Silverton Street. It may be possible to demolish the buildings to foundation level without disturbing the soils, but some potential disturbance appears possible as part of the process. I note that disturbing up to 25m³ of soil per 500m² of site area is a permitted activity subject to compliance with the standards in the regulations. As the proposal specifies that ground disturbance is not proposed and demolition is only proposed to be to foundation level on the site that is identified as HAIL, then it appears more likely than not that the proposal will not trigger consent under the NES-CS for soil disturbance.

Having considered the proposed demolition of dwellings and outbuildings on the subject sites, I am satisfied that the demolition can occur as a first stage in the redevelopment of the site without triggering a requirement for a resource consent under the NES-CS if the demolition is undertaken down to the foundation level of the buildings on 76 Silverton Street as proposed. I have recommended that advice notes be included regarding the potential for contamination of the site during the demolition process.

CONCLUSION

The above compliance assessment identifies that the proposed demolition of the church and church hall buildings at 76 Silverton Street is a permitted activity under the requirements of the partially operative 2GP and the NES-CS at 19 November 2024, the date the Council received the proposal. The Council is therefore able to issue a Certificate of Compliance for the proposed work.

RECOMMENDATION

After having regard to the above planning assessment, I consider that:

1. The activity is a permitted activity in terms of the partially operative 2GP as at date that the application was lodged (19 November 2024).
2. The activity is a permitted activity in terms of Regulation 8 of National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health as at date that the application was lodged (19 November 2024).
3. The activity can be carried out without a resource consent at the date of application lodgement and the Council is therefore able to issue a certificate of compliance under section 139 of the Resource Management Act 1991.



John Sule
Consultant Planner

Date: 27 March 2025

DECISION

I have read the assessment in this report. I agree with the recommendation above.

Under delegated authority on behalf of the Dunedin City Council, I accordingly approve the issuing of a certificate of compliance because:

The proposal is consistent with the provisions of section 139 of the Resource Management Act 1991, in that the activity is a permitted activity in terms of the partially Operative Second Generation Dunedin City District Plan and any relevant National Environmental Standards on 19 November 2025 being the date the Council received the proposal.



Jeremy Grey
Senior Planner

Date: 27 March 2025

CERTIFICATE OF COMPLIANCE
SECTION 139 RESOURCE MANAGEMENT ACT 1991

Certificate of Compliance Number: COC-2024-20

Property Address: 76 Silvertown Street, Dunedin

Applicant: C Paton

Operative Dunedin City District Plan: General Residential 2 Zone

Date Received: 19 November 2024

The applicant seeks a certificate of compliance for the demolition of the church and church hall buildings at 76 Silvertown Street, Dunedin. The subject site is legally described as Lots 1- 4 Deeds Plan 17, comprising approximately 2362m² more or less and held in Record of Title OT84/10.

The proposal is the demolition of the church and other buildings on the site at 76 Silvertown Street, Dunedin. To comply with relevant 2GP rules and ensure compliance with the NES-CS the application identifies that the demolition will:

- Only be undertaken between the hours of 7.30am and 6pm from Monday to Saturday,
- Ensure noise limits within Rule 4.5.4.1 are adhered to through a construction methodology that involves establishing an acoustic barrier between the site and at 8 Spottiswood Street, and
- Only demolish the structures on 76 Silvertown Street down to foundation level.

The proposed activity is considered to constitute a development activity in accordance with the partially operative 2GP's definition of *demolition* and is authorised as a permitted activity in terms of the provisions contained in Rules 15.3.4 (Residential Section) and 4.3.2 (Temporary Activity Section) of the Partially Operative Second Generation Dunedin City District Plan:

- 4.3.2.2 Activity Status Rule for Construction (includes Demolition)
- 4.3.2.1 Performance Standards that apply to all temporary activities
- 4.3.2.2.a Performance Standard for construction noise
- 15.3.4.4 Activity Status Rule for Demolition in Residential zones
- 15.3.4.1 Performance Standards that apply to all development activities in Residential zones
- 15.3.4.2 Performance Standards that apply to all buildings and structures activities
- 15.3.4.1.a & b Specific Performance Standards for demolition

The certificate of compliance is effective from the date that the Dunedin City Council received the request for this certificate and will lapse in accordance with section 125 of the Resource Management Act 1991 if it is not given effect to within five years from the date of issue on this certificate.



John Sule
Consultant Planner

Issue Date: 27 March 2025

11 May 2022

Campbell Paton
C/- Chris Pearse-Smith
4Sight Limited
Level 1
77 Stuart Street
Dunedin 9016

Via email: chrisp@4sight.co.nz

Dear Campbell Paton

RESOURCE CONSENT APPLICATION:

**SUB-2022-14 & LUC-2022-54
76 SILVERTON STREET
DUNEDIN**

Your application for resource consent was processed on a non-notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991. The application was considered by a Senior Planner, under delegated authority, on 11 May 2022.

The Council has granted subdivision consent and land use consent with conditions. The assessment of the application, including the reasons for the decision, is set out in the report attached to this letter. The consent certificates are attached to the rear of this letter.

Please note that the processing of this application could not be completed within the 20 working day time limit prescribed under section 115 of the Resource Management Act 1991. The time limits for the processing of this consent have been extended pursuant to sections 37A(2)(a) and 37A(4)(b)(i) of the Resource Management Act 1991.

The consent certificates outline the conditions that apply to your proposal. Please ensure that you have read and understand all of the consent conditions.

You may object to this decision or any condition within 15 working days of the decision being received, by applying in writing to the Dunedin City Council at the following address:

Senior Planner - Enquiries
Dunedin City Council
PO Box 5045
Dunedin 9054

You may request that the objection be considered by a hearings commissioner. The Council will then delegate its functions, powers and duties to an independent hearings commissioner to consider and decide the objection. Please note that you may be required to pay for the full costs of the independent hearings commissioner.

Alternatively, there may be appeal rights to the Environment Court. Please refer to section 120 of the Resource Management Act 1991. It is recommended that you consult a lawyer if you are considering this option.

You will be contacted in due course if you are due a partial refund or you have to pay additional costs for the processing of your application.

Development contributions are payable for this resource consent. A development contribution notice will be sent in due course outlining how the development contribution has been calculated and when payment is required.

Please feel free to contact me if you have any questions.

Yours faithfully

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

Kirstyn Lindsay
Consultant Planner

APPLICATION SUB-2022-14 & LUC-2022-54: 76 SILVERTON STREET, DUNEDIN

Department: Resource Consents

DESCRIPTION OF ACTIVITY

Resource consent is sought to undertake a subdivision and multi-unit residential development at 76 Silvertown Street, Andersons Bay.

The property currently contains a former church and kindergarten. The kindergarten is to be demolished and removed from the site. The Church is a Category II listed building on the New Zealand Heritage List/Rārangi Kōrero (Heritage List) and was constructed in 1914 by a Dunedin Architect Edward Walden. HNZPT recognises the building as having *“aesthetic significance as a local landmark on a prominent corner site and is also of architectural and spiritual value.”*

The applicant proposes to refurbish the church and establish residential activity. The church tower height (reduced in 1965) will be increased from 15,780m to 19,380m. Skylights will be added and the existing louvers will be removed and replaced with clear glass. The applicant advises that 17 unit titled units will be established within the church building. These will be a mix of one and two bedrooms resulting in a total of 25 Habitable Room. Units 16, 17, 20, 21, 23, 25-29 are shown as one bedroom units; Units 13-15, 18, 19, 22 & 24 are shown as two bedroom units. However, a room space identified as a W/D in Unit 28 appears large enough to constitute a habitable room. Units 13-17 are to be located on the ground floor, Units 18-23 on the second floor. Units 26-29 on the third (roof) floor and Units 24 and 25 in the tower (with each of these two units occupying three levels. A range of communal and private amenity spaces are proposed for these units along the east and west flanks of the church.

The remainder of the site (currently occupied by the kindergarten) will be developed into two rows of town houses (Units 1-6 and Units 7-12) on fee simple titles and with a shared central parking area (Lot 14 comprising 475m²) containing 12 car parks. Tracking diagrams have been provided. Each unit will have a footprint of 34-40m² and will be two storied containing two bedrooms, resulting in a total of 24 Habitable Rooms within the townhouses. Each unit will have 15m² of amenity space and a service area. The amenity area serving Lots 1-6 will be south facing.

A total of 29 units and 49 habitable rooms is therefore proposed (including the W/D in Unit 28). The church will be subdivided into unit titles and the town houses into freehold titles as follows:

Lot Number(s)	Location/Purpose	Subdivision Structure	Lot Size
Lots 1 - 6	Northern Residential Units Block	Freehold	65m ² – 78m ²
Lots 7 - 12	Southern Residential Units Block	Freehold	58m ² – 70m ²
Lot 13	Balance land containing church subject to Unit Title Subdivision	Freehold	760m ²
Lot 14	Common Access Area (held in equal ownership by Lots 1-12)	Freehold	475m ²
Principal Units 1 - 17	Residential Units within existing church building	Unit Title	N/A

Ancillary Units AU1A – AU5A, AU12A, and AU15A	Private outdoor living areas associated with PU1 – PU5	Unit Title	N/A
Common Area	Shared outdoor living area on eastern side of church	Unit Title Approx.	110m ²

A landscape plan has been submitted in support of the proposal. Servicing areas are also identified on the plans. Up to 550m³ of earthworks is proposed which will essentially comprise a 500mm scraping across the site.

SITE AREA BACKGROUND

The site is legally described as Lot 1 Deeds Plan 17 (Record of Title OT280/88) and Lot 2 – 4 Deeds Plan 17 (Record of Title OT84/10). The title gives the land area as 2,363 m² more or less. One of the titles is “Limited as to Parcels”. The applicant advises that after a detailed investigation of the title area and surveying input, it was determined that the underlying titles appear to be incorrect and the site is actually smaller than the 2,363m² as specified on the record of titles. Confirmation from a surveyor has clarified that the site is actually closer to 2,008m² (with a margin of error of 2%, subject to final surveys and LINZ approval). The applicant states that the reason for this discrepancy is not entirely clear, but anticipates that the error lies with Lot 1 Deeds Plan 17 (Record of Title OT280/88) which is limited as to parcels and may include the adjoining unoccupied land (Part Section 2 Block II Andersons Bay SD) or areas of the Council Road Reserve in the overall site size which is considered to be incorrect.

For the purposes of this assessment, the combined land area of Lot 1 Deeds Plan 17 (Record of Title OT280/88) and Lot 2 – 4 Deeds Plan 17 (Record of Title OT84/10) is treated as 2,008m². However, I caution that the margin of error (2%) may be as much as 40m² which could be the equivalent of plus or minus one habitable room under the current General Residential 2 density rules.

In addition to the titles discussed above, the applicant is in the process of acquiring Part Section 2 Block II Andersons Bay SD which contains approximately 182m² of land subject to final surveys and LINZ approval. This land is held in a deceased estate (abandoned land) and is being administered by the Public Trust Office. The applicant’s proposal relies on this land to achieve the density proposed by the application. For the purposes of this assessment, Part Section 2 Block II Andersons Bay SD will be treated as part of the composite site giving a total site area of 2190m² but noting that contingencies will need to be incorporated into any decision should the application site result in less land than proposed.

With further regard to Part Section 2 Block II Andersons Bay SD, the applicant suggests that there are implied rights of way over this land pursuant to Section 168 of the Land Transfer Act 1952. The Deeds Plan for this land shows the portion of abandoned land as road. Section 168 of the Land Transfer Act 1952 does have a recognised problem in that it was repealed by the Land Transfer Act 2017 (in error as the implications of the repeal were not foreseen) but it is my understanding that LINZ treat section 168 as ‘live’ until the error can be resolved. In this regard, it is considered that proposed Lot 14 (the access lot to lots 1-12) has implied right of way over Part Section 2 Block II Andersons Bay SD.

SITE DESCRIPTION

The site is located on the corner of Silverton and Spottiswood Street and diagonally opposite the Andersons Bay Terminus commercial centre. The subject site is occupied by the former Andersons Bay Presbyterian Church (circa 1914) and Andersons Bay Kindergarten, is zoned GR2 in the 2GP and covers total area of about 2,190m². The site drops sharply from the south/east (Spottiswood Street) boundary by about 3m before

sloping gently towards the north/west. Another sharp drop (about 1m) occurs at the midway point and essentially separating the church from the kindergarten space. 76 Silvertown Street is shaped as an irregular rectangle and is prominent on a five-way intersection.

Existing vegetation is constrained to a narrow area adjacent to the south/east boundary, mid-way along the north/east boundary and between the back of the kindergarten building and the south/west boundary. The landscape character is derived from a mix of native and exotic trees and shrubs including some advanced specimens.

Neither the kindergarten nor the church have been used for a number of years.

The local environment is defined by the wide intersection (a former tram terminus area), modest sized heritage buildings, within the commercial centre, and surrounding housing. There is a strong representation of early/mid century brick bungalows, a few older timber villas and cottages as well as a notable amount of modern (1980-90s) redevelopment. Slopes above the centre displays mid-century character housing while the church acts as a significant landmark providing strong definition to the corner and the centre.

REASONS FOR APPLICATION

Dunedin currently has two district plans, the 2006 Dunedin City District Plan (2006 District Plan) and the proposed Second Generation Dunedin City District Plan (2GP). The decisions on the 2GP were released on 7 November 2018 and the rules of the 2GP have legal effect. The appeal period of the 2GP closed on 19 December 2018 and rules that have not been appealed are deemed operative. An appeals version of the plan was released on 13 February 2019.

Section 86F of Act states that:

- (1) *A rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired and, in relation to the rule,—*
 - (a) *no submissions in opposition have been made or appeals have been lodged; or*
 - (b) *all submissions in opposition and appeals have been determined; or*
 - (c) *all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.*

The site is zoned General Residential 2 under the 2GP. Silvertown Street is an Urban High Density Corridor while Spottiswood Street is a local road within the roading hierarchy.

All 2GP rules may be treated as operative for this site in accordance with section 86F of the Act.

Under Variation 2 the site is proposed to fall within a Wastewater Constraint Mapped Area. These rules once operative will have significant implications for the permitted density for the site. The more restrictive rules are not currently operative and no assessment is made under these.

Proposed 2GP

Citywide Activities

The applicant confirms that all excavation within the building areas will be less than 1m in depth and any earthworks along site boundaries will be less than 600mm. Minor earthworks will also be required to level areas of the shared access/parking area, but this area is already generally flat and these earthworks will be limited in nature and scale.

The overall level of earthworks is assessed as no more than 550m³. This figure is calculated on the assumption that an average of 500mm of earthwork scrape is taken over an approximately 1,100m² of land

which accounts for the entirety of the north-western end of the site (including the proposed residential unit blocks and associated car parking area). The applicant suggests that in reality, the overall volume is likely to be less. It is noted that the approximately 2,190m² site permits 657m³ of earthworks. On this basis, the overall level of earthworks will comply with the thresholds outlined in the Proposed 2GP, even if accounting for some fluctuation in site area.

Further detail of earthworks and any associated retaining will be provided in greater detail at the building consent stage. In the scenario that deeper cuts than initially realised are required, then the applicant confirms that a separate earthworks consent will be sought. This approach to earthworks is typical of larger subdivisions and is not a matter for concern.

Subdivision

Rule 15.3.5.1 lists unit title subdivision as being a **restricted discretionary** activity in the residential zones subject to performance standards.

Rule 15.3.5.2 lists general subdivision as being a **restricted discretionary** activity in the residential zones subject to performance standards.

In this case the following standards are relevant:

- Access (Rule 15.7.1)
Subdivision activities must provide access in accordance with Rule 6.8.1. In this instance, Rule 6.8.1 requires that every resultant site must have a legal accessway, and where there is minimum car parking required by the Plan, this must be in the form of a driveway. Each freehold unit will be provided with a carpark and right of way access which is assessed as compliant.
- Esplanade reserves and strips (Rule 15.7.2)
Not applicable
- Fire fighting (Rule 15.7.3)
Subdivision activities must provide access in accordance with Rule 9.3.3. Rule 9.3.3 requires that, in this instance, subdivision activities must ensure resultant sites have access to sufficient water supplies for fire fighting consistent with the SNZ/PAS:4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice. There are hydrants located in both Silverton and Spottiswood Street to serve the site in accordance with SNZ/PAS:4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.

It is noted that the unit title development is expected to require a specific fire system but this will be addressed at the time of Building Consent.

Minimum site size (Rule 15.7.4) – General Subdivision under Rule 15.3.5.2 only

Rule 15.7.4.1.b.1 requires a minimum site size of 300m² for each resultant lot in the General Residential 2 Zone. Freehold Lots 1-12 have areas which range between 58m² - 78m². Breaches of Rule 15.7.4.1 are non-complying activities in accordance with Rule 15.7.4.2.

For clarification, there is no minimum lot size for unit title subdivision.

- Service connections (Rule 15.7.5)
Subdivision activities must provide infrastructure connections in accordance with Rule 9.3.7. Rule 9.3.7 requires that subdivision activities must provide all resultant sites connections to public water supply, wastewater, and stormwater networks, which must be laid at least 600mm into each site. All residential lots are to be connected to services as required by Rule 9.3.7.

- Shape (Rule 15.7.6)

All subdivision activities (including unit titles) requires that each resultant site that is intended to be developed must be of a size and shape that is large enough to contain a building platform of at least 7m by 10m that meets the performance standards of this Plan. In this case, all lots will not meet the shape rule given the unit title/townhouse style of the development. Breaches of Rule 15.7.6 are assessed as a restricted discretionary activity pursuant to Rule 15.7.6.5 and assessed under Rule 15.10.5.6.

- Structure plan mapped area performance standards (Rule 15.8)
Not applicable

Overall, the subdivision is assessed as a non-complying activity.

Land use activities

Rule 15.5.3.3 states that standard residential activity is permitted, subject to meeting the relevant performance standards. Of relevance to this application are the standards relating to density and outdoor amenity space.

- Rule 15.5.2.1.b states that within the General Residential 2 zone and not within an infrastructure constraint mapped area, density is to be calculated at one habitable room per 45m² of site area. In this instance, the composite site of 2190m² (as determined previously) provides for a habitable room density of 48.66. The applicant seeks to round this up to 49 habitable room (on the basis it is proposed there will be 25 Habitable Rooms in the former Church building). While this has generally found favour with the Council for past applications, the application is still assessed as a non-complying activity for the breach of Rule 15.5.2.1.b. It is noted that if the site area reduces then the number of units will also need to reduce accordingly and in this regard the proposal seeks to establish the maximum number of habitable rooms relevant to the greatest potential land area available.
- Rule 15.5.11 set the standards for outdoor amenity space. Each freehold title will provide 15m² of amenity area. However, the outdoor amenity space for Units 1-6 is south facing and will not meet Rule 15.5.11.3.c. The amenity space within the church building is as follows:
 - Units 13 – 17 (Church Ground Floor Units) will each have 15m² exclusive outdoor living spaces;
 - Units 18 – 29 will share the remaining communal outdoor living area identified on the Proposed Ground Floor Footprint Plan. This area is approximately 110m² of total area (located along the south-eastern side of the church building). Because Units 18 – 29 are not located at ground level the following outdoor living space area is required:
 - 8 x one bedroom units – requires 6m² of outdoor living each (total of 48m²)
 - 4 x two bedroom units – requires 10m² of outdoor living each (total 40m²)

On this basis, the applicant considers that the ground floor and upper floor units comply with the required area of outdoor living space. However, for the upper floors, these outdoor living areas are not directly accessible from the principal living areas and the outdoor space is communal.

Units 18, 19, 26 and 27) will be required to exit the site via the bridge and then walk down the pedestrian access at the corner Silverton Street and Spottiswoode Street. Units 20, 21, 22, 23, 24, 25, 28, and 29 will have access to the main church doors fronting onto Silverton Street and will have to walk up Silverton Street to the corner via which church entrance).

Breaches of Rules 15.5.11.1.a and 15.5.11.3 are assessed as restricted discretionary activities under Rules 15.5.11.1.b and 15.5.11.3.d respectively.

- Rule 15.5.12 requires that residential activity with three or more residential units on a site must provide service areas with a minimum area of 2.5m² per residential unit. Service area requirements are in addition to outdoor living space requirements. After the subdivision is complete, the town houses will be on freehold titles and do not need to meet the servicing requirements. The applicant confirms that Units 1 – 12 will have individual 80L rubbish bins that will be collected from the shared driveway area. EnviroWaste already service this driveway and have confirmed collection.

In respect of the Church development, Units 13 – 29 will utilise the bin storage area (containing 660L shared bins) shown on the landscape plan. These bins will then be wheeled onto Silverton Street and picked up by EnviroWaste by their specialised truck which will fit down the access strip immediately in front of the site on Silverton Street. This area off Silverton Street immediately in front of the church is already currently serviced by EnviroWaste. The applicant advises that the remaining 'service areas' shown on the plan were demonstrate that the 2.5m² service area requirement can be met.

Overall, the land use activity is assessed as a non-complying activity.

Development activities

The proposal will result in the development of town houses and the units within the church building.

- Rule 15.3.4.5 provides for new buildings that result in a multi-unit development in the General Residential 2 Zone as a **restricted discretionary** activity. As construction of the town houses will be established prior to or concurrently with the subdivision this rule is triggered.
- Rule 15.6.1 provides for a maximum building length of 20m. The proposed southern block will be approximately 27m in length. Breaches of Rule 15.6.1.1 are restricted discretionary activities pursuant to Rule 15.6.1.4.
- Rule 15.6.6.1.a.iii states that in the General Residential 2 zone, the height in relation to boundary must be within a plane rising at an angle of 55 degrees measured from a point 3m above ground level at the boundary. This standard will be met to all external boundaries as the town house units are centralised within the site. In respect of internal boundaries, the units on Lots 1-6 and Lots 7-12 share a party wall which is provided for by the exemption set out in Rule 15.6.6.1.a.v.2. There will be height in relation to boundary breaches with Lot 14 - Access Lot only) and the church (Lot 13). Breaches of Rule 15.6.6.1.a.iii are restricted discretionary activities pursuant to Rule 15.6.6.1.b and assessed under Rule 15.10.4.7. It is noted that these breaches will only occur once the titles for the proposed lots are issued. For completeness, Rule 15.6.6.1 only applies to new buildings and does not apply to the church structure.
- Rule 15.6.6.2.a permits a maximum height of 9m in the General Residential 2 Zone and the proposed extension to the church tower will result in a maximum height of approximately 19.380m (previously 15.780m) above existing ground level. Breaches of Rule 15.6.6.2. is a restricted discretionary activity pursuant to Rule 15.6.6.2.c.
- Rule 15.6.10.1.b requires that a maximum 50% of building site coverage and 80% of impermeable surfaces must not be exceeded in the General Residential 2 zone. The applicant calculates that for the underlying site, the total building coverage of 37% and impermeable surfacing is 38%; giving a total impermeable coverage of 75%. However, post subdivision, the building coverage of Lots 1 – 12 will range from 63 to 70% within each resultant site, given each residential unit and associated outdoor living areas will be immediately enclosed by new title boundaries. Breaches of Rule 15.6.10.1.b.i are assessed as a restricted discretionary activity pursuant to Rule 15.6.10.3.

- Rule 15.6.13.1 requires that buildings to be setback 2m from side and rear boundaries, 1m from right of way boundaries and 4.5m from any road boundary. The rule applies to new buildings and structures, and additions and alterations only, Units 1-6 will be setback between 1m and 2.7m from the boundary shared with Silverton Street.
- Units 1 and 7 will be built up to the shared ROW over Lot 14. Units 6 and 12 will be built up to the boundary with Unit 13 (church). It is noted that these breaches will only occur once the titles for the proposed lots are issued.
- Lots 1-6 and Lots 7-12 have a shared party wall which is provided for by the exemption set out in Rule 15.6.13.1.a.viii.2.
- Breaches of Rule 15.6.13.1.a.ii are restricted discretionary activities pursuant to Rule 15.6.13.1.b and assessed under Rule 15.10.4.1. It is noted that these breaches, except for the road boundary breach, will only occur once the titles for the proposed lots are issued.

No other development activity performance standards are considered relevant to this proposal.

For completeness, it is noted that although the church building is included on the Heritage New Zealand register as a Category II building, there is no corresponding listing of the building within Schedule A1.1 of the 2GP. This anomaly appears to relate to the fact the listing in the HNZPT register occurred relatively recently in 2017, being after the Proposed 2GP was publicly notified and submissions were received. The protection of this building via the District Plan Schedule requires either a Variation to the 2GP or a Plan Change. The rules in Chapter 13 – Heritage therefore do not apply to this application.

National Environmental Standards

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 soil contamination NES and/or might require resource consent.

A search of Council records (HAIL-2022-22) has determined that part of the property is a verified HAIL site, as land within the site has been used for the purposes of 'A17: Storage tanks or drums, associated boilers, and fuel lines'.

The HAIL report confirms that an underground fuel tank was on the site and may still be present. A letter in 2002 from the Council's Hazardous Substances Officer gave permission to fill the tank with concrete slurry. The letter went on to acknowledge a report that was provided at that time indicating no environmental contamination had been found and therefore the site was removed from the 'database of potentially contaminated sites'. However, it is noted that this assessment pre-dates the NESCS and the approval was being given in accordance with the relevant hazardous substance regulations of the time. The HAIL report indicates that 'no other information regarding location of tank found on file'.

On this basis, the applicant advises in an email dated 24 February 2022 that, as the site is a verified HAIL, relevant consents are sought for a **discretionary** activity, under Section 11(2) where the proposed earthworks will exceed the soil disturbance thresholds in Section 8(3)(c).

The applicant also advises that the existing above ground diesel boiler, will be removed in accordance with the permitted activity standards specified in Section 8(1) of the NESCS.

There are no other National Environmental Standards relevant to this application.

Overall Status

Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.

In this case, there is more than one rule involved, and the effects are linked. As a result, having regard to the most restrictive activity classification, the proposal is assessed to be a non-complying activity.

WRITTEN APPROVALS AND EFFECTS ASSESSMENT

Affected Persons

No affected persons forms were submitted with the application. A separate notification decision was undertaken for this application, and it was determined to process the application on a non-notified basis with no affected parties.

Effects on the Environment

Permitted Baseline

Under sections 95D(b) and 104(2) of the Resource Management Act 1991, the Council may disregard an adverse effect of the activity on the environment if the district plan or a national environmental standard permits an activity with that effect.

In this situation, there is no permitted subdivision and no baseline for this component of the application. In terms of land use, while the density provides for up to 48 habitable rooms on the composite site, it is fanciful to consider that these would be established within no more than two dwellings. The applicant provides some development standards as a permitted baseline, but these cannot be considered in isolation when considering a multi-unit development due to the scale of built form on the site. The earthworks are identified as permitted under the 2GP but trigger rules under the NESCS.

Overall, I consider that there is a very limited permitted development baseline to be applied if it is possible to provide one at all.

Importantly, the permitted baseline does provide for the demolition of all structures on the site, including the Category 2 church building. This is a critical assessment tool when assessing the effects of the proposal on the church building.

Receiving Environment

The existing and reasonably foreseeable receiving environment is made up of:

- The existing environment and associated effects from lawfully established activities;
- Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
- The existing environment as modified by any resource consents granted and likely to be implemented; and
- The environment as likely to be modified by activities permitted in the district plan.

For the subject site, the existing and reasonably foreseeable receiving environment comprises the existing Andersons Bay Presbyterian Church (former) building and an existing kindergarten which is located centrally on site. Both the kindergarten and church are currently vacant prior to this site being purchased by the applicant in 2021. The church is a Category II heritage building as of 2017. Given that the church was vacated in 2017 and the kindergarten in 2018, no existing use rights remain,

beyond the bulk and location of the buildings, which could be relied on when establishing the receiving environment.

For adjacent land, the existing and reasonably foreseeable receiving environment comprises General Residential 2 zoned land and General Residential 1 zoned land immediately adjoining the site to the south-west, while a Neighbourhood Centre Zone adjoins the site to the east. The surrounding environment therefore comprises mostly residential activity with a range of commercial and mixed use activities to the east (such as restaurants and a service station).

It is against these that the effects of the activity, beyond any permitted baseline, must be measured.

Assessment Matters/Rules

Consideration is required of the relevant assessment matters in the Operative District Plan and the relevant assessment rules in the Proposed 2GP, along with the matters in any relevant national environmental standard. This assessment is limited to the matters to which the Council's discretion has been restricted. No regard has been given to any trade competition or any effects of trade competition.

1. Lot Size and Dimensions and Physical Limitations

The applicant seeks to undertake a development in accordance with the current density provisions of the 2GP and pre-empt the higher density requirements indicated by Variation 2. The development will take the form of both town houses and an apartment complex within an existing (former) church building. The development within the church is constrained by the building and layout within the site. Given that there are no restrictions on the number of units able to be established within the composite site, density controls rely solely on habitable room numbers and the ability to meet the performance standards. I note that the density capacity is slightly rounded up consistent with DCC's previous treatment of similar density shortfalls. Further, if the W/D room in Unit 28 is excluded from consideration the density proposed would be compliant for the composite site area of 2190m².

As noted above, the final land area available to this site is dependent on final survey and the acquisition of Part Section 2 Block II Andersons Bay SD. To this end, I recommend that the final number of habitable rooms reflect that final surveyed land area using a formula of one habitable room per 45m² of site area (applying the rounding up approach currently sought by the applicant) e.g: a final site area of 2008m² will provide for 45 (44.6) habitable rooms whereas 2190m² will provide for 49 (48.6) habitable rooms and so on.

In terms of the unit-title church development, the layout of the church is tight, in my opinion, and may result in unflattering modifications to the church building, such as the introduction of irregular skylights or splitting rooms across floors. However, I note that, although the church is a Category II HNZPT listed building, it is not scheduled within the 2GP and, therefore, no heritage protections are afforded to it. To this end, I recognise that the building could be demolished without reference to the 2GP. I also note that the building is classed as earthquake prone, and in this regard, demolition is not considered to be fanciful prospect, as the landowner may be forced to consider this option if the costs of earthquake strengthening of the building become prohibitive. I also recognise that retention (and possible rehabilitation) of the church is likely dependant on the applicant achieving the maximum return to invest back into the building. This further reinforces the credibility of the demolition option.

In terms of access, the church building has frontage to Silverton Street and Spottiswood Street. The bulk of the church building sits below Spottiswoode Street and at ground level to Silverton Street. No parking is to be provided, nor is any required. Overall, the physical limitations of the church building are well understood.

With regard to the town house component of the application, this also appears to be a denser development, but will again comply with density (insofar as the underlying composite site is relied

on and applying the rounding up approach). The townhouse will take the form of two sets of terrace rows. All external yards and height requirements will be met.

While adequate outdoor amenity space area is provided, this is often south facing and, as such, less than desirable. To mitigate the effects of this, it is expected that additional amenity space will be required to serve Lots 1-12. This requirement is discussed later in this report.

The town houses will share an access and parking lot (Lot 14). Each Lot 1-12 will hold Lot 14 in equal shares. As noted previously, proposed Lot 14 has implied rights of way over Part Section 2 Block II Andersons Bay SD, pursuant to section 168 of the Land Transfer Act 1952.

In general, the site presents a number of challenges, but overall it is considered that the effects of the proposal can be managed through recommended conditions of consent. The applicant has volunteered the proposed conditions of consent and these are now considered to form part of the application.

2. Easements and amalgamations

Service easement/s are required where any private water supply pipes or wastewater/stormwater laterals cross property boundaries in favour of the property they service. It is noted that the implied rights of way over Part Sec 2 Blk II Andersons Bay SD are for access only and do not apply to services. No services can be laid into Part Sec 2 Blk II unless this lot is held by the consent holder or otherwise legally authorised.

The applicant seeks the following amalgamation condition to be applied to the subdivision:

"That Lot 14 hereon (legal access) be held as to twelve undivided one twelfth shares by the owners of Lots 1 - 12 hereon as tenants in common in the said shares and that an individual record of title be issued in accordance herewith" (See CSN request 1778694).

3. Infrastructure

The 3 Waters Subdivision and Development Officer has considered the application. They note that development will provide 49 habitable rooms in total and relies on the applicant purchasing a parcel of land to the North West of the property – Pt Sec 2 Blk II Andersons Bay SD (0.018ha). In terms of existing services, the Council's GIS records a 150mm diameter water supply pipe, a 225mm diameter wastewater pipe and a 375mm diameter stormwater pipe in Silverton Street.

General Residential 2 rules set density at one habitable room per 45m² of site size. The overall site is 2040m² which would allow (45.3) 46 habitable rooms. The site is 165m² undersized for 49 habitable rooms, however the officer notes that with the purchase a parcel of land to the North West of the property – Pt Sec 2 Blk II Andersons Bay SD (0.018ha) density (rounded up) would be compliant

The Officer advises that all aspects of this development will need to be undertaken in accordance with the requirements of the Dunedin Code of Subdivision and Development 2010.

Water services for the 12 lot subdivision

The Officer advises that the Dunedin City Council Water Bylaw 2011 sets out the requirements for connections to the water supply network. Each lot must be serviced from an individual Point of Supply. There is an existing water connection to the property which can be retained for one of the proposed new lots. New individual water connections are required for the remaining 11 lots. For a new water connection or any change to an existing water connection, an "Application for Water Supply" is required. When the connections are established, the water supply pipe must be laid at least 600mm into the lots.

Water services for the 17 unit Church conversion – Lot- 13

Given the large number of units in this unit, the Officer recognises that it would be impractical to have individual water service connections for each unit. As such, new sufficiently sized water connections are required to service the new 17 units to be built.

Under the Water Bylaw (2011), residential properties with a water service in excess of 25 mm must be metered. An RPZ backflow prevention device and meter will also be required. The connection detail will be finalised during the “Application for Water Supply” process.

The Officer notes that any water servicing infrastructure located within private access lots shall be privately owned, and all maintenance will be the responsibility of the landowners serviced by it.

Firefighting requirements

All aspects relating to the availability of water for firefighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies. The officer notes that there are five Fire Hydrants within 60m of the development entrance. Based on SNZ PAS 4509:2008 a FW2 (25l/s) zone requires a Fire Hydrant within 135 m and a second within 270 m. These Fire Hydrants requirements are compliant for the development.

Stormwater services

The Officer notes that due to the large increase in the impervious area of site a Stormwater Management Plan (SWMP) is required. A Stormwater Management Plan (SWMP) prepared by a suitably qualified person must be submitted to Dunedin City Council including the following:

- a) Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow; and
- b) An assessment of the current and proposed imperviousness of the site; and
- c) Secondary flow paths; and
- d) Any watercourses located within the property; and
- e) Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and
- f) An assessment of the current network and its ability to accept any additional flow from the proposed development.
- g) Measures to ensure acceptable level of Stormwater quality being discharged from the site.

Wastewater services

The Officer recommends that the applicant try to reduce water consumption and, consequently, the volume of wastewater generated, the consent holder is encouraged to implement water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers.

The proposal has also been assessed by the Council’s Seepage Officer who notes that proposed Lots 1-12 are required to have foul and stormwater drainage discharging to the Dunedin City Council reticulated services network and Lot 13 (Units 13-25) can connect to the Dunedin City

Council reticulated services network in Silverton Street via a Common Drain. Proposed Lot 14 is an access lot which will require stormwater drainage from impervious surfaces.

New/upgraded infrastructure proposed

The Officer notes that the DCC Wastewater pipe located adjacent to the Western boundary, close to proposed Lots 7 and 8 hereon and runs towards Bayfield Road must be upgraded from 100mm diameter to 150mm diameter. The Officer advises that, should the applicant seek for Council to pay for the upgrade of the DCC Wastewater pipe, the applicant will need to negotiate and reserve a 3.0 metre wide easement over the sealed driveway as per the image below. Additional easements must also be negotiated and reserved for the house drains that connect to the 100 FS as these would need to be extended into the driveway.



The Officer advises that construction and installation of infrastructure will need to be undertaken in accordance with the approved engineering plans, the Dunedin Code of Subdivision and Development 2010 and NZS4404:2004 standard. On completion of construction of the servicing infrastructure, as-built plans will need to be submitted to the Dunedin City Council, 3 Waters Subdivision Engineer for approval. The as-built plans will also need to be accompanied by a quality assurance report.

Erosion and Sediment Control

The Officer advises that it is important that erosion and sediment control measures are utilised to control and contain sediment-laden stormwater run-off into neighbouring properties and the Council stormwater network from the site during any stages of site disturbance associated with this development. The officer notes that this could include diversion drains, sediment fencing, erosion control blankets etc.

The Officers' assessments are adopted for the purposes of this report and, subject to recommended conditions of consent, the proposal is assessed as having no more than minor adverse effects on the City's reticulated infrastructure. The applicant has volunteered these conditions. I also note that this assessment relies on the density being aligned with the final underlying site area available.

4. Transportation

The application was forwarded to the Council's Transport department for comment. The Council's Consultant Transport Planner notes that the application is to convert a church and preschool to a high density housing development. The preschool will be demolished and replaced with two new residential buildings with a total of 12 separate units with fee simple titles. The church will be on a separate title with 17-unit titled units. Twelve carparking spaces will be provided on site to serve the twelve units in the new buildings. No parking spaces will be supplied for the church units.

The site is on the intersection of Silverton Street with Spotiswoode Street. Silverton Street is an Urban High Density Corridor in the roading hierarchy in the 2GP. MobileRoads suggests the traffic volume on Silverton Street is 6000 vpd.

The Transport Planner notes that access to Silverton Street is from an existing (implied) right of way that serves the proposed development as well as an Oranga Tamariki residential unit and five residential lots. The Oranga Tamariki residential unit also has access from Elliot Street. The ROW has a legal width of 6.5 metres through the first part of the ROW with a 5 metre wide carriageway. The ROW narrows to 3.4 metres formed and legal width.

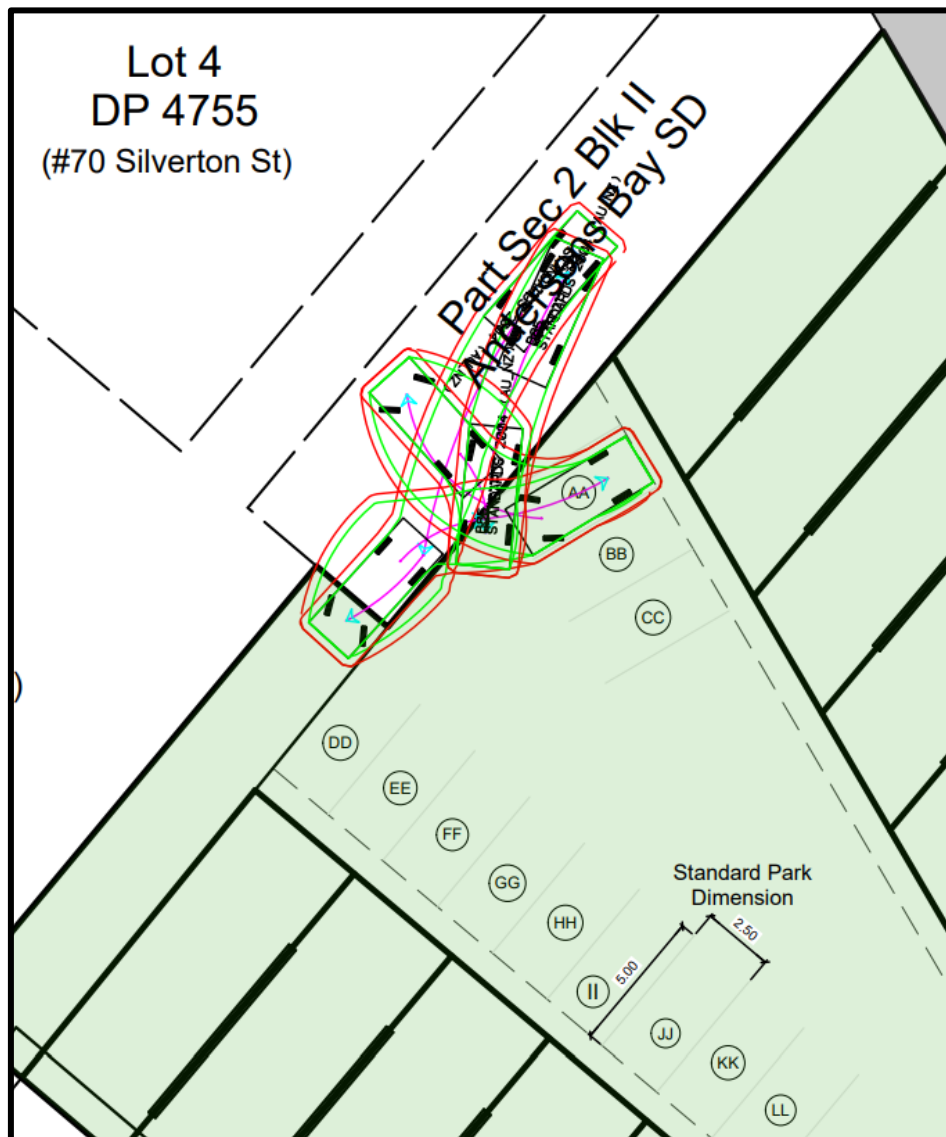
The Transport Planner notes that it is difficult to assess exactly what the total current number of residential units served from the right of way is given the location of the narrow section between the two parts of the site, both with access to different streets. That notwithstanding it could be argued that the access requires only four metres legal width and three metres formed width if Oranga Tamariki is considered to be residential activities or six metres legal width and five metres formed width if it is non-residential. The Transport Planner notes that the under-width section is an existing situation.

The proposal is for the access to remain in its current form with the two new buildings constructed up to the edge of the access. The Transport Planner notes that this breaches the 1.0m separation required by Rule 6.6.3.8. The proposed location of the buildings will create a risk with the buildings having vehicles driving past immediately adjacent to the wall. The Transport Planner considers that this is an obvious risk. The Transport Planner recommends that there should be separation between Lot 1 and the traffic entering the access. He advises that this can be achieved by providing a pedestrian path linking the internal carparking courtyard with Silverton Street as shown below. The path would be a continuation of the proposed internal path along the frontage of Lots 1 to 6. The access width would remain at 5m wide. The Transport Planner notes that this approach would also provide clearance from the existing power pole at the entrance on Silverton Street.

The Transport Planner notes that clearance can be created past the building on Lot 7 by reducing the width of the formed carriageway to 3m and providing a 0.4m separation from the building. A diagram of these requirements are included at Appendix 2 and recommended as conditions of consent. The Transport Planner advises that there is a full height kerb within the existing vehicle access which will need to be removed. This is also shown at Appendix 2 attached to this decision.

With regard to parking and manoeuvring, there are currently seven car parking spaces on site that will be replaced. Twelve carparking spaces are proposed on site. While the layout of the carpark is not standard, the Transportation Planner assesses that the dimensions are consistent with the 2GP requirements. No details of the carpark gradients has been supplied and it is recommended that this be covered off in the conditions. The Transportation Planner considers

that the use of space AA is complex as in the image below but he considers that it is possible to argue that it complies with the 2GP.



In terms of traffic generation, this will be of a different nature from that generated by a church and preschool. The Transportation Planner considers that there will be less peak traffic with the traffic demands spread throughout the day. He notes that parking for the church residents will be on street and there appears to be sufficient parking on Spottiswoode Street to accommodate the increased parking demand. He notes that the site is on a bus route and is within 400m of a second bus route. Overall, the Transportation Planner considers that the traffic generated by these additional vehicles will be absorbed by the local network without any capacity concerns.

The Transportation Planner's assessment is adopted for the purposes of this report and, subject to recommended conditions of consent, it is assessed that the effects of the proposed development on the transportation network to be no more than minor. I note that the applicant has volunteered the attached conditions.

5. NESCS

A search of Council records (HAIL-2021-22) determined that part of the property is verified HAIL for the purposes of 'A17: Storage tanks or drums, associated boilers, and fuel lines'. The HAIL report confirms there was a underground fuel tank on the site and that it was emptied and filled with concrete slurry in 2002. Council granted approval for this in accordance with the relevant hazardous substance regulations of the time. Importantly, a report was provided at that time indicating no environmental contamination being found and, therefore, the site was removed from the 'database of potentially contaminated sites'. The HAIL report indicates that 'no other information regarding location of tank found on file'. While a consent is required as the proposed earthworks will exceed the soil disturbance thresholds in Section 8(3)(c), it is considered that it is highly unlikely that there will be a risk to human health given that the use of the underground tank ceased at least 20 years ago and the tank has been filled with concrete under the relevant regulations of the time. A report was provided that indicated no environmental contamination was found.

The applicant also advises that the existing above ground diesel boiler, will be removed in accordance with the permitted activity standards specified in Section 8(1) of the NESCS.

Overall, it is assessed as highly unlikely that there will be a risk to human health.

6. Hazards

Section 6(h) of the Resource Management Act 1991 requires the Council to recognise and provide for the management of significant risks from natural hazards, as a matter of national importance. In addition, under section 106 of the Resource Management Act 1991, the Council may decline the subdivision consent, or it may grant the subdivision consent subject to conditions, if there is a significant risk from natural hazards.

The assessment of the risk from natural hazards requires a combined assessment of:

- (a) *the likelihood of natural hazards occurring (whether individually or in combination); and*
- (b) *the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and*
- (c) *any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).*

The site is not included in the Hazards Register or on the 2GP Maps. The application was considered by the Council's consultant engineer, Stantec New Zealand Ltd. The Senior Engineer advises that the underlying geology consists of second main eruptive phase volcanics and is sloping by up to 12 degrees.

The engineer notes that the proposed earthworks consists of 550m³ of cut across the site with a maximum anticipated change in ground level of 1.5m. The engineer notes that the site is likely to be generally stable at the existing slope angles within this geology. There are no general potential instabilities of concern although temporary stability is likely to be a concern based on the proposed earthworks, and retaining walls are likely within close proximity to site boundaries. The engineer advises that hazards will need to be monitored and appropriately accounted for during construction and through design.

Based on the above assessment, the engineer recommends that the application not be declined on the ground of known natural hazards but provides the following advice:

- *Temporary stability may be a concern on this project, and remains the responsibility of the developer.*

- *No earthworks should be undertaken until building consent has been granted.*
- *Prior to undertaking the work, a professional must assess the potential for instability on adjacent properties, as a result of the works.*
- *Confirmation should be made of foundation depths for existing structures in relation to the proposed earthworks.*
- *All temporary slopes should be inspected and signed off by a suitably qualified individual.*
- *We recommend that appropriate third party liability insurances are in place which identify nearby structures prior to undertaking any excavation that might affect others' land*
- *The excavations slopes shall be supported within 1 month of commencing the earthworks.*
- *All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s*
- *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.*
- *Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development*
- *Slopes may not be cut steeper than 1:1 (45°) or two metres high without specific engineering design and certification*
- *Slopes may not be filled steeper than 2h:1v (27°) or two metres high without specific engineering design and certification*
- *As-built records of the final extent and thickness of any un-engineered fill should be recorded*
- *Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.*

As there are no breaches of the scale threshold earthworks rules of the 2GP or any known natural hazards identified for the site, the above advice has been carried down as advice notes only.

Having regards to this assessment, it is considered that there are no significant risks from natural hazards that need addressing as part of this subdivision.

7. Amenity Values and Character

The application has been assessed by the Council's Urban Designer with input from Council's Heritage Advisor. It is noted that the heritage advisor's comments are restricted to the contribution the heritage elements of the church contribute to the urban design values of the immediate area. The Urban Designer notes that the demolition of the kindergarten would allow for two new double storeyed unit blocks (2 bedrooms per unit) while retention and redevelopment of the church would provide a further 17 units (1 and 2 bedroom). All external yards and height requirements will be met.

A new block of 6 units would be established within part of the Silverton Street set back. The Urban Designer notes that these will be joined with party walls and follow the same alignment as the church. Each unit's frontage would be set back from its neighbour providing a series of distinct street facades and pedestrian entrances off Silverton Street. The second new unit block would provide another six adjoined units near the south/west boundary. These buildings would be aligned and without setbacks to distinguish them.

The Urban Designer notes that car parking would be limited to 12 spaces and provided within the centre of the site and between the two proposed new blocks of units. Access to the car park would be from an existing laneway on the north boundary. The remaining 17 units (units 13-29) would be

fitted within the envelop of the existing church, other than a single unit at the top of the tower. Units would be arranged over the ground and first floor (both levels including mezzanine floors). Internal alterations would be significant.

The Urban Designer provides a summary of proposed main exterior changes to the church as follows;

- Wooden shutters at large louvre openings and dormer windows to be removed and fitted with clear glazing.
- Northern façade altered to fit ground level sliding doors.
- Sky-lights fitted to both the north and south facing sections of roof.
- Extension to tower.

In terms of landscape and amenity, the Urban Designer advises that individual outdoor amenity space would be provided for each of the units within the new townhouse lots, whereas, shared amenity space is proposed for units within the church. Amenity space for the church amounts to 131m² adjacent to the north/west façade and a further 110m² at the south/east façade and directly below the adjacent road level. Service areas are shown at various locations throughout the site.

A landscape scheme shows a large tree (Eucalypt) near the north/west and a cluster of established shrubs (hebes and flax) at the north/east corner of the church are for retention. Other than this, the Urban Designer notes the site would be cleared, however, some new amenity planting is proposed.

Generally, the Urban Designer considers that the redevelopment of the site has significant benefit by responding to the housing shortage within the city. The scheme would also support the viability of the small commercial centre it overlooks. Given that the development would be on a major bus route, it would be well supported by public transport.

The Church Building:

Heritage New Zealand Pouhere Taonga identify the building on its list as a Category 2 Historic Place. It was entered on the list in 2017 and the Register Number is #9695 - Andersons Bay Presbyterian Church (Former). The extent of the listing is reproduced below.

"Includes the land described as Lot 3 DEED 17 (RT OT84/10) and part of the land described as Lot 2 DEED 17 and Lot 4 DEED 17 (RT OT84/10), Otago Land District, the building known as Andersons Bay Presbyterian Church (Former) thereon and the following chattels: original pews (32), altar, pulpit, font, church chairs (5), altar cupboard and organ. (Refer to the map in Appendix 1 for further information)."

It is recognised that the 2GP currently affords little protection of heritage values for this site as the Church building is not included on the schedule of heritage buildings and structures at Appendix A1.1 to the 2GP. The church building has a historic value as demonstrated by the inclusion of the HNZPT heritage listing, but in terms of the RMA this can be given little weight in this assessment as the significance of this heritage value has not been recognised to date in either the operative or proposed plan, and demolition of the church remains a permitted activity.

Until such time as the building can be scheduled, and therefore protected by the District Plan, the potential for demolition of the former church is a foreseeable risk, potentially precipitated by earthquake strengthening requirements alone. The Heritage Advisor recognises that adaptive reuse is a positive and highly desirable outcome that will provide an ongoing use for the former church. Retention of this building is the primary objective, retaining the exterior presentation, historic character, and significant features of the former church are also critical from a heritage perspective. He also recognises that the building has been assessed as earthquake prone. Any proposal to strengthen and retain the subject building has the potential for a positive heritage outcome.

The Heritage Advisor notes that achieving compliance with the building code will require numerous interventions to the built fabric (fire ratings, thermal performance, seismic strengthening etc). The application provides very little detail on this aspect of the project and a full assessment of the impact on heritage values is not possible.

The Urban Designer also notes the church is a landmark building with importance to the local community as well as contributing to the city's overall heritage character. While the church's exterior would be mostly kept intact, the Urban Designer notes that the proposed alterations would be highly noticeable and may have some effect on the building's authenticity. He considers that this could impact on the surrounding streetscape and how the building is experienced (sense of place). For this reason, any alterations and additions visible from surrounding streets and buildings, need to be well considered and respectful of the original architecture.

The Urban Designer considers that the addition to the tower would possibly be the most significant change. Given that the tower has undergone historic modification, there is an opportunity to revisit this feature. The information provided shows a 3.6m extension which is considered to be in keeping within the general proportions of the church. The extension has been designed to address both the north elevation as well as the east elevation. It would have a colour steel roof and adjoining balcony and provide a new capping element to the tower.

The Urban Designer notes that the existing long shuttered openings on the tower and dormer windows are proposed to be modified with clear glazing. Given the significant interior changes, it would be useful to know how new floors would impact on the existing window openings (when viewed from public space), what was proposed in terms of glazing bars and other features and how window treatments would be managed to control privacy while respecting the architecture of the church.

The Urban Designer notes that new skylights are proposed on both main sections of the churches roof to provide light into proposed units within the ceiling space. Given the uniform placement and scaling of existing windows and dormers, the Urban Designer recommends that any additional openings should retain a sense of balance and regularity. The skylights as proposed do not adhere to a regular alignment and, in the Urban Designer opinion, do not coordinate particularly well.

The Heritage Advisor also considers that changes to the exterior should be well integrated with the proportions and rhythm of the existing architecture. New doors/windows/skylights should respond to the rhythm/proportions of the existing fenestration. He suggests that the applicant reconsider the interior configuration of the residential dwellings to better integrate external modifications with the architecture of the former church. He further notes that new work should be detailed in a contemporary manner so that the authenticity/extent of the historic fabric is identifiable. The extension to the tower is permissible provided it is legible as a contemporary extension. The lower-level balcony between the tower and the ridge is not well integrated with the architecture of the former church and a better architectural resolution is desirable.

The Heritage Advisor recognises that conservation of heritage elements will require significant financial investment. Replacement of the roof, windows, etc that prioritises cost may be proposed by the applicant. He accepts that without being scheduled there is no reason for the applicant to protect and conserve these elements, however, the retention and conservation is desired from a heritage perspective. The advisor also considers that the application does not adequately address the intent for exterior brickwork, retention or replacement of the slate roofing, retention or replacement of the leadlight windows, replacement of glazing in place of the wooden louvres of the tower. If the building were scheduled this information would be requested. He suggests that a detailed schedule of conservation works for the exterior is prepared by a suitably qualified conservation professional to be reviewed as part of building consent application. The advisor also considers that the exterior presentation of the former church is a landmark building in the

streetscape, retention of the existing presentation/materiality should also be a consideration for the Urban Design review.

Based on the assessment above, I recommend conditions of consent which require the applicant to provide a Heritage Methodology and Conservation Report prepared by a suitably qualified and experienced person. The applicant has volunteered to provide this report and to implement the conditions of that report. It is recommended that the report should include:

- i) the methodology for retaining stained glass windows while achieving building code.
- ii) Additional details showing how timber shutters will be converted to glazed units. To include final shape and glazing bar patterns.
- iii) Additional details showing how new interior floors will affect views/light at existing windows (as viewed from the street/public space), including drawings showing the relationship between the mezzanine floor levels and existing windows and which demonstrate that the window opening, existing glazing, or legibility of the gothic silhouette will not be altered as a result.
- iv) Final locations of skylights and how these compliment the current form and design of the church building.
- v) Details of new elements visible from the exterior, required for the adaptive reuse of the former building, and how these are designed to be sympathetic to the presentation of the historic building yet identifiable as a later modification to the former church.
- vi) The tower extension must read as a contemporary extension. The design of the lower-level balcony between the tower and the ridge to be re-designed to be better integrated and complementary to the architecture of the former church and made legible as a contemporary extension.
- vii) A detailed schedule of conservation works for the exterior brickwork, render, timber joinery, steel framed leadlight windows, and slate roof

Townhouse units

The Urban Designer notes that Units 1-6 will introduce a significant change to the existing streetscape. He considers that it is important that these units coordinate with and compliment the church as well as the surrounding residential character. As a minimum, Units 1-6 street facades should include high quality detailing and materials that echo the church's sense of solidity and permanence. The Urban Designer recommends that this should also be reflected in the street boundary treatment. While he recognises that this may be difficult to achieve entirely, with light weight fencing and a more integrated approach (with the building), this is likely to have significant benefit. Details of the street boundary treatment are recommended to be provided as a condition of consent.

The transition to private/public space is important. For this reason, the Urban Designer recommends that the landscaping to be installed and retained along the north/east (Silverton Street) boundary. He considers that this is necessary to mitigate the bulk at the adjoining street/footpath. The Urban Designer considers that this would further soften visual effects at the street boundary and provide a softer interface being more compatible with the surrounding residential character.

The Urban Designer recognises that the proposed density may place significant strain on amenity space. Given that a large proportion of the shared outdoor space has a southerly aspect

(compounded by unfavourable topography), he considers that it is likely to have limited use. He suggests that additional landscaping/reduction of hard surfacing within the car parking area would be beneficial to introduce more trees within the interior of the site.

Service areas

A bin storage area is proposed close to the Silverton Street footpath edge. The Urban Designer considers that this will require careful design (possible relocation) to ensure that it does not impact on the important frontage and main entrance to the church.

Summary

In summary, the Urban Designer believes the redevelopment would have less than minor negative effects on streetscape and amenity values providing a range of details were developed and agreed upon. It is considered that these matters can be addressed through conditions of consent. The applicant has volunteered the draft conditions of consent. The Urban Designers assessment is adopted for the purposes of this report and it is assessed that, subject to recommended conditions of consent, the effects on amenity values and character will be no more than minor.

Summary of the adverse effects on the environment

The recommended conditions of consent are proposed to serve as a suite of measures considered necessary to manage the environmental effects of the proposed activity, such that these are no more than minor. The applicant has volunteered the recommended conditions and these are now considered to form part of the application.

SUBSTANTIVE DECISION ASSESSMENT

Effects

In accordance with section 104(1)(a) of the Resource Management Act 1991, the actual and potential adverse effects associated with the proposed activity have been assessed and outlined above. It is considered that the adverse effects on the environment arising from the proposal are no more than minor.

Offsetting or Compensation Measures

In accordance with section 104(1)(ab) of the Resource Management Act 1991, there are no offsetting or compensation measures proposed or agreed to by the applicant that need consideration.

Objectives and Policies

In accordance with section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Proposed 2GP were taken into account when assessing the application.

Proposed 2GP

The proposal is considered to be consistent with the following Proposed 2GP objectives and policies:

- **Objective 6.2.3 and Policies 6.2.3.3, 6.2.3.4 and 6.2.3.9 (Transportation Section)**
These seek to ensure that land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods.
- **Objective 8A.2.1 and Policies 8A.2.1.1, 8A.2.1.2 and 8A.2.1.3 (Earthworks)**
These seek to ensure that earthworks for development are enabled while avoiding or mitigating adverse effects on visual amenity, land stability and surrounding properties.
- **Objective 9.2.1 and Policy 9.2.1.1 (Public Health and Safety Section)**
These seek to have land use, development and subdivision activities maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure.

- **Objective 9.2.2 and Policy 9.2.2.9 (Public Health and Safety Section)** These seek to have land use, development and subdivision activities maintain or enhance people's health and safety.
- **Objective 15.2.2 and Policy 15.2.2.1 (Residential Zones)**
These 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)**
These seek to ensure that activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.
- **Objective 15.2.4 and Policy 15.2.4.2 (Residential Zones)**
These seek to ensure that subdivision activities and development maintain or enhance the amenity of the streetscape and reflect the current of intended future character of the neighbourhood.
- **Policy 11.2.1.13 (Hazards)**
This seeks to only allow subdivision where the risk from natural hazards, including any future development, will be avoided or no more than low.

Consistency with the above objectives and policies rely on compliance with the recommended conditions of consent. The applicant has volunteered the attached conditions. Provide the conditions are met, the proposal is assessed as consistent with the objective and policies of the 2GP.

Other Matters

Section 104(1)© of the Resource Management Act 1991 requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application. The matters of precedent and Plan integrity are considered relevant here. These issues have been addressed by the Environment Court (starting with *Russell v Dunedin City Council* C092/03) and case law now directs the Council to consider whether approval of a non-complying activity will create an undesirable precedent. Where a plan's integrity is at risk by virtue of such a precedent, the Council is required to apply the 'true exception test'. This is particularly relevant where the proposed activity is contrary to the objectives and policies of the district plan and/or the proposed district plan.

In this case, the land use proposal is non-complying because the density slightly exceeds the land use density provisions. However, on the basis the composite site area is 2190m² this non-compliance is due only to the extra habitable room in Unit 28. The subdivision is similarly non-complying for a largely technical reason because the fee subdivision of the town house units will be in accordance with the occupation proposed by the multi-unit development. Had the subdivision been proposed entirely as a unit title or cross lease, the subdivision would have been a restricted discretionary activity. The District Plan provides for a habitable room approach to density to allow small units to be created and the multiunit development rule provides for amenity assessment to secure an acceptable amenity outcome when a site is intensified. Overall, it is considered that the fee simple subdivision as proposed will achieve a result similar to a unit title subdivision.

The Council has allowed a number of similar town house developments since the introduction of the 2GP provided for multi-units in favour of a habitable room approach. It is considered in terms of title structure, a fee simple approach is preferable to a cross lease arrangement. Any precedent set could not be considered undesirable and approval of the application will not undermine the integrity of either the Operative District Plan or the Proposed 2GP.

Overall, it is considered that the approval of the proposal will not undermine the integrity of either the Operative District Plan or the Proposed 2GP as the activity will produce only localised and minor effects, if any, and will not set an undesirable precedent.

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 district plan and the proposed district plan.

It is considered that, subject to recommended conditions of consent as volunteered by the applicant, the proposal meets both limbs 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 both the Operative District Plan and the Proposed 2GP. Therefore, the Council can exercise its discretion under section 104D to grant consent.

Part 2

Based on the findings above, it is evident that the proposal would satisfy Part 2 of the Resource Management Act 1991. Granting of consent would promote the sustainable management of Dunedin's natural and physical resources.

RECOMMENDATION

After having regard to the above planning assessment, I recommend that:

1. The Council grant consent to the proposed activity under delegated authority, in accordance with sections 104, 104B and 104D of the Resource Management Act 1991.
2. The time limits for the processing of this consent be extended pursuant to sections 37A(2)(a) and 37A(4)(b)(i) of the Resource Management Act 1991.



Kirstyn Lindsay
Consultant Planner

Date: 11 May 2022

DECISION

I have read both the notification assessment and substantive decision assessment in this report. I agree with both recommendations above.

Under delegated authority on behalf of the Dunedin City Council, I accordingly approve the granting of resource consent to the proposal:

*Pursuant to Part 2 and sections 34A(1), 104, 104B and 104D of the Resource Management Act 1991, and the provisions of the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying activity** being a two stage fee simple and unit title subdivision and to a land use consent for a multi-unit development with density and outdoor amenity space breaches, at 76 Silverton*

Street, Dunedin, legally described as Lot 1 Deeds Plan 17 (Record of Title OT280/88) and Lot 2 – 4 Deeds Plan 17 (Record of Title OT84/10) and Part Section 2 Block II Andersons Bay SD, subject to conditions imposed under sections 108 and 220 of the Act, as shown on the attached certificates.

and

That, 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 Council has, pursuant to sections 37A(2)(a) and 37A(4)(b)(i) of the Resource Management Act 1991, extended the requirement outlined in section 115 regarding the time in which notification of a decision must be given after the date the application was first lodged with the Council.



Campbell Thomson
Senior Planner

Date: 11 May 2022



Consent Type: Subdivision Consent

Consent Number: SUB-2022-14

Purpose: A two stage fee simple and unit title subdivision.

Location of Activity: 76 Silverton Street, Dunedin.

Legal Description: Lot 1 Deeds Plan 17 (Record of Title OT280/88) and Lot 2 – 4 Deeds Plan 17 (Record of Title OT84/10) and Part Section 2 Block II Andersons Bay SD

Lapse Date: 11 May 2027, unless the consent has been given effect to before this date.

Conditions:

1. *The proposed subdivision must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, except where varied by Condition 2(b) below, and the information provided with the resource consent application received by the Council on 14 February 2022, and further information received on 23 and 24 February 2022, 8 March 2022 and 9 May 2022, except where modified by the following conditions.*
2. *Prior to works commencing on the site, the subdivider must meet the following:*
 - a) *The consent holder must provide detailed engineering design (plans, long-sections and calculations) for the proposed new or upgraded water/wastewater/stormwater infrastructure to the Dunedin City Council, 3 Waters Subdivision Engineer prior to any works commencing on site. The engineering plans and associated calculations must meet the requirements of the Dunedin Code of Subdivision and Development 2010 and the NZS4404:2004 standard.*
 - b) *A floor plan of the proposed units must be provided to verify that the total number of habitable rooms does not exceed that provided by the underlying land area; being one habitable room per 45m² of site area (rounded up to the nearest whole number).*
 - c) *A Heritage Methodology Report must be prepared by a suitably qualified and experienced person. The plan must be submitted to the Resource Consents Manager for certification at rcmonitoring@dcc.govt.nz. The plan must include:*
 - i) *the methodology for retaining stained glass windows while achieving building code.*
 - ii) *Additional details showing how timber shutters will be converted to glazed units. To include final shape and glazing bar patterns.*
 - iii) *Additional details showing how new interior floors will affect views/light at existing windows (as viewed from the street/public space), including drawings showing the relationship between the mezzanine floor levels and existing windows and which demonstrate that the window opening, existing glazing, or legibility of the gothic silhouette will not be altered as a result.*

- iv) *Final locations of skylights and how these compliment the current form and design of the church building.*
 - v) *Details of new elements visible from the exterior, required for the adaptive reuse of the former building, and how these are designed to be sympathetic to the presentation of the historic building yet identifiable as a later modification to the former church.*
 - vi) *The tower extension must read as a contemporary extension. The design of the lower-level balcony between the tower and the ridge to be re-designed to be better integrated and complementary to the architecture of the former church and made legible as a contemporary extension.*
 - vii) *A detailed schedule of conservation works for the exterior brickwork, render, timber joinery, steel framed leadlight windows, and slate roof.*
- d) *A final Landscape and Design Plan must be prepared by a suitably qualified and experienced person. The plan must be submitted to the Resource Consents Manager for certification at rcmonitoring@dcc.govt.nz. The plan must include:*
- (i) *Units 1-6 front gardens to be fully planted with evergreen ground cover, shrubs and small trees to created effective visual softening to mitigate effects of bulk and scale. Plants must be installed at an advanced stage at minimum spacings, and*
 - (ii) *Extend the planting within car park area. Such areas will be defined by required turning radii. Planted areas must include the south/east section of the car park and an area adjacent to the proposed pedestrian path, at the east edge of the carpark. Plants must be installed at an advanced stage at minimum spacings*
 - (iii) *Details of street boundary treatment/fencing for both Silverton and Spottiswood Streets.*
 - (iv) *Final detail design and location of bin storage visible from Silverton Street and how this will be appropriately treated/screened.*
 - (v) *Final details of new materials and colours for Units 1-12 - including roofing materials.*
 - (vi) *Details of how the design of the side wall of Unit 6 will be sympathetic to the architecture of the former church.*
- e) *An Erosion and Sediment Control Plan is to be prepared by a suitably qualified and experienced person to ensure that all practicable measures are implemented to mitigate erosion, and to control and contain sediment-laden stormwater run-off to prevent it entering the Council stormwater network and neighbouring properties during any stages of site disturbance associated with this development. The plan must submitted the Resource Consents Manager for certification at rcmonitoring@dcc.govt.nz. All works must be undertaken in accordance with the Erosion and Sediment Control Plan.*
- f) *A Stormwater Management Plan for the subdivision must be provided and approved by 3 Waters prior to construction commencing. The Stormwater Management Plan must be prepared by a suitably qualified person and include the following:*

- I) *Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow; and*
 - II) *An assessment of the current and proposed imperviousness of the site; and*
 - III) *Secondary flow paths; and*
 - IV) *Any watercourses located within the property; and*
 - V) *Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and*
 - VI) *An assessment of the current network and its ability to accept any additional flow from the proposed development' and*
 - VII) *Measures to ensure acceptable level of Stormwater quality being discharged from the site.*
3. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*

Stage 1 and 2

- a) *Should the consent holder seek for Council to pay for the upgrade of the DCC Wastewater pipe located adjacent to the Western boundary required by Condition 4(e), the Consent holder must negotiate and reserve a 3.0 metre wide easement over the sealed driveway, as indicated in the plan attached as Appendix Three, to be secured. Additional easements must also be negotiated and reserved for the house drains that connect to the 100 FS as these would need to be extended into the driveway.*
- b) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.*

Stage 1 - Lots 1- 14 only

- c) *The following amalgamation condition must be endorsed on the survey plan:*

*"That Lot 14 hereon (legal access) be held as to twelve undivided one twelfth shares by the owners of Lots 1 - 12 hereon as tenants in common in the said shares and that an individual record of title be issued in accordance herewith'
(See CSN request 1778694)*

4. *Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the consent holder must:*

Stage 1 – Lots 1-14 only

- a) *Provide evidence that the twelve units authorised under LUC-2022-54 are constructed or under construction with a minimum of foundations and framing in place for each unit.*

Water Services - Stage 1 - Lots 1- 14

- b) Each lot shall have a separate service connection installed. An “Application for Water Supply” shall be submitted to the Dunedin City Council for approval to establish water connections to 11 of the proposed lots. Details of how each lot is to be serviced for water shall accompany the “Application for Water Supply”. The water supply pipe from the newly installed water connections shall be laid at least 600mm into new lots. All water servicing infrastructure located within private access lots will be privately owned, and all maintenance is the responsibility of the landowners serviced by it.*

Water services - Stage 2 – Church Units

- c) A water meter and an RPZ backflow prevention device must be installed. Note: The connection detail must be finalised during the “Application for Water Supply” process.*
- d) One or more new sufficiently sized water connections may be established to the property and a water meter and boundary RPZ backflow prevention device must be installed to the satisfaction of the 3 Waters Manager (refer to advice note). Prior to any water connection, a connection plan must be presented to 3 Waters manager for approval prior to any work taking place. Note: The charges for these services will be to the Body Corporate which is to be created as part of this subdivision. All water servicing infrastructure located within private access lots will be privately owned, and all maintenance is the responsibility of the landowners serviced by it. Each unit within Stage 2 must have its own water shutoff*

Wastewater - Stage 1 - Lots 1- 14

- e) The DCC Wastewater pipe located adjacent to the Western boundary, close to proposed Lots 7 and 8 hereon and runs towards Bayfield Road must be upgraded from 100mm diameter to 150mm diameter.*
- f) Each Lot 1-12 must have a wastewater and stormwater connection laid 600mm into the lot.*

Wastewater – Stage 2 – Church Units

- g) Wastewater and stormwater connections from the existing infrastructure to serve the units within the church building must be installed to the church building.*

New infrastructure

- h) At each Stage 1 and 2, the consent holder must demonstrate that the construction and installation of infrastructure has been undertaken in accordance with the approved engineering plans, the Dunedin Code of Subdivision and Development 2010 and NZS4404:2004 standard.*
- i) At each Stage 1 and 2, as-built plans must be submitted to the Dunedin City Council, 3 Waters Subdivision Engineer for approval. The as-built plans must be accompanied by a quality assurance report.*

Unused existing services

- j) *At each Stage 1 and 2, any existing services that will not be reused must be cut and plugged at the boundary.*

Transport - Stage 1 - Lots 1- 14

- k) *A pedestrian path of 1.5m width within Part Sec 2 Blk II Andersons Bay SD must be provided on the eastern side of the driveway beside Lot 1, as shown in Appendix Two.*
- l) *The full length of Part Sec 2 Blk II Andersons Bay SD must be a minimum 5 m formed width, adequately drained, and hard surfaced for its duration.*
- m) *The full length of Right of Way X and ZZ must be a minimum 3m formed width, adequately drained, and hard surfaced for its duration. A physical barrier at least 150mm high (nib kerb or similar) must be constructed on the eastern side of the Right of Way to provide 0.4 metres of separation between the building and the Right of Way.*
- n) *The vehicle access must be a minimum 5m formed width, hard surfaced from the edge of the carriageway of Silverton Street to a distance not less than 5.0m inside the property boundary, and be adequately drained for its duration. The full height kerb within the vehicle crossing must be removed as shown in Appendix Two.*
- o) *The consent holder must submit to the DCC Transport Department an application for new road street names. The name must be in accordance with Council's Road Naming Policy.*
- p) *The surface of all parking, associated access and manoeuvring areas must be formed, hard surfaced and adequately drained for their entirety, and parking spaces permanently marked in accordance with the application plans.*
- q) *The gradient of the surface of the parking area/s must be no greater than 1 in 20 in any one direction.*
- r) *Any damage to any part of the footpath or road formation as a result of the demolition or construction works must be reinstated at the applicant's cost.*

Consent notice - Stage 1 - Lots 1- 14

- s) *A consent notice to must be prepared and registered on each of the records of title for Lots 1 – 12 and 14 hereon, for the following ongoing condition:*
 - i) *Prior to occupation of Lots 1-12, all planting and other details set out in the Landscape and Design Plan for the land within Lots 1-12 and 14 and certified under Condition 2(d) must be implemented. All planting and amenity spaces must be maintained in perpetuity. Note: the certified landscape plan must be attached to this consent notice.*
 - ii) *Prior to occupation of Lots 1-12, evidence must be provided to the DCC Resource Consent Manager that the works set out in the Heritage Methodology Report have commenced.*

Advice Notes:

Transportation

1. The parking spaces must comply with the minimum dimensions stipulated in Appendix Rule 6.6.1 of the 2GP District Plan.
2. The vehicle crossing, between the road 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 Group).
3. It is advised that a formal agreement be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.

Heritage

4. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss their proposal with Heritage New Zealand.

Noise

5. All construction noise must to comply with the following noise limits as per New Zealand Standard NZS 6803:1999 Acoustics – Construction noise:

Time of Week	Time Period	Leq (dBA)	Lmax(dBA)
Weekdays	0630-0730	60	75
	0730-1800	75	90
	1800-2000	70	85
	2000-0630	45	75
Saturdays	0630-0730	45	75
	0730-1800	75	90
	1800-2000	45	75
	2000-0630	45	75
Sundays and public holidays	0630-0730	45	75
	0730-1800	55	85
	1800-2000	45	75
	2000-0630	45	75

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

Infrastructure

6. The consent holder is advised that the implied rights of way over Part Sec 2 Blk II Andersons Bay SD are for access only and do not apply to services. No services can be laid into Part Sec 2 Blk II unless this lot is held by the consent holder or otherwise legally authorised.

7. Requests for required infrastructure inspections shall be made to 3 Waters. At least 3 working days notice shall be provided.
8. Detail of the water supply application process can be found at <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
9. Installation of a boundary backflow prevention device requires a building consent, or an exemption from a building consent before the device is installed. Once the device is installed the 3 Waters Group must be advised so the installation can be approved. Further information is available at <http://www.dunedin.govt.nz/services/water-supply/backflow>.
10. Proposed lots 1 to 12 will have new servicing infrastructure (to vest in Council) located within the lots. Any buildings constructed on these lots must meet the requirements of Section 5.5 of the Dunedin Code of Subdivision and Development (2010) in relation to building in close proximity to Council infrastructure, unless otherwise approved by the 3 Waters Group.
11. All aspects relating to the availability of water for firefighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless otherwise approved by Fire and Emergency New Zealand (FENZ).
12. Should any stormwater discharge from the site not connect to the Council's reticulated network, it is advised that the Otago Regional Council be consulted before works commence, to determine if the discharge of stormwater will enter any waterway and what level of treatment and/or discharge permit, if any, may be required.
13. All aspects of this development shall be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
14. Installation of services; water, wastewater and stormwater connections will require a Building Consent under Section 40 of the NZBC 2004. These services may require pumping.

Earthworks

15. Where there is a risk that sediment may enter a watercourse at any stage during the site disturbance, it is advised that the Otago Regional Council be consulted before works commence, to determine if the discharge of sediment will enter any watercourse and what level of treatment and/or discharge permit, if any, may be required.
16. Temporary stability remains the responsibility of the developer.
17. No earthworks should be undertaken until building consent has been granted.
18. Prior to undertaking the work, a professional must assess the potential for instability on adjacent properties, as a result of the works.
19. Confirmation should be made of foundation depths for existing structures in relation to the proposed earthworks.
20. All temporary slopes should be inspected and signed off by a suitably qualified individual.

21. Appropriate third party liability insurances are in place which identify nearby structures prior to undertaking any excavation that might affect others' land
22. The excavations slopes should be supported within 1 month of commencing the earthworks.
23. All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s
24. 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.
25. Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development
26. Slopes should not be cut steeper than 1:1 (45°) or two metres high without specific engineering design and certification
27. Slopes should not be filled steeper than 2h:1v (27°) or two metres high without specific engineering design and certification
28. As-built records of the final extent and thickness of any un-engineered fill should be recorded
29. Any modifications to stormwater flow or new culverts should be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.
30. The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
 - Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).

General

31. 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.
32. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
33. 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.

34. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
35. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

Issued at Dunedin on 11 May 2022

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

Kirstyn Lindsay
Consultant Planner

Consent Type: Land Use Consent

Consent Number: LUC-2022-54

Purpose: A multi-unit development with density and outdoor amenity space breaches.

Location of Activity: 76 Silverton Street, Dunedin.

Legal Description: Lot 1 Deeds Plan 17 (Record of Title OT280/88) and Lot 2 – 4 Deeds Plan 17 (Record of Title OT84/10) and Part Section 2 Block II Andersons Bay SD

Lapse Date: LUC-2022-54 shall lapse 5 years from the date that the s223 certificate for SUB-2022-14 is issued.

Conditions:

1. *The multi-unit development must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, except where varied by Condition 2 below, and the information provided with the resource consent application received by the Council on 14 February 2022, and further information received on 23 and 24 February 2022, 8 March 2022, and 9 May 2022, except where modified by the following conditions.*

Conditions to be met prior to any site works or construction commencing:

2. *A floor plan of the proposed units must be provided to verify that the total number of habitable rooms does not exceed that provided by the underlying land area; being one habitable room per 45m² of site area (rounded up to the nearest whole number).*
3. *No works may commence until the Landscape and Design Plan prepared under condition 2(d) of SUB-2022-14 is certified by the Resource consents Manager.*
4. *Works on the church building must not commence until the Heritage Methodology Report prepared under condition 2(c) of SUB-2022-14 is certified by the Resource consents Manager.*
5. *A Stormwater Management Plan for the development must be provided and approved by 3 Waters prior to construction commencing. The Stormwater Management Plan must be prepared by a suitably qualified person and include the following:*
 - a) *Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow; and*
 - b) *An assessment of the current and proposed imperviousness of the site; and*
 - c) *Secondary flow paths; and*
 - d) *Any watercourses located within the property; and*
 - e) *Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and*
 - f) *An assessment of the current network and its ability to accept any additional flow from the proposed development' and*

- g) *Measures to ensure acceptable level of Stormwater quality being discharged from the site.*
6. *Any earthworks or construction on this lot must meet the requirements of the Dunedin Code of Subdivision and Development (2010) in relation to building in close proximity to Council infrastructure, unless otherwise approved by 3 Waters Subdivision Engineer. Evidence of any such approval must be provided to the Resource Consents Manager at rcmonitoring@dcc.govt.nz prior to the works subject to the approval commencing.*

Conditions to be met during site works or construction

7. *Stormwater management, must be undertaken in accordance with the approved Stormwater Management Plan of condition 5 above*
8. *All works must be undertaken in accordance with the Erosion and Sediment Control Plan prepared and certified under condition 2(e) of SUB-2022-14.*
9. *All works must be undertaken in accordance with the Heritage Methodology Report prepared and certified under condition 2(c) of SUB-2022-14.*
10. *All works must be undertaken in accordance with the Landscape and Design Plan prepared and certified under condition 2(d) of SUB-2022-14.*
11. *At the time of construction, water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers must be installed in each unit.*

Conditions to be met following the conclusion of site works or construction

12. *Prior to occupation of Units 1-12, all planting and amenity spaces set out in the Landscape and Design Plan prepared and certified under condition 2(d) of SUB-2022-14 must be implemented*

Ongoing conditions

13. *All planting and amenity spaces identified in the Landscape and Design Plan certified under condition 2(d) of SUB-2022-14 must be maintained in perpetuity.*
14. *Stormwater must be appropriately managed and must not cause a nuisance to neighbouring properties or cause any adverse downstream effects.*

Advice Notes:

SUB-2022-14

1. The twelve new townhouse units authorised under LUC-2022-54 must be constructed or under construction with a minimum of foundations and framing in place prior to the deposit of the survey plan of SUB-2022-14(or any of its variations).

Transport

2. The parking spaces must comply with the minimum dimensions stipulated in Appendix Rule 6.6.1 of the 2GP District Plan.
3. The vehicle crossing, between the road 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 Group).
4. It is advised that a formal agreement be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.

Heritage

5. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss their proposal with Heritage New Zealand.

Noise

6. All construction noise must to comply with the following noise limits as per New Zealand Standard NZS 6803:1999 Acoustics – Construction noise:

Time of Week	Time Period	Leq (dBA)	Lmax(dBA)
Weekdays	0630-0730	60	75
	0730-1800	75	90
	1800-2000	70	85
	2000-0630	45	75
Saturdays	0630-0730	45	75
	0730-1800	75	90
	1800-2000	45	75
	2000-0630	45	75
Sundays and public holidays	0630-0730	45	75
	0730-1800	55	85
	1800-2000	45	75
	2000-0630	45	75

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

Infrastructure

7. The consent holder is advised that the implied rights of way over Part Sec 2 Blk II Andersons Bay SD are for access only and do not apply to services. No services can be laid into Part Sec 2 Blk II unless this lot is held by the consent holder or otherwise legally authorised.
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23. All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s

24. 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.
25. Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development
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32. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
33. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

Issued at Dunedin on 11 May 2022



Kirstyn Lindsay
Consultant Planner

Amalgamation Condition

"That Lot 14 hereon (legal access) be held as to twelve undivided one twelfth shares by the owners of Lots 1 - 12 hereon as tenants in common in the said shares and that an individual record of title be issued in accordance herewith"

Land Covenants

"Areas shown 'AA', 'LL' are to be subject to private parking covenants in favour of Lots 1 - 12 hereon"

terraviva
setting new boundaries

PROVISIONAL ONLY
DETAIL AREAS & DIMENSIONS ARE SUBJECT TO FINAL DESIGN, RESOURCE CONSENT & FINAL SURVEY

Schedule of Existing Easements

Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way	ZZ	Lot 14 Hereon	Lot 1 - 13 Hereon

Memorandum of Easements

Purpose	Shown	Servient Tenement	Dominant Tenement
Right of Way, Right to Convey Electricity, Water, Gas & Sewage	A, K, ZZ	Lot 14 Hereon	Lots 1 - 13 Hereon
Prescriptive Right of Way & Right to Convey Electricity, Water, Gas & Sewage	V	Lot 14 Hereon	Lots 1 - 5 & 7 - 13 Hereon
Party Wall	B	Lot 7 Hereon	Lot 8 Hereon
Party Wall	C	Lot 8 Hereon	Lot 7 Hereon
Party Wall	D	Lot 8 Hereon	Lot 9 Hereon
Party Wall	E	Lot 9 Hereon	Lot 8 Hereon
Party Wall	F	Lot 9 Hereon	Lot 10 Hereon
Party Wall	G	Lot 10 Hereon	Lot 9 Hereon
Party Wall	H	Lot 10 Hereon	Lot 11 Hereon
Party Wall	I	Lot 11 Hereon	Lot 10 Hereon
Party Wall	J	Lot 11 Hereon	Lot 12 Hereon
Party Wall	K	Lot 12 Hereon	Lot 11 Hereon
Party Wall	L	Lot 12 Hereon	Lot 13 Hereon
Party Wall	M	Lot 13 Hereon	Lot 1 Hereon
Party Wall	N	Lot 13 Hereon	Lot 2 Hereon
Party Wall	O	Lot 13 Hereon	Lot 3 Hereon
Party Wall	P	Lot 13 Hereon	Lot 4 Hereon
Party Wall	Q	Lot 13 Hereon	Lot 5 Hereon
Party Wall	R	Lot 13 Hereon	Lot 6 Hereon
Party Wall	S	Lot 13 Hereon	Lot 7 Hereon
Party Wall	T	Lot 13 Hereon	Lot 8 Hereon
Party Wall	U	Lot 13 Hereon	Lot 9 Hereon
Prescriptive Right of Way	W	Lot 13 Hereon	Lot 14 Hereon

Notes:

- Areas and dimensions are subject to verification upon the final Land Transfer Survey.
- Critical Points are to be confirmed by Survey.
- Boundary Location to be confirmed upon the final Land Transfer Survey.
- Services shown have been adopted from DCC drainage records
- Contractor is responsible to locate all underground services prior to commencement of work.
- The plan may not be copied without the approval of Terraviva Ltd.
- These notes are an integral part of this plan.
- This plan is not intended to be used for architectural design purposes and has been prepared specifically for the purpose of this application.

Memorandum of Easements

Purpose	Shown	Servient Tenement	Dominant Tenement
Right to Drain Water & Foul Sewer	ZZ	Lot 14 Hereon	Lots 7 - 13 Hereon
Right to Drain Water & Foul Sewer	YY	Lot 7 Hereon	Lots 8 - 13 Hereon
Right to Drain Water & Foul Sewer	XX	Lot 8 Hereon	Lots 9 - 13 Hereon
Right to Drain Water & Foul Sewer	VV	Lot 9 Hereon	Lots 10 - 13 Hereon
Right to Drain Water & Foul Sewer	UU	Lot 10 Hereon	Lots 11 - 13 Hereon
Right to Drain Water & Foul Sewer	TT	Lot 11 Hereon	Lots 12 & 13 Hereon
Right to Drain Water & Foul Sewer	SS	Lot 12 Hereon	Lot 13 Hereon

Notes:

Lots 1 - 14 Being a Subdivision of Lots 1 - 4 Deeds Plan 17

76 Silverton Street Andersons Bay

Deeds Plan 17

Lot 1 - 4 Deeds Plan 17

C. Paton

TBC

See Plan

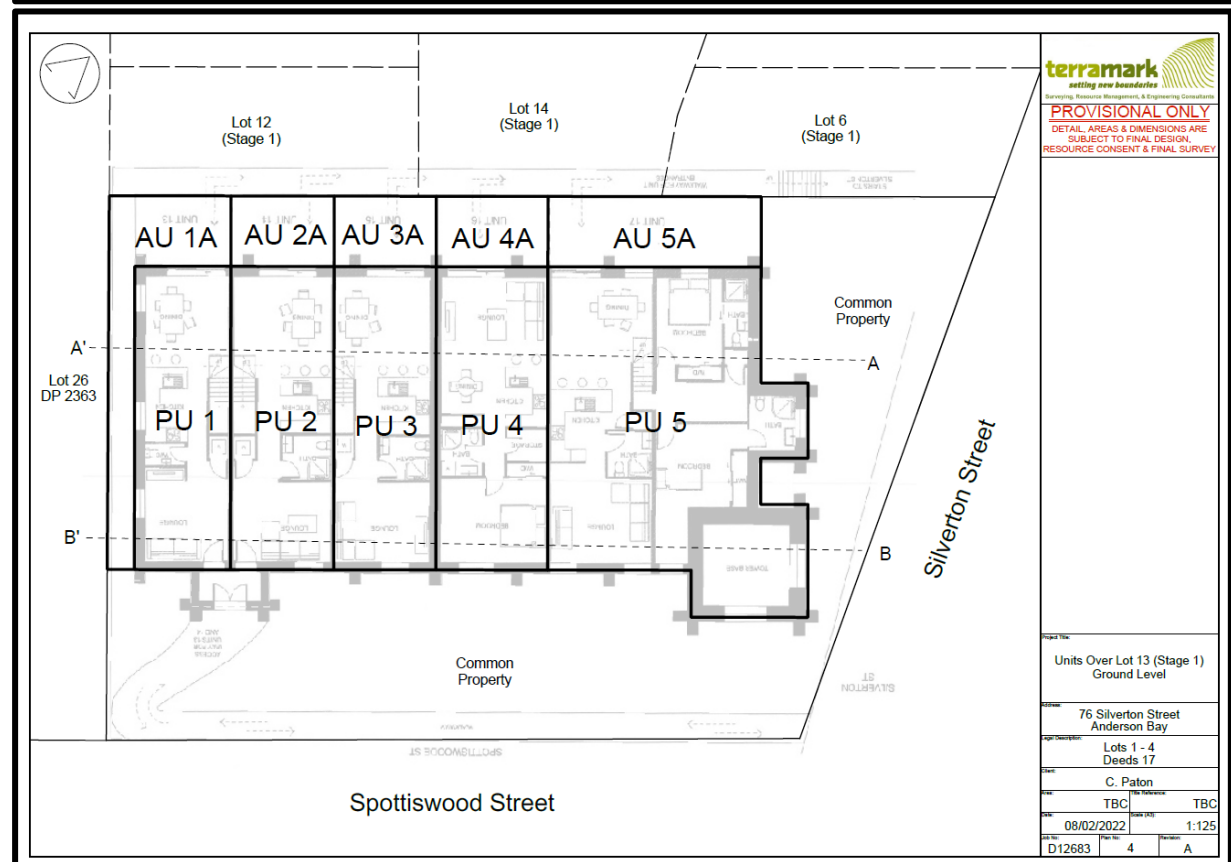
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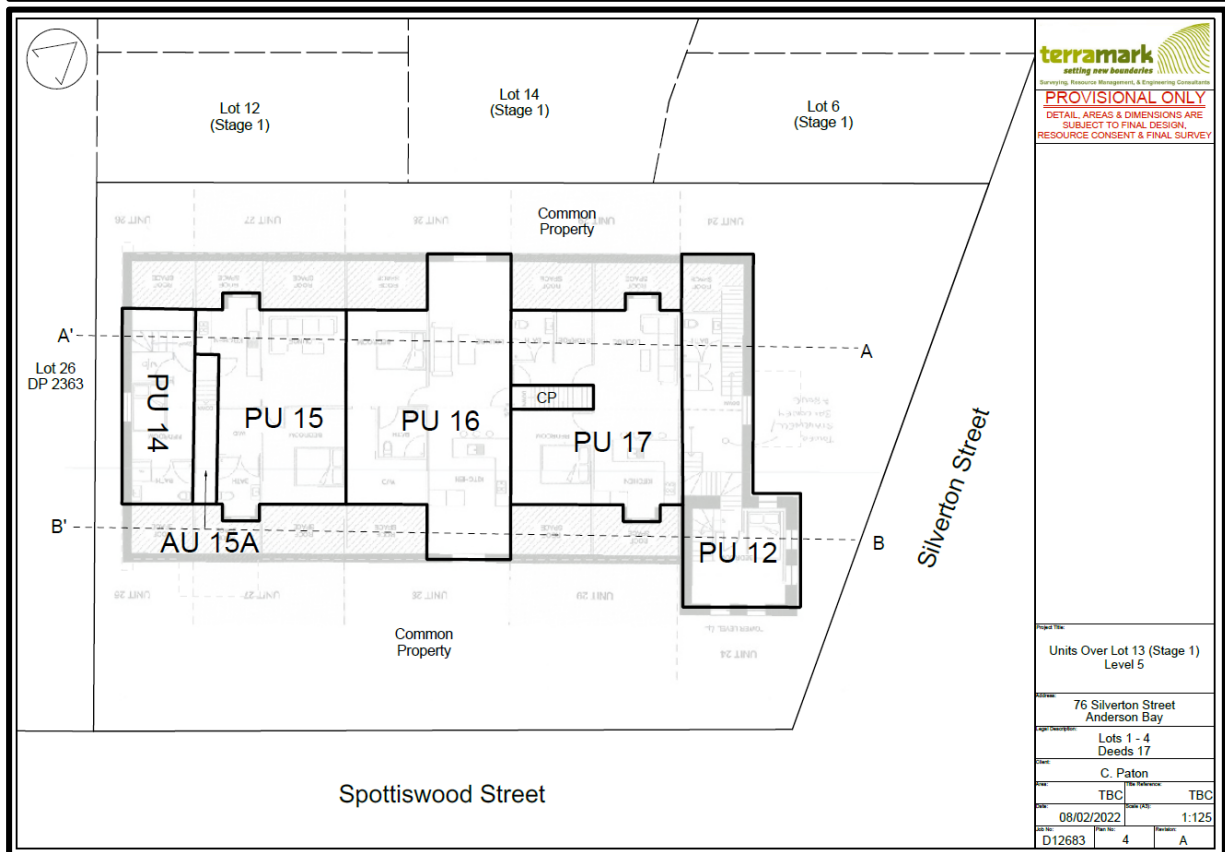
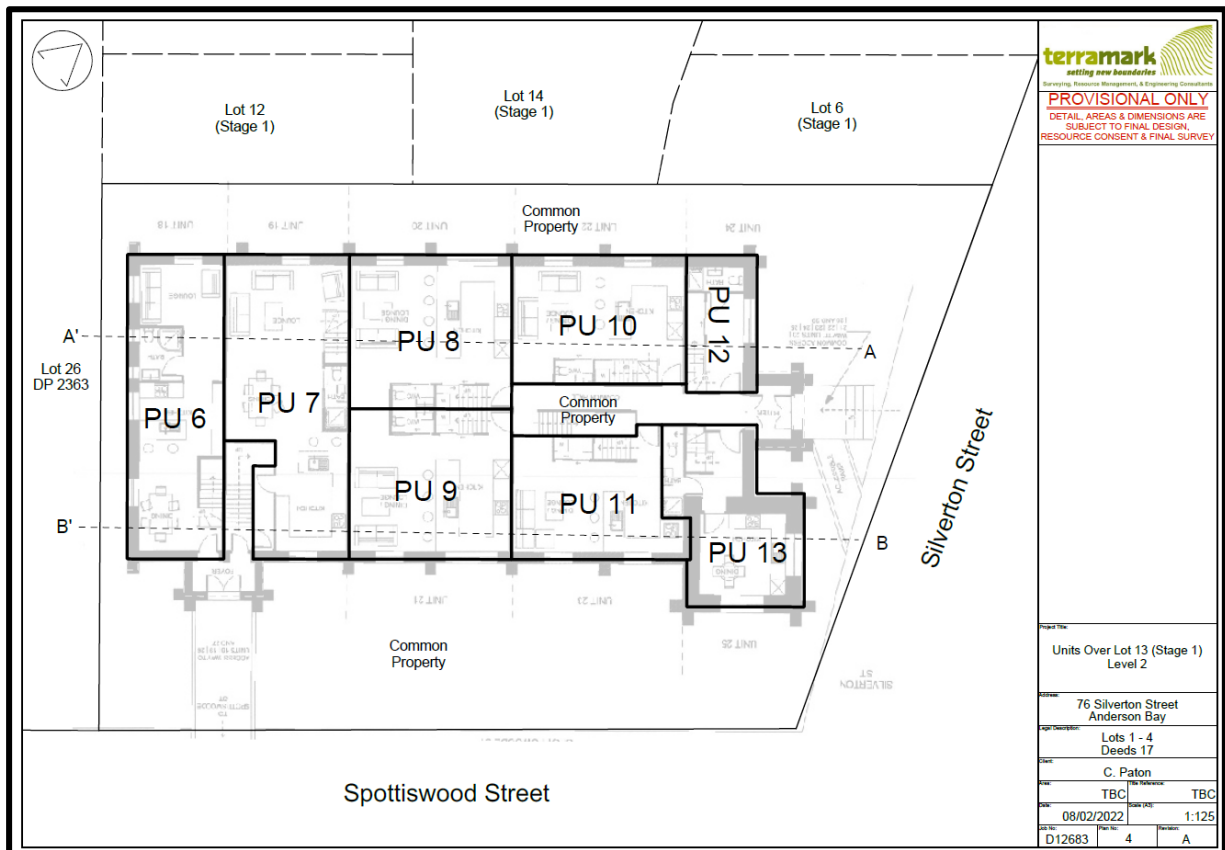
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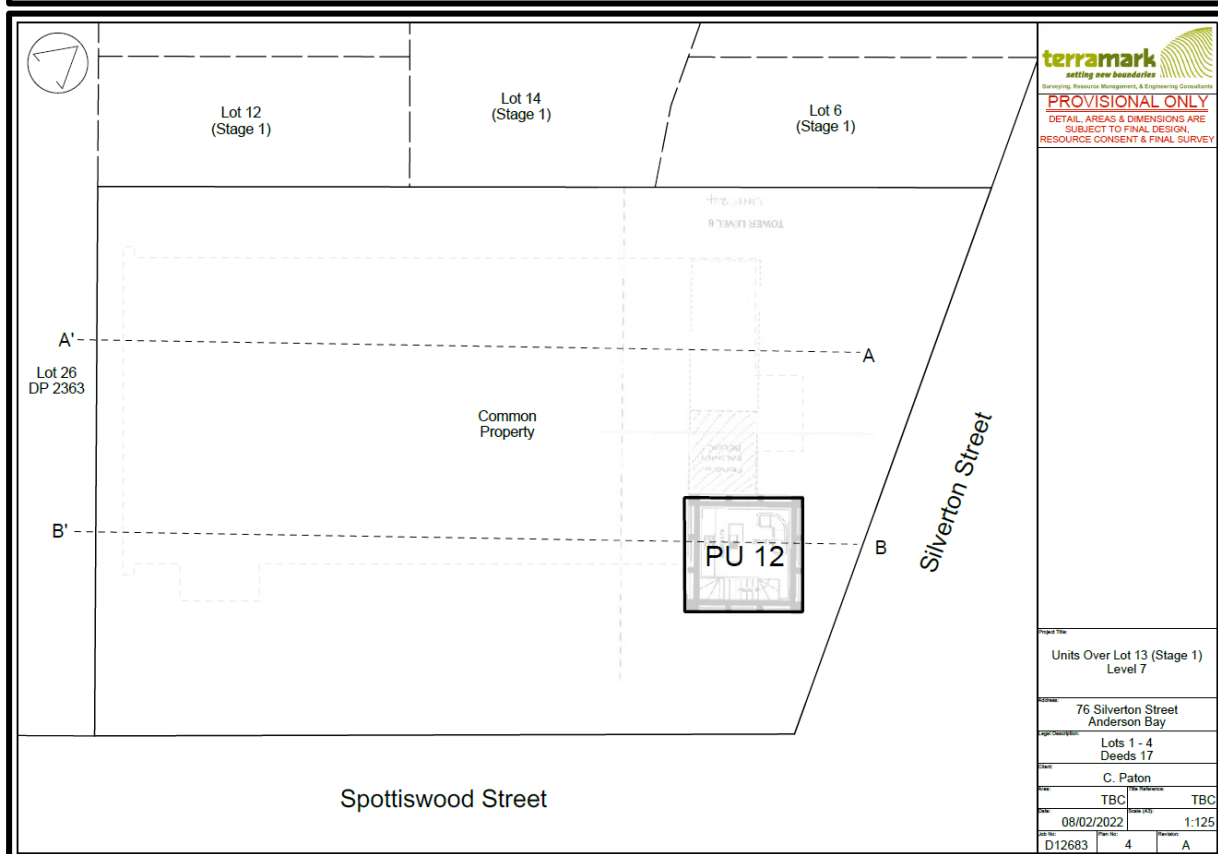
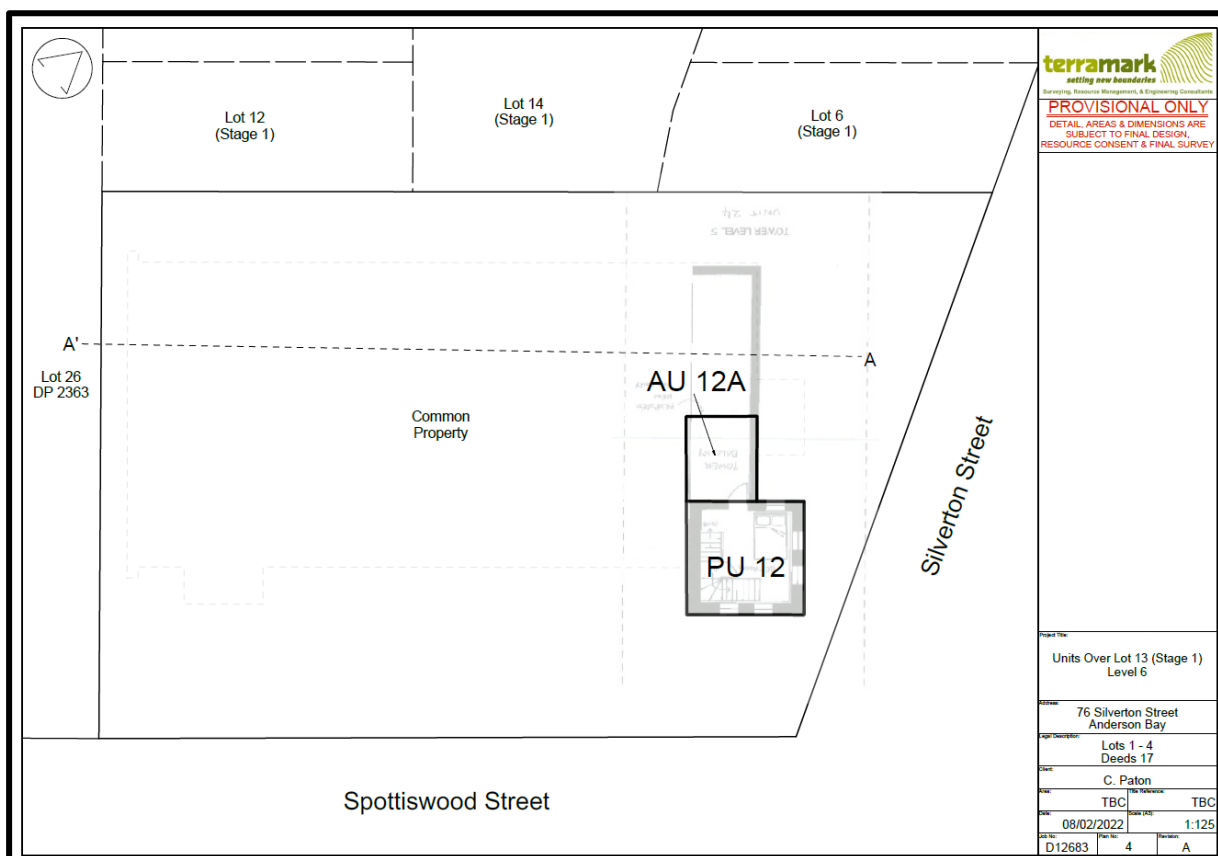
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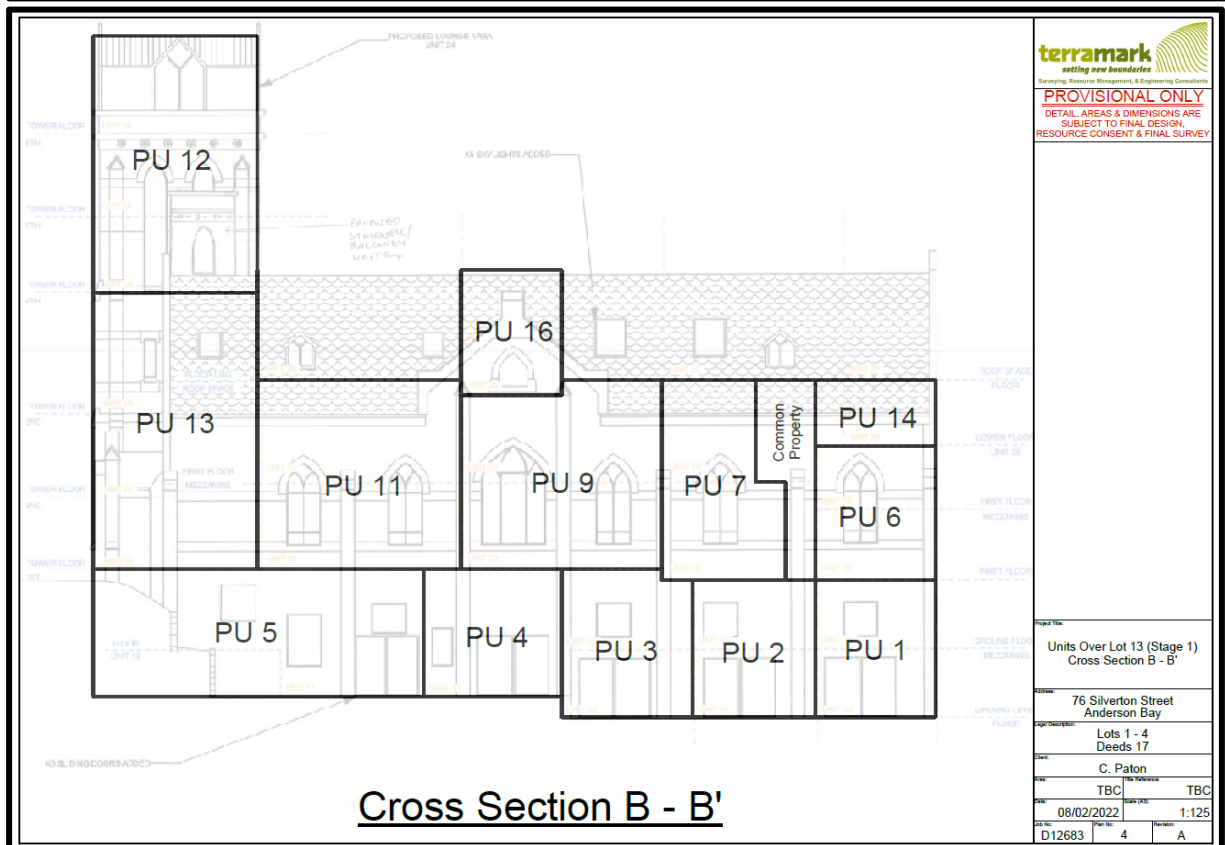
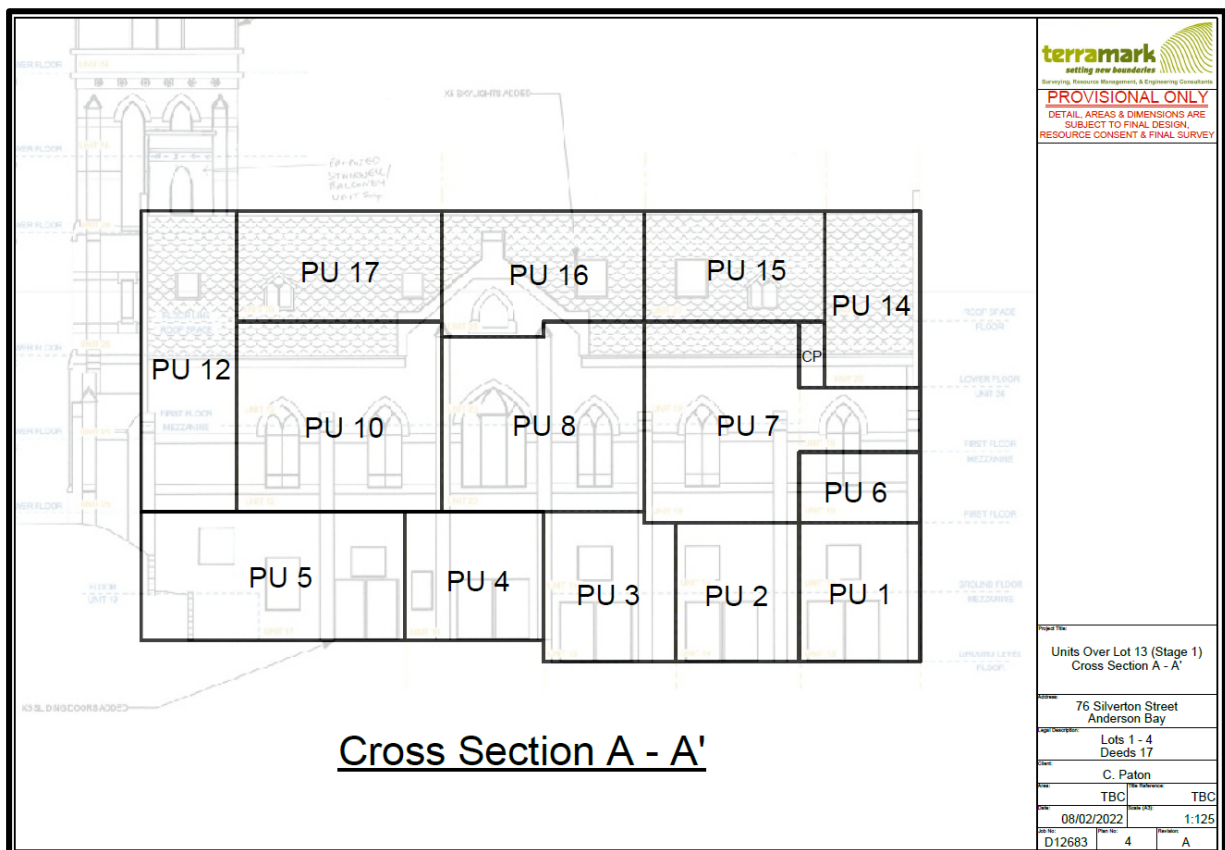
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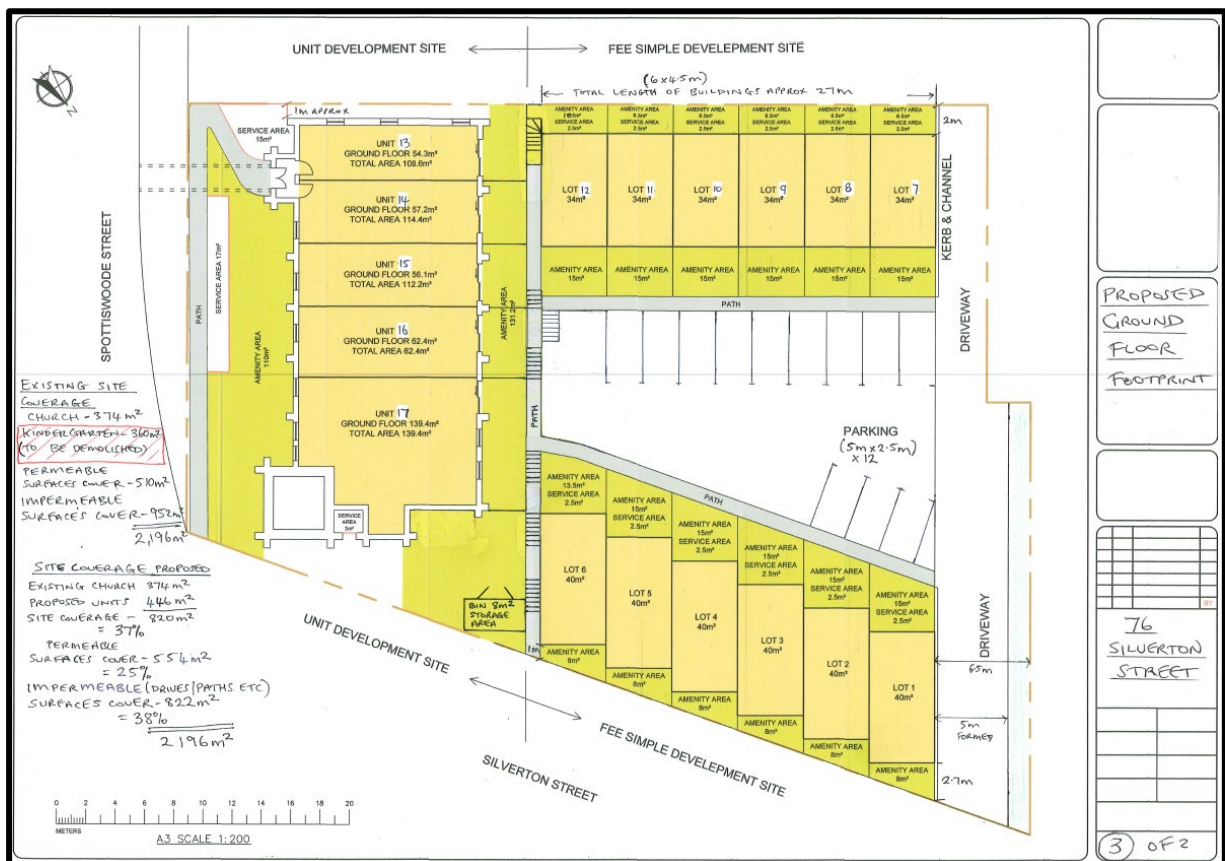
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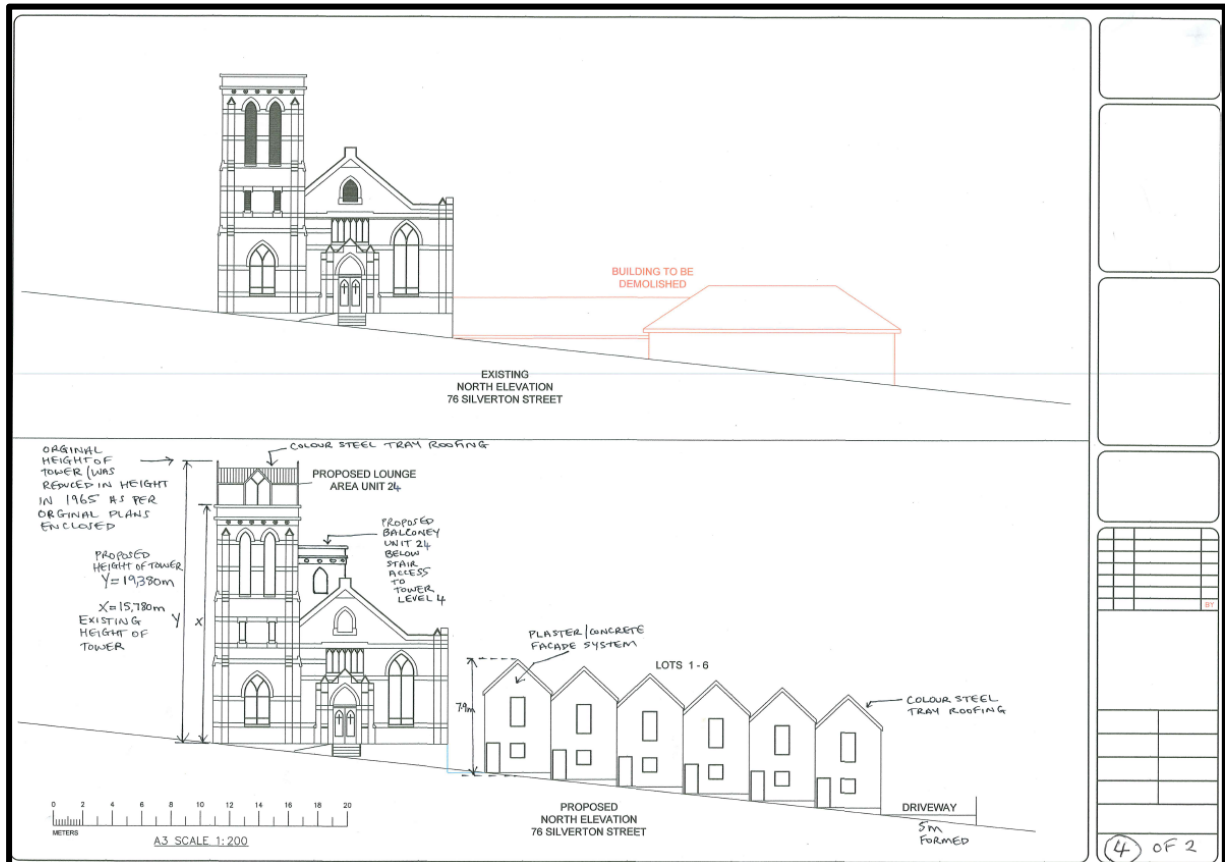




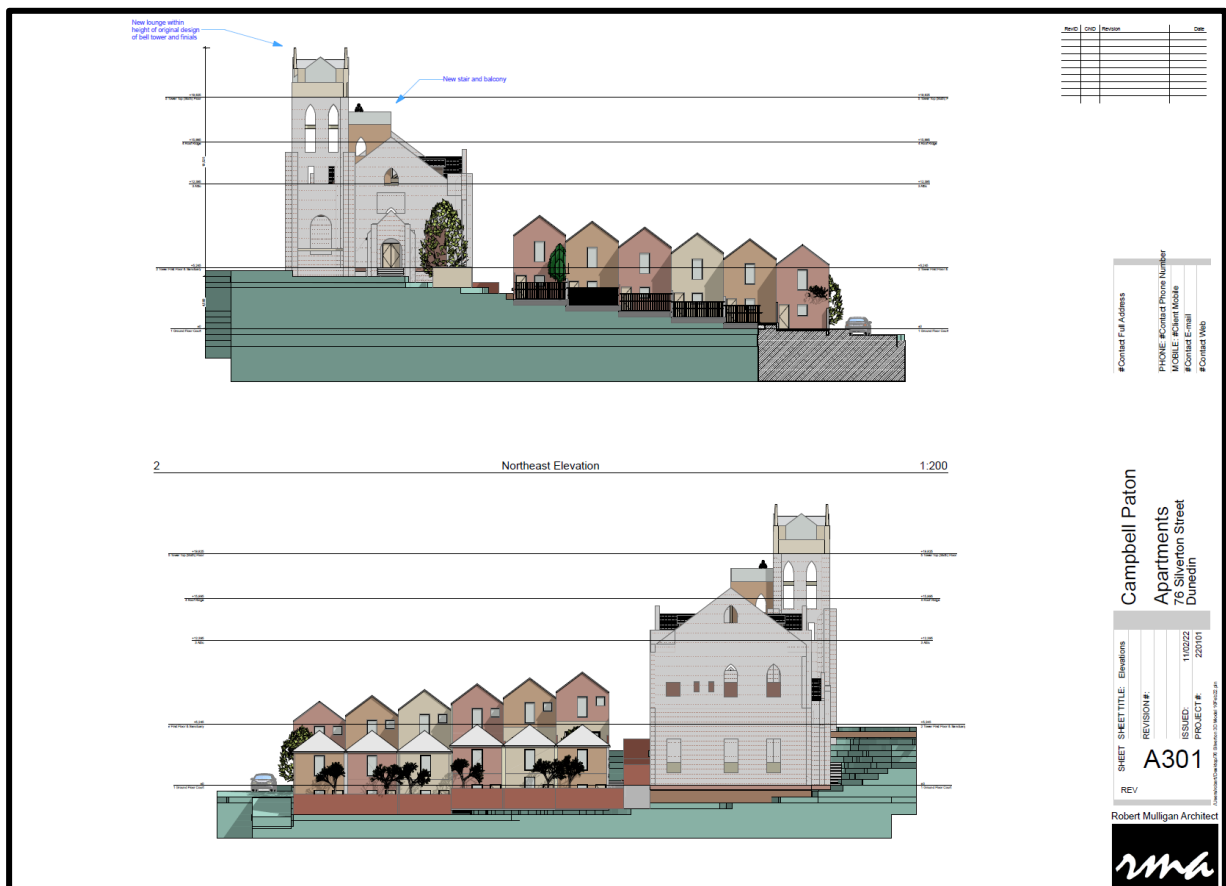
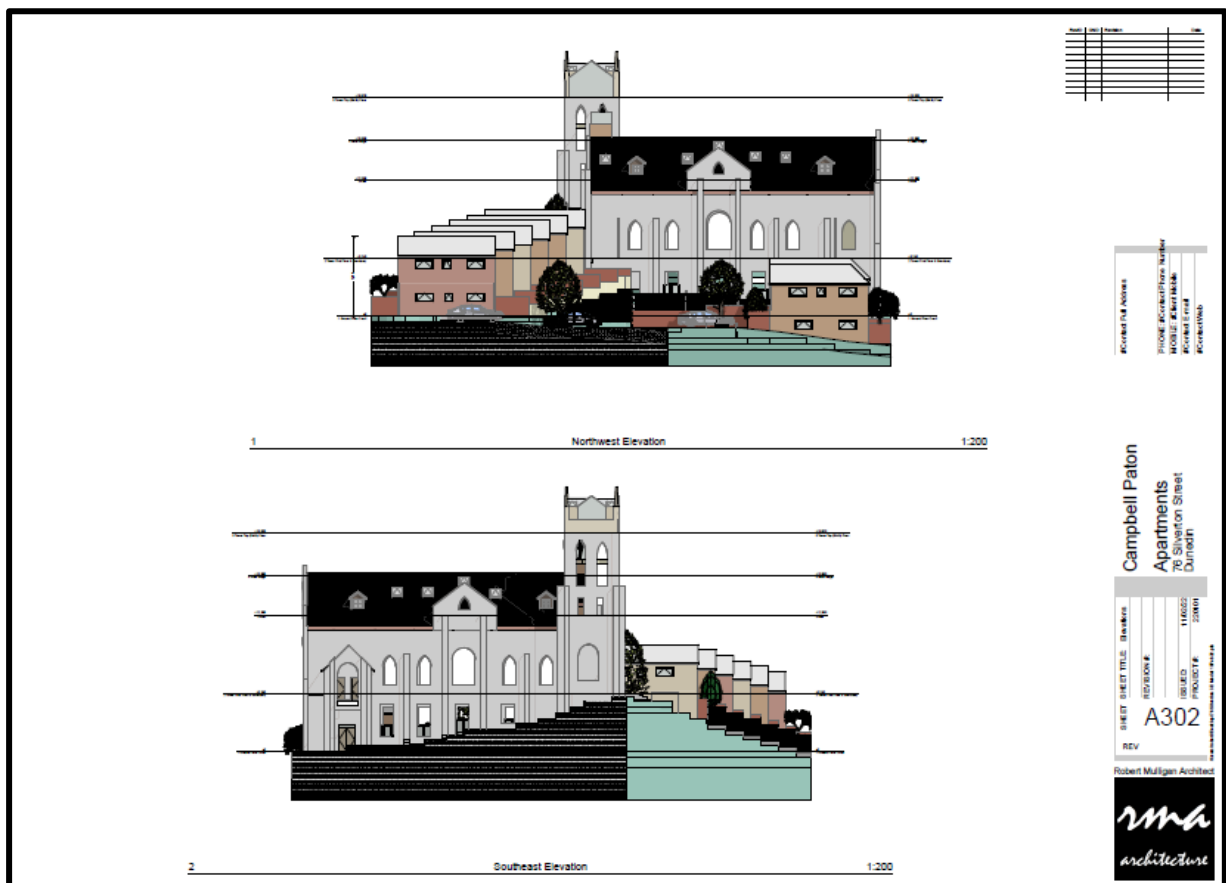
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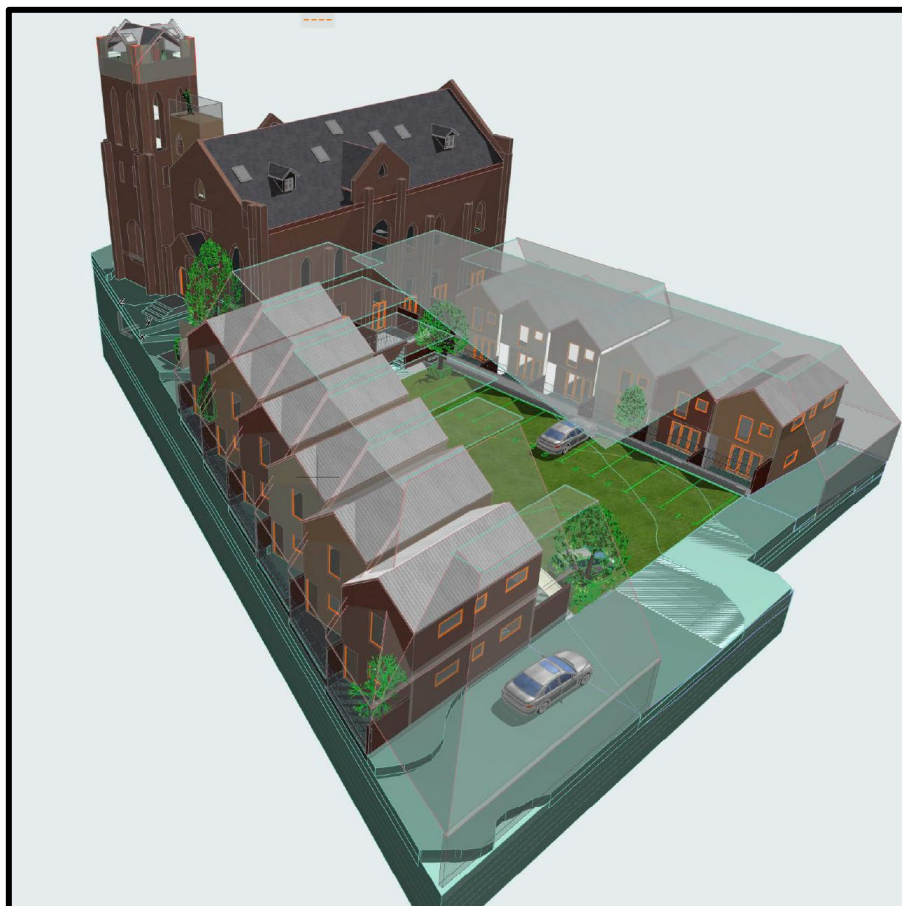
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SILVERTON
STREET

(3) OF 2



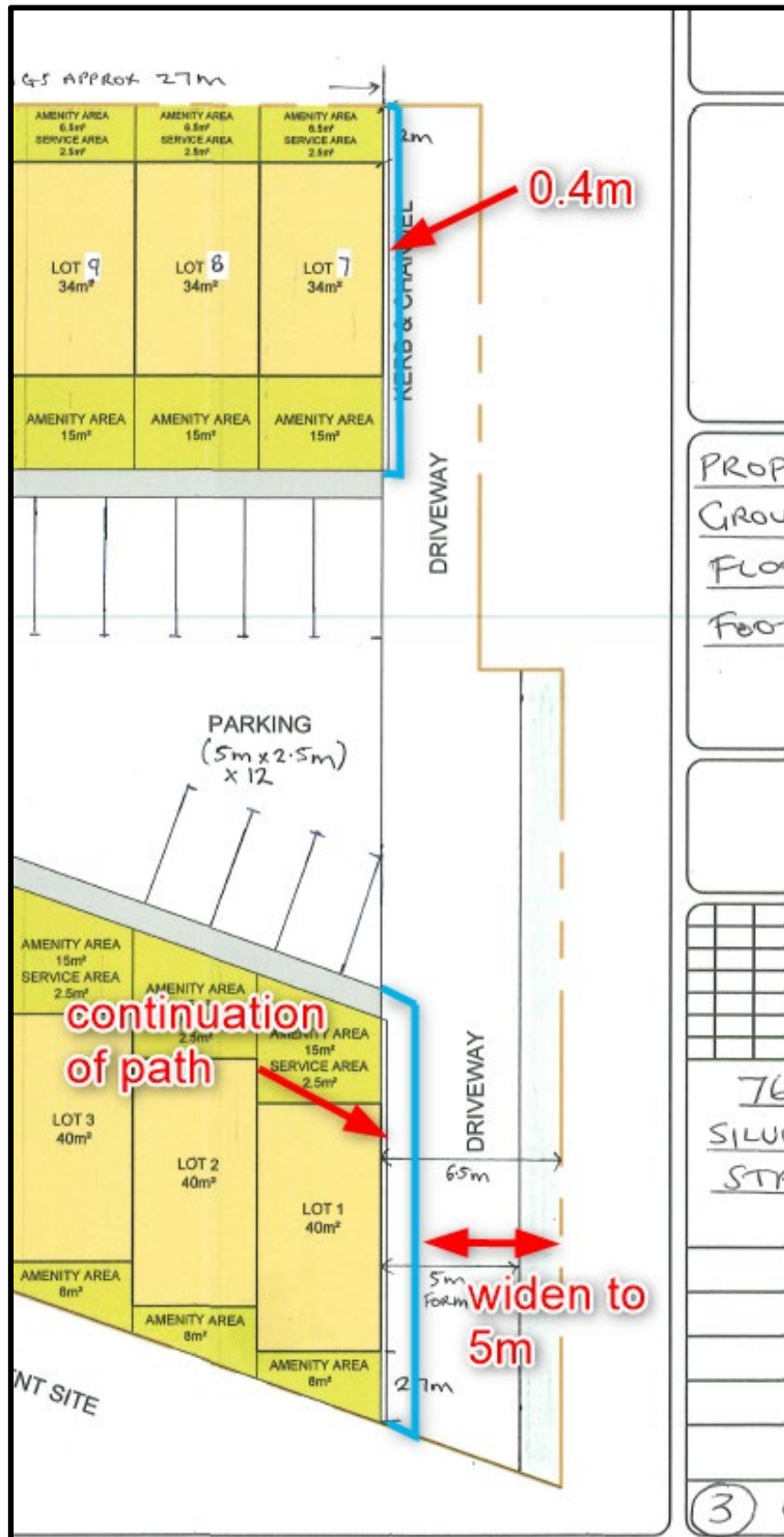
(4) OF 2





Appendix Two: Access improvements

Access changes



Full height kerb within the vehicle access to be removed.



Appendix Three: Easement required



10 October 2024

Roman Catholic Bishop of the Diocese of Dunedin
Conrad Anderson
PO Box 5933
Dunedin 9058

Via email: conrad_a@xtra.co.nz

Dear Roman Catholic Bishop of the Diocese of Dunedin

CERTIFICATE OF COMPLIANCE:

COC-2024-14
93 CHURCH STREET
MOSGIEL

Your application for a certificate of compliance for the demolition of the buildings on the sites was processed in accordance with section 139 of the Resource Management Act 1991. A Senior Planner considered the application on 10 October 2024.

The assessment of the application is set out in the report attached to this letter. The certificate of compliance itself is attached to the rear of this letter. Advice Notes are attached to this letter in relation to future development and non-resource management matters.

You will be contacted in due course if you are due a partial refund or you have to pay additional costs for the processing of your application.

Please feel free to contact me if you have any questions.

Yours faithfully



John Sule
Consultant Planner

ADVICE NOTES

1. It is recommended that the applicant undertake a survey of both buildings in relation to possible lead and asbestos contaminants prior to any demolition works being undertaken. The applicant should ensure demolition follows best practice to avoid contamination occurring during the demolition process.
2. Categories E1 and/or I on the HAIL may be applicable to the sites in relation to future development.
3. Any unanticipated soil disturbance must be undertaken in accordance with the permitted activity standards in Regulation 8 of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 or a resource consent will be required.
4. Any building built prior to 1900 will require an Archaeological Authority from Heritage New Zealand prior to any demolition of the building commencing. It is strongly recommended consultation with Heritage New Zealand occurs prior to any demolition work commencing.

APPLICATION COC-2024-14: 93 CHURCH STREET, MOSGIEL

Department: Resource Consents

BACKGROUND

This application, similar to a number of recent Certificate of Compliance applications, appears to have been precipitated by the proposed upgrading of the list of scheduled heritage buildings in the partially operated District Plan through a soon to be notified Plan Change. The applicant is seeking to preserve options for future site redevelopment that allows demolition of the existing buildings on the subject site.

DESCRIPTION OF ACTIVITY

The proposal is to demolish most buildings on the site at 93 Church Street, Mosgiel. No other activities are proposed, and no signs are proposed. The site is shown in Figure 1 below.



Figure 1: Aerial Photograph of the site (Source – DCC GIS Mapping 2023-2024)

The 1.0259ha site is relatively flat and irregular in shape. It contains large brick and plaster church related buildings which are primarily 2 storeys in height. It adjoins St Marys school to the north, a church and church owned residential units to the west and privately owned residential properties to the east and south.

The application only identifies two buildings on the site, but it appears that the main building has wings that were built at a different time and which connect to an earlier central building. The earlier central part of the main building that connects to other wings to the north south and east is proposed to be retained and the remainder of the building demolished. A separate free standing building adjacent to the east and north wings of the main building is also to be demolished. Figure 2 identifies the buildings and Figure 3 identifies the part of the main building to be retained.



Figure 2: Aerial Photograph showing the site buildings (Source – Application COC-2024-14)



Figure 3: Aerial Photograph showing part of the building to be retained (Source – Application COC-2024-14)

I note that the applicant has identified that the central part of the main building to be retained can be included in the demolition proposal if it is considered too difficult to separate it in authorising the activity.

An acoustic report was submitted as part of the application shortly after lodgement. The report predicts that the demolition if appropriately managed can achieve the applicable noise and vibration limits in the 2GP at all buildings surrounding the site. Having regard to the advice in the report the applicant made minor changes to the proposal

The applicant identifies that the proposed demolition will:

- Only be undertaken during day light hours, but not exceeding between 7.30am and 6pm.
- Only be undertaken on weekdays and Saturdays.
- Ensure noise limits within Rule 4.5.4.1 are adhered to:
 - by selecting an appropriate well-maintained excavator with a pulveriser attachment to undertake the demolition works,
 - by ensuring the works maintain a 16m separation from neighbouring dwellings,
 - by the installation of a temporary noise barrier conforming to the guidelines specified in the acoustic report between the excavator and dwellings during construction activity
- Only demolish the structures down to foundation level i.e. no soil disturbance.

The applicant considers the demolition is permitted by the District Plan but seeks to preserve redevelopment rights should any of the buildings on the subject sites be scheduled in the district plan as heritage buildings through proposed Plan Change 3.

The subject site is legally described as Lot 3 Deposited Plan 592509 held in record of title 1137766. The title contains a number of easements for infrastructural services and ROW and a Section 77 Building Act interest (9224257.1).

CERTIFICATES OF COMPLIANCE

Sections 139(2) and 139(5) of the Resource Management Act 1991 state that a person may request the consent authority issue a certificate of compliance; and that the authority must issue the certificate if the activity can be carried out lawfully in the particular location without a resource consent, and if the person pays the appropriate administrative charge.

DISTRICT PLAN RULES

Technically, Dunedin has two district plans: the Operative Dunedin City District Plan 2006 (the “District Plan 2006”), and the Proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). However, from 19 August 2024, the Proposed 2GP became partially operative and almost completely superseded the District Plan 2006, except for specific provisions and identified areas that are still subject to appeal. Where these provisions and appeals are relevant, the District Plan 2006 must still be considered.

In this case there are no identified areas or specific provisions that are subject to appeal. Accordingly, this application has been processed with reference to the 2GP only.

Partially operative 2GP

The subject site is located within the General Residential 1 zone and the site is also located in a Wahi Tupuna mapped area (ID 56 Kokika o Te Matamata) and a Hazard 3 (Area 20) flood overlay zone. The site is within the designated Dunedin Airport Flight Fan (D274), but this designation will not impact on the proposed demolition activity.

Church Street is classified as a Local Road under the 2GP roading hierarchy.

Assessment of Compliance

Demolition of the Buildings

Demolition falls within the category of development activities, and it is defined in the 2GP as:

Demolition

The complete or partial destruction of a building or structure.

Demolition is an activity in the building and structures sub-category, which is in the development activities category.

The residential zone activity status table for development activities that identifies whether a development activity is permitted is contained in Rule 15.3.4. The rule table has multiple rows which the proposal needs to be assessed against. Demolition is identified as restricted discretionary activity under Rule 15.3.4.8 when buildings are visible from a public place and located within a heritage precinct and under Rule 15.3.4.18 demolition is a non-complying activity when it affects the protected part of a heritage building. Neither of these rules apply in this case as the buildings are not in a heritage precinct and they were not scheduled as heritage buildings at the date the certificate of compliance application was lodged.

As demolition is not covered by the rules discussed above or any other rules in Rows 5 to 22 of Rule 15.3.4 the proposal is assessed as being subject to Rule 15.3.4.4 shown in the table below which identifies the activity as permitted subject to compliance with performance standards.

All buildings and structures activities not covered in rows below		Activity status	Performance standards
3.	Signs attached to buildings and structures	P	a. Number, location and design of ancillary signs
4.	All other buildings and structures activities not covered in rows 5 to 22 below	P	a. Fence height and design b. Number, location and

			design of ancillary signs
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In addition to the specific standards for fences and ancillary signs there are general standards that apply to all development and buildings and structures activities as follows:

1.	Performance standards that apply to all development activities	a. Natural Hazards Performance Standards b. Maximum building site coverage and impermeable surfaces c. Setback from scheduled tree d. Structure plan mapped area performance standards (where relevant) e. Service connections - stormwater for development (in a new development mapped area)
2.	Performance standards that apply to all buildings and structures activities	a. Boundary setbacks b. Building length c. Firefighting d. Height in relation to boundary e. Maximum height f. Setback from coast and water bodies g. Setback from National Grid h. Setback from Critical Electricity Distribution Infrastructure i. Setback from designated rail corridor j. Area of buildings and structures (SNL Overlay Zone) k. Reflectivity (SNL Overlay Zone)

These development performance standards have all been reviewed and they do not apply to demolition activity as they relate to establishment of new buildings.

I also note that demolition is an activity that is subject to temporary activities rules related to construction which is defined as follows:

Construction

The use of plant, tools, gear or materials as part of the erection, installation, repair, maintenance, alteration, dismantling or demolition of any building or structure; or site development. This definition includes all work from site preparation to site restoration.

This definition does not include any resultant buildings, structures or site development activities (including demolition or removal for relocation), which are separately defined under development activities or city-wide activities.

Construction is an activity in the temporary activities category.

Demolition will therefore be subject to relevant temporary activity rules. Rule 4.3.2. identifies construction (demolition) as a permitted activity subject to performance standards. Development standards, light spill and construction noise are all applicable to demolition works. The specified development standards in Rule 4.5.1 are not considered relevant to the proposed demolition and to ensure light spill compliance will be achieved the demolition works are proposed to be undertaken during daytime hours.

The applicant has also identified that the construction works will be 'typical duration' works only be undertaken between 7.30am and 6pm and only on weekdays and Saturdays. These operating hours align with the construction noise limits table in Rule 4.5.4.1.a.i where a noise limit of 75LAeq is permitted between 7am and 6pm Monday to Saturday for typical duration construction activity. The application includes a noise report that identifies the likely demolition method to be used the distance to neighbouring dwellings and school buildings and the report predicts the likely noise received. The report identifies that some mitigation will be needed to secure compliance at one location (9 Windsor Place) and a temporary noise barrier is recommended between the excavator and the receiver for this purpose. When a barrier is used it will reduce demolition noise to a compliant level at all receiver locations. The works will readily comply with specified vibration standards. Following receipt of the report after the application was lodged the applicant modified the proposal to incorporate the key measures identified in the report.

NATIONAL ENVIRONMENTAL STANDARDS - NESCS

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) may be applicable to the demolition if the site is a HAIL site and if ground is disturbed in the process of demolishing the dwelling. In this case the applicant advises that the demolition will be down to ground level and disturbance of the soil is not proposed as part of the demolition activity. It may be possible to demolish the buildings to foundation without disturbing the soils, but some potential disturbance appears possible as part of the process. I note that disturbing up to 25m³ of soil per 500m² of site area is a permitted activity subject to compliance with the standards in the regulations. As the proposal specifies that ground disturbance is not proposed and demolition is only proposed to be to foundation level, then it appears more likely than not that the proposal will not trigger consent under the NESCS for soil disturbance.

I also note that the demolition process itself could result in widespread contamination of the site with lead and asbestos if care is not undertaken with the demolition and the site clean-up. Building products containing asbestos were widely used in New Zealand. If any buildings containing asbestos are not demolished in accordance with best practice, then Categories E1 and/or I on the HAIL may be applicable to the sites in relation to future development.

E1: Asbestos products manufacture or disposal including sites with buildings containing asbestos products known to be in a deteriorated condition

I: Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment

Having considered the proposal demolition of buildings on the subject site, I am satisfied that the demolition can occur without triggering a requirements for a consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health if the demolition is only undertaken down to the foundation levels of buildings as proposed.

CONCLUSION

The above compliance assessment identifies that the proposed demolition of the buildings at 93 Church Street is a permitted activity under the requirements of the partially operative 2GP and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health at 27 September 2024, the date the Council received the proposal. The Council is therefore able to issue a Certificate of Compliance for the proposed work.

RECOMMENDATION

After having regard to the above planning assessment, I consider that:

1. The activity is a permitted activity in terms of the partially operative 2GP as at date that the application was lodged (27 September 2024).
2. The activity is a permitted activity in terms of Regulation 8 of National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health as at date that the application was lodged (27 September 2024).
3. The activity can be carried out without a resource consent at the date of application lodgement and the Council is therefore able to issue a certificate of compliance under section 139 of the Resource Management Act 1991.



John Sule
Consultant Planner

Date: 10 October 2024



Jeremy Grey
Senior Planner

Date: 10 October 2024

CERTIFICATE OF COMPLIANCE
SECTION 139 RESOURCE MANAGEMENT ACT 1991

Certificate of Compliance Number: COC-2024-14

Property Address: 93 Church Street, Mosgiel

Applicant: Roman Catholic Bishop of the Dunedin Diocese

Operative Dunedin City District Plan: General Residential 1 zone

Date Received: 27 September 2024

The applicant seeks a certificate of compliance for the demolition of the buildings on the sites at 93 Church Street, Mosgiel except for the central part of the main building which is to be retained. This building component is shown on the attached plan as Appendix one. The subject site is legally described as Lot 3 Deposited Plan 592509 held in record of title 1137766.

The proposal is the demolition of the buildings at 93 Church Street. To comply with relevant performance standards and ensure compliance with the NESCS the application identifies that the demolition will:

- *Only be undertaken during day light hours, but not exceeding between 7.30am and 6pm.*
- *Only be undertaken on weekdays and Saturdays.*
- *Ensure noise limits within Rule 4.5.4.1 are adhered to:*
 - *by selecting an appropriate well-maintained excavator with a pulveriser attachment to undertake the demolition works,*
 - *by ensuring the works maintain a 16m separation from neighbouring dwellings, and*
 - *by the installation of a temporary noise barrier conforming to the guidelines specified in the acoustic report between the excavator and dwellings during construction activity*
- *Only demolish the structures down to foundation level i.e. no soil disturbance.*

The proposed activity is considered to constitute a development activity in accordance with the partially operative 2GP Plan definition of *demolition* and is authorised as a permitted activity in terms of the provisions contained in Rules 15.3.4 and 4.3.2 of the Partially Operative Second Generation Dunedin City District Plan as follows:

- 4.3.2.2 Activity Status Rule for construction (includes Demolition)
- 4.3.2.2.a Performance Standard for construction noise
- 4.3.2.1 Performance Standards that apply to all temporary activities
- 15.3.4.4 Activity Status Rule for Demolition in Residential zones
- 15.3.4.1 Performance Standards that apply to all development activities in Residential zones
- 15.3.4.2 Performance Standards for all buildings and structures activities
- 15.3.4.1.a & b Performance Standards for demolition

The certificate of compliance is effective from the date that the Dunedin City Council received the request for this certificate and will lapse in accordance with section 125 of the Resource Management Act 1991 if it is not given effect to within five years from the date of issue on this certificate.

A handwritten signature in black ink, appearing to read 'J Sule', written in a cursive style.

John Sule
Consultant Planner

Issue Date: 10 October 2024

Appendix One

The Part of Building to be retained on the site and not demolished is shown in red below.

