



30 August 2016

The Governance Support Officer
Dunedin City Council
PO Box 5045
Dunedin 9058

Attn: Arlene Goss

Dear Arlene

**PROVISION OF APPLICANT'S EVIDENCE
SUB-2016-45 & LUC-2016-245
DALZIEL ROAD**

Please find the following information attached, which should be considered to be part of the applicant's evidence bundle-

1. Comments below describing modifications to the proposed activity.
2. Landowner's evidence by Ms Loretta Richardson.
3. Landowner's evidence by Mr Tom Richardson.
4. Appended modified subdivision scheme plans (3 sheets).
5. Appended referenced photos and documents.

The information contained in this bundle discusses a number of matters relevant to the application at hand.

Firstly, in consideration of the submissions received, the findings contained within the report prepared by Council's consultant planner, and a recent change in the applicant's land sales arrangements, the applicant is now proposing several modifications to the original proposal (all of which are within scope of the initial application).

Following the description of the proposed modifications, we enter into some discussion in relation to the establishment of an Esplanade Strip.

Lastly, we attach two written statements from the applicant's themselves (considered landowner's evidence), which address a number of elements of the proposed relating to history of the land and comments included within the submissions received.

We trust that the information provided in this bundle will offer a higher level of effects mitigation and will clarify and/or correct several points made by submitter's. Ultimately, the purpose of this bundle is to provide a greater degree of confidence to the Hearings Committee that the effects of the proposed boundary adjustment subdivision will be no more than minor, thereby clearing the way for consent to be issued.

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Proposed Modifications

Removal of Proposed Lot 4

The central reason for this application has been to satisfy two existing sale and purchase agreements that the applicant has previously had in place with purchases of the proposed Lots 3 and 4 (which have proven to be more desirable building platforms than the existing Lots 8 and 9 DP 470050).

However, one of prospective purchasers has only recently (as recently as this morning in fact) withdrawn from their sale and purchase agreement by way of a sunset clause in the agreement that has enabled this. This development has highlighted the frustrations that the applicant has had to contend with in terms of consenting delays over the last few years, however now that this has occurred it does afford the applicant some opportunity to consider reconfiguring the proposed boundary adjustment layout.

As a result of this, the applicant is now promoting a modification whereby the proposed Lot 4 is removed from the proposal. Reciprocally, the applicant also promotes the removal of the smallest of the underlying parcels, Lot 8 DP 470050, from the proposal also.

This has the effect of removing one of the relocated building platforms from the proposed development, leaving only a single relocation of a consented residential activity, this being the removal of Lot 9 DP 470050 and its replacement with the proposed new Lot 3. In this sense, the proposal is still considered to be a boundary adjustment subdivision, just at a reduced scale of what was initially proposed.

In round terms, it could be considered that the effects of the proposed activity are halved as a result of the proposed removal of the original Lot 4. In particular, the concern around a possible 'wall of built form' must be significantly reduced as a result of the removal of Lot 4 (along with several of the other mitigation measures discussed below).

The attached modified subdivision scheme plans show the new development layout. Please note that the parcel areas shown on the modified scheme plan have been updated to reflect the Lot 4 changes.

Fencing and Planting

The applicant has previously proposed to fence and plant the corridor of land located between the application site and the property at 31 Dalziel Road. It is noted that the s42a report prepared by Council's consultant planner suggests that further information in regard to these features would be helpful to assess their effectiveness at mitigating potential effects.

We note that the proposed fencing and planting now relates to proposed Lots 1 and 3 (Lot 4 having been removed from the proposal).

Sheet 3 of the attached modified subdivision scheme plans provides additional information on the nature of the proposed fencing and planting.

Particular details are noted below-

- Fencing to be a 1.8m high deer fence, with shade cloth attached, extending along the entire boundary shared between proposed Lots 1 & 3 and the property at 31 Dalziel Road.
- The full length of this fencing will be installed prior to any residential construction on either of Lots 1 or 3.
- The proposed planting will form a staggered pattern, with larger trees nearer the boundary and smaller plants towards the inside of the 3.0m planting corridor.
- The plantings will be established with a weedmat and stone base, to better enable ongoing maintenance.
- The plantings shall be installed at a density of 2.0m centres. Each row of planting will be offset by 1.0m from the previous row to ensure that the new vegetation forms a consistent screen.
- Tree species to be used are-
 - o Ake Ake
 - o Pitto. Tenuifolium
 - o Silver Sheen
 - o Ribbonwood
 - o Photinea
 - o Kowhai
- Hebe species to be used are-
 - o Lewisii
 - o Red Wonder
 - o Azure
 - o Kirkii
- Flax species to be used are-
 - o Silver Spear
 - o Astelia
 - o Black Rage
- All plantings will be installed at a mid-growth state. For instance, trees will be installed at a 1.8m high maturity. These trees are expected to grow to a full mature height of 3.0m within 2 years of planting.
- The length of proposed plantings over each of Lots 1 and 3 will be installed prior to any residential construction on the respective site.
- In respect of maintenance, the applicant is prepared to have a consent notice installed on the titles for Lots 1 and 3 stipulating that the fences and plantings cannot be removed (without the consent of the owner of 31 Dalziel Road) and that these features must be maintained in good order and replaced as natural deterioration occurs.

We note that the height of the proposed trees, coupled with their installation at a distance of 1.0m from the boundary and the use of shade cloth, will avoid any expectation of possible poisoning to animals within the neighbouring property.

The installation of the proposed fence and planting, as detailed above and combined with the bulk and location restrictions proposed below for Lots 1 and 3, will largely mitigate the effects of visual amenity, privacy, light pollution and reverse sensitivity issues. Issues such as noise and security will be reduced to some degree by a moderate degree through the proposed fencing and planting.

Proposed Height Restriction

The applicant, in conjunction with the prospective purchasers of Lot 3, is prepared to offer a height restriction across Lot 3.

It is proposed that the maximum height of any residential structures within Lot 3 will be restricted to a reduced level of 293.0m above mean sea level. As the existing ground level within Lot 3 lies around 288.0m amsl, this proposed height restriction will result in a practical building space height of 5.0m, which will readily support the establishment of a single storey dwelling.

The effect of a height restriction to no higher than 293.0m is indicated on sheet 3 of the attached modified subdivision scheme plan. This plan depicts the anticipated view lines from the ground floor and 1st floor windows of the existing dwelling at 31 Dalziel Road to various points of interest including the existing ground crest, the top of the proposed planting feature and the most visually prominent position of the restricted building space.

There are two view line comparisons that the applicant would highlight on the profile plan.

Firstly, if the Committee looks at the blue lines labelled 2 and 3 we can see that there is only a particularly small difference between the view line across the top of the proposed plantings and the view line to the most prominent position of the restricted building space. For the proposed dwelling to be visible from the existing ground floor windows, the new dwelling within the proposed Lot 3 would need to be built to the maximum space provided, and even then the scale of the visibility would be very small.

Secondly, if the Committee looks at the magenta lines labelled 2 and 3 we can see that there is modest difference between the view line across the top of the proposed plantings and the view line to the most prominent position of the restricted building space. It is likely that the proposed dwelling will be visible from the existing 1st floor window, however the profile plan is useful in demonstrating that the scale of the anticipated visibility will be reasonably modest, with associated visual amenity effects being no more than minor.

Two points need to be made for clarification purposes-

1. The grey space shown on the profile plan and labelled 'Proposed Lot 3 Max. Building Space' illustrates the outline of the maximum space within which a new residential building might be constructed. This is certainly not to say that a new dwelling within Lot 3 will take up anywhere near all of this space. The view lines have been assessed on the 'worst case' situation, and the likely outcome is rather that the new structures will occupy a portion of this space but not all of it, thereby creating an effect that is less than the 'worst case' level assessed.

2. The levels used for the window centres of the existing dwelling at 31 Dalziel Road have been determined by estimation from several oblique photographs (the applicant prefers not to seek to enter the land at 31 Dalziel Road to confirm these levels). However, the ground level at this dwelling is accurately known from previous survey information, and the estimated window levels are expected to sufficiently close to the true levels as to avoid the potential for any meaningful differences in the view line assessment undertaken.

Proposed Dwelling Size Restriction

Further to the proposed height restriction described above, the applicant is also prepared to enter into an agreement whereby the footprint size of any new principal dwelling (inc. attached garage) within Lot 3 is restricted to no greater than 240m². The prospective purchasers are agreeable to this (their proposed house design is currently approx. 220m² in footprint area).

This agreement would be expected to be registered onto the new title for lot 3 by way of a consent notice encumbrance, required through an appropriately written condition of consent.

The purpose of this restriction is to avoid the potential for an unusually large dwelling to be established within Lot 3. A restriction to a footprint area of 240m² would seem to be consistent with typical modern-day residential activities.

Proposed Provisional No Build Region

A further mitigation measure proposed by the applicant is the concept of a provisional no build region over all of the land within Lot 1 that is located within 50m of the boundary with 31 Dalziel Road.

The purpose of this restriction would be to prevent (provisionally) the owner of Lot 1 from establishing a residential activity within this region. This restriction would presumably address several of the concerns raised by the owners of 31 Dalziel Road in regard to what they perceive to be an unacceptable level of residential development along their eastern boundary.

However, the applicant has used the term 'provisional' intentionally. The concept here is that this building restriction region can only be offered on the basis that i) it is automatically extinguished in the event of either a change in the land's zoning format under the 2GP or in the event that a specific rezoning or resource consent for a higher density of residential development is approved for the land (including, but not limited to, the consent application presently under appeal), and ii) that the provision of this building restriction region is understood to not provide any obstacle or impediment to current or future rezoning or subdivision applications relating to the underlying land.

Essentially, this means that the building restriction region will only apply in the event that a building consent application is submitted for the construction of a dwelling on Lot 1 of the subdivision currently proposed. The first house on the Lot 1 land will need to be established clear of this restriction region, however should the land be rezoned, or otherwise enabled for a greater density of residential development, this restriction will no longer then apply.

It is anticipated that if the committee is of a mind to agree to this proposed no build restriction region, then the consent decision might require a condition, requiring the installation of a suitably worded consent notice to be installed on the new title, to give effect to this restriction.

Scope of Application

The form of development is still that of a boundary adjustment subdivision.

The removal of the initially proposed Lot 4, and the inclusion of the newly proposed modifications, does not introduce any new affected parties. Neither does it increase the level of any affect to any of the parties previously identified.

With these considerations in mind, it is our opinion that the modified proposal remains fundamentally within the scope of the original application.

Esplanade Strip

The applicant has not proposed to create an esplanade strip in respect of the existing watercourse passing through the proposed Lot 1.

There are several reasons for this, including-

1. The current application is a boundary adjustment project – no additional sites will be created, therefore the creation of an esplanade strip is an unreasonable imposition on the applicant.
2. The previous subdivision consents that were given effect to on this land have not required the setting aside on an esplanade strip.
3. The land is presently proposed to become part of the Large Lot Residential 1 zone under the 2GP. If this occurs then further residential development of the subject site is almost certain to follow – that is the appropriate time for an esplanade strip to be required.
4. The applicant is not proposing any form of change in the way the watercourse is being managed, and the implementation of the proposed boundary adjustment subdivision will not encourage any form of change in this regard.

Given the reasoning above, the applicant is reluctant to have a condition of consent imposed that requires the offsetting of any esplanade strip. We also note that a 20m wide esplanade strip would impinge onto several of the sites proposed as part of the subdivision consent application which is under appeal.

The Committee will obviously be aware that while not imposing a requirement for this esplanade strip as part of this consent, the Council retains the right to impose this requirement upon any future subdivision consent application. The applicant would be satisfied to proceed on the understanding that it is likely a requirement for an esplanade strip may be required in future.

Landowner's Evidence

Please refer to the attached documents titled 'Landowner Evidence - Loretta Richardson' and 'Landowner Evidence - Tom Richardson'. These documents also make note of the reference material appended to this bundle.

These documents are self-explanatory and no supplementary commentary is required in this section of the applicant's evidence bundle.

Conclusion

In review of the s42a report prepared by Council's consultant planner, it appears relatively clear that the largest impediment to consent being issued for the proposed activity is the determination of whether or not adverse environmental effects are no more than minor. The applicant believes that the effects are indeed no more than minor, however Council's consultant planner has concluded otherwise.

The applicant has reviewed the s42a report, and has elected to modify the proposed activity with a raft of additional mitigation measures as described above. It is anticipated that these measures will provide a substantially greater level of mitigation of the effects on the neighbouring property at 31 Dalziel Road, to the extent to which all reasonable objections might be overcome and the effects of the application can be determined with confidence to be no more than minor.

We trust that the information provided herein will enable the Committee to fully consider the application and for Council's consultant planner to reconsider his s42a recommendation.

There are clearly some differences of opinion between the applicant and the submitters, and it is hoped that the information contained in this bundle enables some clarification of these issues. In any case, it is expected that the Committee's focus will appropriately lie with the nature of any ongoing environmental effects, and that the application will largely be determined on that basis.

With this information in mind, the applicant requests that the Committee grants the subdivision and land use consents sought.

Yours faithfully
PATERSON PITTS GROUP

A handwritten signature in blue ink, appearing to read 'Kurt Bowen', with a long horizontal stroke extending to the right.

Kurt Bowen
Registered Professional Surveyor