

29 September 2016

RPR Properties and Krenford Holdings Limited
C/- Kurt Bowen
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Dear Kurt

RESOURCE CONSENT APPLICATION

**SUB-2016-45 and LUC-2016-245
35, 41 and 49 DALZIEL ROAD
DUNEDIN**

The above application to subdivide the above sites and establish residential activity was processed on a limited notified basis in accordance with Section 95B of the Resource Management Act 1991. The Consent Hearings Committee, comprising Councillors Andrew Noone (Chairperson), Andrew Whiley and Independent Commissioner Colin Weatherall, heard and considered the application at a hearing on 14 September 2016.

At the end of the public part of the hearing, the Committee, in accordance with Section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public. Following the conclusion of the hearing, a site visit was undertaken by the Hearings Committee.

The Committee has **granted** consent to the application on 22 September 2016. The full text of this decision commences below with a consent certificate attached to this letter.

THE HEARING AND APPEARANCES

The applicant was represented by:

- Kurt Bowen (Registered Cadastral Surveyor)
- Tom and Loretta Richardson (the Applicant)

Council staff attending were:

- Kirstyn Lindsay (Advisor to Committee),
- Shane Roberts (Consultant Processing Planner), and
- Arlene Goss (Governance Support Officer).

Submitters in attendance included:

- Alice Wouters & her witness Angela Ruske
- Laura Hayes
- Don Anderson (Advocate for Alice Wouters and Chris Riedvelt)
- Conrad Anderson (Planner for Alice Wouters and Chris Riedvelt)

PROCEDURAL ISSUES

Ms Wouters raised a procedural issue regarding whether the application should have been publically notified instead of limited notified. After considering comments from the Senior Planner (Advisor to Committee) the Committee were confident that the application had been put through the tests set out in s95 of the Act and limited notification was appropriate in this case. Pursuant to s104D(3) of the Act, the Committee felt that they were able to make a decision on the consent application.

PRINCIPAL ISSUES OF CONTENTION

The principal issues of contention are as follows:

- Change in rural character
- Location and form of the dwelling
- Landscaping and screening
- Reverse Sensitivity
- Integrity of the Operative Dunedin City District Plan
- Requirement for an Esplanade Strip

SUMMARY OF EVIDENCE

Introduction from Processing Planner

Mr Roberts identified the subject site and noted the current and proposed zoning under the operative Dunedin City District Plan and the proposed District Plan, he also noted the history of the site including the approved 2012 9-lot subdivision and the 2015 33-lot subdivision which was declined and subsequently appealed to the Environment Court.

Mr Roberts outlined the proposal noting that the applicant was originally seeking a 4-lot subdivision which was essentially a reconfiguration of four existing lots which were the result of a 2012 9-lot subdivision. He noted that the applicant sought to increase one of the lots in size, with the other three being reduced in size.

The application was limited notified to one neighbour on 29 June 2016 and three opposing submissions were received. The key issues contained within the submissions related to the small lot sizes, lack of mitigation, adverse effects on amenity, reverse sensitivity and that the proposal was contrary to the plan provisions.

Subsequent to the submissions and the circulation of his s42A report being circulated Mr Roberts noted the following amendments made by the applicant to the proposal:

- Deletion of a lot from the proposal,
- Providing further detail on the proposed landscaping,
- Proposed a height and footprint limit for the proposed dwelling on proposed Lot 3,
- Proposed setbacks,
- Provided detail on the potential visibility of a worst case scenario dwelling on proposed Lot 3, and
- A 'provisional' no build area on proposed Lot 1.

While recommending to decline the application in his s42A report, Mr Roberts acknowledged the amendments to the proposal listed above went some way towards addressing his concerns and he reserved the right to review his recommendation after hearing from the applicant and submitters.

The Applicant's Case

Mr Bowen, on behalf of the applicant, outlined the proposal, specifically noting the changes to the proposal submitted within the pre-circulated evidence. He detailed the land use patterns within the vicinity of the subject site, observing that with the exception of a reserve block owned by the Dunedin City Council, there was little in the area which could meet the District Plan requirements for a rural zoned site. He noted that the surrounding land use was typically residential or rural residential in nature.

Mr Bowen advised the Committee that all surrounding neighbours, identified as affected by the Dunedin City Council, had provided written approval bar the property at 31 Dalziel Road from where each of the three submitters was associated. He noted that the dwelling at 31 Dalziel Road was over 100m from the building platform identified for proposed Lot 3. Mr Bowen noted that changes seeking to address the concerns of the owners and tenant at 31 Dalziel Road had been made to the proposal prior to lodging the application with Council, and further changes to mitigate any adverse effects after the applicant had reviewed the submissions and s42A report.

Mr Bowen spoke in detail to the changes proposed and outlined how these changes were intended to mitigate the effects on the neighbour at 31 Dalziel Road. Of note was the height restriction placed on any dwelling on proposed Lot 3 and Mr Bowen tabled plans which demonstrated the visibility of this when viewed from 31 Dalziel Road. He offered conditions which controlled the colour, cladding and profile of the dwelling. Conditions were also offered regarding the boundary treatment, setbacks and plantings.

The other point of contention traversed by Mr Bowen was the issue of the esplanade strip. He noted that an esplanade strip was not required by the 2012 subdivision consent and that this proposal did not seek to create any new sites beyond that consent nor change the way that the creek was being managed. He also believed that it was inappropriate to consider an esplanade strip at this time giving the uncertainty surrounding the future zoning of the site. He noted however that the esplanade strip issue may be required in the future and this was accepted by the applicant.

It was Mr Bowen's opinion that the key issue raised by the submitters was the location of the dwelling in proximity to their eastern boundary and he believed that the applicant had offered up a number of solutions to mitigate the adverse effects of this. As such, Mr Bowen believed that the adverse effects of the proposal were minor and respectfully requested that the Committee grant consent.

Mr Richardson spoke to his pre-circulated evidence, giving a detailed explanation of the history of the site, including how 31 Dalziel Road (an undersized rural lot) came to be established within the rural zone. He noted that the sale and purchase agreement for 31 Dalziel Road specifically signalled that further subdivision and development of the subject site from which 31 Dalziel Road was carved off.

Mr Richardson noted that full reticulation of the subject site had recently been approved by the Dunedin City Council and advised that there is a legal easement through 31 Dalziel Road to service the subject site. With regard to water runoff, Mr Richardson refuted the assertion in the submissions that the development would result in run-off to 31 Dalziel Road. He believed that run-off was unlikely because of the topography of the land and that it was in fact that case that run-off from 31 Dalziel Road was discharging to the subject site.

Mr Richardson reiterated the raft of mitigation proposed to manage the adverse effects arising from the proposal and requested that the Committee grant consent.

Mrs Richardson spoke to her pre-circulated evidence, noting the sale and purchase agreement currently held over proposed Lot 3. She noted that, prior to this application, a dwelling was established on current Lot 5. Lot 5 shares the eastern boundary with 31 Dalziel Road. When considering options for the location of the dwelling on Lot 5, one option was to build 10m back from the eastern boundary in the same location as the Lot 3 dwelling proposed by this application. Mrs Richardson considered that it was simply a matter of personal choice by the owner of the dwelling that this location was not chosen in favour of elsewhere on Lot 5. She noted that the dwelling built on Lot 5 will now be contained within proposed Lot 2.

Mrs Richardson has some experience with horses and she refuted the statements in the submission by Ms Hayes regarding the potential impact of the residential development on the horses she grazed on 31 Dalziel Road. She further reaffirmed the conditions offered to mitigate the adverse effects, speaking at some length regarding the boundary treatment and planting options.

Evidence of Submitters

Ms Hayes spoke to her submission, noting that she had used 31 Dalziel Road for grazing purposes since 2006. She was concerned regarding the stress that the development would cause her horses citing several studies relating to the stress on horses during equestrian events. She noted the plantings proposed at the boundary and was concerned that these would contain species which were poisonous to animals, particularly horses and sheep. She was concerned about reverse sensitivity and that this would restrict the activities which were currently occurring on 31 Dalziel Road. Ms Hayes was concerned that the proposal was being treated as a boundary adjustment rather than a subdivision consent. She requested that the consent be declined.

Mr D Anderson spoke as an advocate for the submitters Messrs Rietveld and Wouters. He noted the ruling of the Environment Court for Variation 9A of the Operative Dunedin City District Plan that 15ha was the appropriate size of land for a rural zoned site. He cautioned the Committee, considering it would be unwise of them to go against the ruling of the Court. Mr D Anderson also provided his interpretation of the King Salmon decision which he believed prevented the Committee from making a decision that was contrary to a ruling by a higher office.

Ms Wouters, supported by her witness Ms Ruske, spoke to her submission. She was concerned over the visual impact of the dwelling on proposed Lot 3 and the potential change to the rural character of the area. However, she accepted that the area was no longer rural in nature but she sought to preserve a rural residential character. Ms Wouters considered that additional residential activity was incompatible with the way she used her land at 31 Dalziel Road. Ms Wouters referred the Committee to the photo montage she tabled noting she was concerned regarding a loss of amenity and an increase in noise overall. She was concerned that if the consent was granted a precedent would be set and that this would open the door for further residential intensification of the area. She requested that the consent be declined.

Ms Ruske, in support of Ms Wouters, raised concerns that the proposal was being treated as a boundary adjustment rather than a subdivision consent. She noted the impact of the emotional and financial pressure on Ms Wouters of dealing with these proposed land use changes. She highlighted the potential impacts on Ms Wouters and Mr Rietveld of the quality of lifestyle, visual outlook, reverse sensitivity and incompatibility of land use arising from this proposal.

Mr C Anderson spoke to his pre-circulated evidence. Mr C Anderson tabled a map which showed the changes overtime to the subdivision which the Committee found helpful. He considered the pre-sale of the lots should have no bearing on the Committee's decision because, while this was common practice, each party accepted the risks when entering into such an agreement. He re-introduced the matter of public notification and whether this was the appropriate process for this application but ultimately he accepted the Committee's ruling on this matter. Mr C Anderson considered that the inclusion of an esplanade strip was appropriate and believed the Committee should turn their mind to this. He revisited the proposed mitigation and believed that this remained inadequate, the proposal introduced new effects beyond those that were authorised in 2012 and that not enough weight had been given to reverse sensitivity issues. He remained of the view that consent should be declined.

Processing Planner's Review of Recommendation

Mr Roberts reviewed his recommendation, noting that he had considered the vast array of material offered by both the applicant and the submitters during the course of the hearing. He noted that much of the material presented fell outside of the issues that could be considered by the Committee during this process.

With respect to public notification, Mr Roberts believed the submitters could take comfort in that pursuant to 104(3)(d) of the Act, the Committee could not grant consent if they believe the application should have been publically notified. With regard to the focus of the submitters on the term 'boundary adjustment', Mr Roberts noted that unlike some district plans throughout the country, the Dunedin City District Plan did not have separate boundary adjustment rules and that the application was assessed as a non-complying subdivision. As

such, the application was assessed under the full suite of subdivision rules and assessment matters.

He noted the applicant's argument, regarding what could have been built on Lot 5 on the eastern boundary, was of little consequence as the dwelling has already been built in an alternate location (now proposed Lot 2) and this hypothetical situation should be given little weight by the Committee.

Mr Roberts refuted Mr Anderson's interpretation of King Salmon decision, noting that decision related to the cascading relationship between higher and lower order policy documents and not decisions of the Court on district plan rules.

Overall, Mr Roberts agreed with the applicant in that the key issue of the proposal appeared to be whether the adverse effects of the proposed dwelling could be adequately mitigated. He acknowledged the efforts made by the applicant to address a number of issues raised by submitters and in the s42A report. He believed that imposing robust conditions would be key to minimising any adverse environmental effects arising from the proposal. Mr Roberts believed that the Committee could grant consent if they were of a mind.

Applicants Right of Reply

Mr Bowen summarised the applicant's case reiterating key mitigation measures offered. He believed that the adverse effects on the rural activities occurring at the property at 31 Dalziel Road was overstated by the submitters, noting that there are many situations in New Zealand where rural or rural residential activities occurred alongside residential.

Mr Bowen believed that the photo montage offered by Ms Wouters showing her impression of the visual effects of a house on proposed Lot 3, should be given little weight by the Committee as this image did not take into account the mitigation offered by the applicant and the perspective of the montage was not accurate and consequently misleading.

When questioned by the Committee, Mr Bowen was happy to draft up the suite of conditions offered by the applicant.

STATUTORY AND OTHER PROVISIONS

In accordance with Section 104 of the Resource Management Act 1991, the Planner's Report detailed in full the relevant statutory provisions and other provisions the Committee considered. Regard was given to the relevant provisions of the following chapters of the Operative Dunedin City District Plan: 4 Sustainability, 6 Rural Zones, and 20 Transportation and chapter 16 Rural Zones of the proposed Dunedin City District Plan. Statutory provisions considered included Sections 5, 7(c) and 7(f) within Part 2 of the Act. Regard was also given to the Regional Policy Statement for Otago and proposed Regional Policy Statement for Otago.

MAIN FINDINGS ON PRINCIPAL ISSUES OF CONTENTION

The Hearings Committee has considered the evidence heard, the relevant statutory and plan provisions, the principle issues in contention. The main findings on the principal issues have been incorporated within the reasons discussed below.

DECISION

The final consideration of the application, which took into account all information presented at the hearing, was held during the public-excluded portion of the hearing. The Committee reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991. In addition, a site visit was undertaken during the public-excluded portion of the hearing, the Committee inspected the site (including 31 Dalziel Road) and this added physical reality to the Committee's considerations.

Subdivision – SUB-2016-45

That, pursuant to Section 34A(1) and 104B and after having regard to Part 2 matters and Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Dunedin City District Plan, the Dunedin City

Council **grants** consent to a **non-complying** activity being the subdivision of land at 35, 39, 41 and 49 Dalziel Road, legally described as Lot 5 DP 470050 (CFR 634081), Lot 7 DP 470050 (CFR 634083) and Lot 9 DP 470050 (CFR 634085), subject to conditions imposed under Section 108 and 220 of the Act, as shown on the attached certificate.

Land Use – LUC-2016-245

*That, pursuant to Section 34A(1) and 104D and after having regard to Part 2 matters and Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying** activity to establish residential activity on the lots located at 35, 39, 41 and 49 Dalziel Road, legally described as Lot 5 DP 470050 (CFR 634081), Lot 7 DP 470050 (CFR 634083) and Lot 9 DP 470050 (CFR 634085), subject to a conditions imposed under Section 108 of the Act, as shown on the attached certificate.*

REASONS FOR THIS DECISION

Consideration of application

- 1 The Committee considered whether the application should have been publically notified. It was comfortable that the report prepared under s95 of the Act traversed the issues adequately and that there was no reason for them to revisit the notification decision. They were comfortable that there was nothing pursuant to s104(3)(d) of the Act that would prevent them from granting consent.
- 2 The Committee believe that, subject to recommended conditions discussed in more detail below, the proposal will not give rise to more than minor adverse environmental effects. Having regard at the relevant objectives and policies overall the Committee considered the application is not contrary to the provisions of the Operative or Proposed District Plans. As such, the proposal satisfies both gateway tests contained in Section 104D of the Act and the Committee were, therefore, able to consider the granting of consent.

Relationship of consent with appeal of SUB-2015-54

- 3 The Committee turned its mind to the relationship of this consent to the large lot residential subdivision application that was declined consent by the Council and that is now subject to an appeal (SUB-2015-54). It considered whether the processing of this application will have any potential impact or influence on the outcome of that appeal. The application is promoted as a reorganisation of the 2012 subdivision consent which has been implemented and which is clearly forms the existing environment. New Lots 1, 2 and 3 of the subdivision replace existing Lots 5, 7 and 9 of DP470050. Lots 2 and 3 are at a scale and location that compatible with the large lot residential subdivision that is subject to an appeal and will formed from part of Lot 5 DP 470050. New Lot 1 will be larger and comprise the balance of Lot 5 DP 470050 and all of Lots 7 and 9 DP 470050. The Committee notes that building consent has been issued to establish a dwelling within the area of new Lot 2 so the development potential of that lot has been realised. The Committee also considers that the topography for Lots 8 and 9 of DP 70050 means that it is likely that dwellings would have been established at the higher western locations on these sites closer to the houses that have been or are currently being developed.
- 4 The Committee accepts that the reorganisation of the lots proposed under SUB-2016-45 is clearly designed to work in conjunction with the appealed subdivision should it be approved. It notes that the design of subdivisions to facilitate future expansion is not an uncommon approach. While more land will be transferred to a larger balance lot (New Lot 1) which is also a dwelling site, the revised clustering of dwellings resulting from the proposed subdivision will not result in a major change in the concentration of dwellings from that anticipated and authorised under the 2012 subdivision. The Committee considers that subdivision as proposed will preserve more land in new Lot 1 providing greater separation and a larger area of open space. Furthermore, it acknowledges that nine building lots were available under the 2012 subdivision and this will not change. While the clustering of the dwellings will alter the location of bulk and location effects that

would have occurred under the 2012 subdivision, the Committee does not consider that this change will have any influence the outcome of the appeal. The subdivision under appeal involves an application for 34 sites and involves a significant transformation of the land to a large lot residential environment and as such they felt that they could consider granting of this consent.

Description of the proposal

- 5 Resource consent is sought by RPR Properties Limited and Krenford Holdings Ltd to re-organise the layout of three lots of an existing 9-Lot 2012 subdivision (SUB-2012-92) on rural zoned land on Dalziel Road. The Committee notes that there were nine sites where new dwellings could be established under SUB-2012-92 and this will not change this consent although the locations of some of the lots and future dwellings will be altered. The Committee recognises that the final subdivision and land use consent plans submitted at the hearing alters the location of the following lots authorised under SUB-2012-92 as follows:

New Lot	Area (Ha)	Purpose
Lot 1	12.6440	Residential Activity. Replaces Lot 7 DP 470050 (10.3165ha) and is increased in area.
Lot 2	0.2480	Residential Activity. Replaces Lot 5 DP 470050 (2.2915ha) which is significantly reduced in area with the residual land being transferred to Lot 1.
Lot 3	0.2020	Residential Activity. Replaces Lot 9 DP 470050 (0.4860ha) and is reduced in area with the residual land being transferred to Lot 1.

- 6 The Committee notes that new Lot 2 had building consent which has been given effect to. As such, no land use conditions are proposed for this Lot.

Land Fragmentation

- 7 The Committee considered the existing environment, lot sizes and surrounding land use for the subject site. It notes that the location of the subject site is on the urban fringe and the surrounding land use is more rural residential and residential in nature than rural. The Committee is aware of the consent history of the site and, specifically, notes that this proposal will result in a reconfiguration of Lots 5, 7 and 9 of SUB-2012-92. There is no increase in the number of lots than those approved by SUB-2012-92. However, the Committee notes that the proposed subdivision will result in a reduction in size of two lots which will be significantly less than those anticipated in the rural zone. However, it considers that many of the fundamental issues surrounding land fragmentation were traversed during the granting of SUB-2012-92.
- 8 The Committee notes that there is a degree of conflict with the policies concerning land fragmentation and non-productive uses of rural land. The Committee accepts that the area is not typical of the rural zone and few of the values that the rural zone policies and rules are meant to protect exist at this location. The overall intensity of residential development proposed is more intensive than that anticipated by the District Plan for rural zoned land, but it is recognised that the site is isolated from the rural environment, and is not contiguous with other rural zoned land, other than a Council Reserve that comprises a bush-clad gully system. The conflict with some policies and potential adverse effects the can be addressed and managed through a set of robust conditions of the consent.
- 9 The Committee notes that the applicant has offered to embargo any further applications for subdivision of the site until such time as the proposed District Plan becomes operative or the appeal for LUC-2015-54 is settled. The Committee accepts this offer and imposes it as a condition of consent.

Setbacks

- 10 In respect of minimising the effects of land use on the neighbours, the Committee notes that the applicant has promoted a 10 metre setback for new Lot 3 and a 50 metre setback for new Lot 1 from the shared boundary with 31 Dalziel Road. With respect to new Lot 3, it notes that the dwelling at 31 Dalziel Road is over 90m from the boundary of new Lot 3 and the Committee are satisfied that the additional 10 metre setback will ensure that any development is a significant distance from that dwelling. For new Lot 1, the 50m set back offered by the applicant is considered significant. However, the Committee notes that this is a provisional setback only, designed to dissolve if and when the proposed District Plan is made operative or the appeal for SUB-2015-54 and LUC-2015-291 is resolved, at which time the District Plan or yard setbacks consented by LUC-2015-291 shall be complied with.
- 11 The applicant has also offered 12m setbacks between new Lot 1 and Taieri and Dalziel Roads, and a 4m setback for both new Lots 1 and 3 from all other boundaries. Overall, the Committee considers that these setbacks are commensurate with the rural residential values that the submitters were seeking to be upheld and include these as conditions of consent.

Development on new Lot 3

- 12 During the hearing, much was made by the applicant regarding the options available for the location of the dwelling (now located on new Lot 2), in that it could have been situated in the same location as the proposed dwelling for new Lot 3. The Committee gave little weight to this scenario given that the dwelling on new Lot 2 was already partially built at its chosen location and the option to establish on what is now new Lot 3, was now fanciful.
- 13 The Committee recognises the mitigation conditions offered by the applicant including limiting the height of the dwelling to 293.0 m above sea level. The Committee note that new Lot 3 is lower than that 31 Dalziel Road and, as such, limiting the height of the dwelling will significantly reduce the visual effects. Overall, the height limitation is expected to limit the view of the proposed dwelling from the ground floor of 31 Dalziel Road, such that the Committee believe that the effects on the neighbouring site will be negligible.
- 14 The applicant has offered to limit the footprint of the proposed dwelling and accessory buildings to 240 square metres. The Committee believe that this limitation, in conjunction with the height restriction, will provide some surety to the submitters regarding the maximum development potential for new Lot 3.

Landscape values, fencing and screening

- 15 The Committee notes the conditions offered by the applicant in terms of the muted and recessive colour palette with low reflectivity values for the dwelling on new Lot 3 (and new Lot 1, if developed). The Committee believes it is appropriate to accept these conditions as further mitigation for any visual impact of the development.
- 16 The Committee note the applicant's offer of a 1.8 metre high post and wire deer fence covered with shade cloth to be installed and maintained at the applicant and new land owner's expense along the boundary of new Lots 1 and 3 shared with 31 Dalziel Road. The shade cloth is to be of a colour which is visually recessive. The Committee accepts this offer and on-going responsibility for the maintenance of the fence shall be imposed by way of consent notice.
- 17 The Committee recognises the significant planting offered as a condition by the applicant which will result in a 3 metre wide screening corridor along the boundary of new Lot 3 (and new Lot 1, if developed) shared with 31 Dalziel Road. The Committee are confident that this multi-tiered planting plan will provide substantial screening once established and commends the applicant on their choice of semi-mature plants to ensure screening occurs

quickly. The choice of plants is considered acceptable by the Committee, who further appreciate the exclusion of those plants which may pose a threat to livestock. Furthermore, the Committee accept the on-going requirement which will ensure that the landscaping corridor will be maintained.

Reverse Sensitivity

- 18 The Committee noted that a number of issues raised by submitters were civil matters and could not be managed through this consent process. During the hearing a number of examples were provided by the submitters demonstrating where urban and rural lifestyles conflicted. The Committee consider that rural/urban interaction is a common occurrence throughout New Zealand and it expects that conditions of consent including yard setbacks and appropriate planting will help to manage any instances of reverse sensitivity. However, they remind all parties that managing the rural/urban interface effectively requires tolerance, understanding and communication on both sides of the rural/urban fence.

Esplanade strip

- 19 The Committee considered whether it was appropriate to require an esplanade strip at this time. The Committee recognised that an esplanade strip was not required by SUB 2012-92 and that the subdivision before them would not alter the way the watercourse was managed. They felt also that it would be premature at this time due to the proposed zoning change signalled under the proposed District Plan and the appeal lodged with the Environment Court for SUB-2015-54. However, the Committee advises that it is likely that an esplanade strip will be required in the future.

Transportation

- 20 The Committee accepts the advice from Council's Transportation Planner/Engineer that the existing access provisions to the site are acceptable. Right of Way E will need to be formed to an acceptable standard and this has been included as a condition of consent. Overall, the Committee are comfortable that the proposal will have no more than minor adverse effects on the safety and functionality of the transport network.

Provisions of Services

- 21 The Committee notes that the new residential properties have approval to be supplied with domestic water supply and foul sewer via a suitable private network by way of connections to the City's water supply and foul sewer reticulation. Conditions regarding the required standard of this infrastructure have been included.
- 22 The Committee recognises that there are no reticulated stormwater services available at this location. Stormwater from right of ways, roads, drives, drain coils and water tank overflows will need to be managed so not create a nuisance on any adjoining properties.

Easements and Consent Notices

- 23 The Committee accepts that the easements as identified in the application documents are appropriate and shall be applied as required. The Committee also notes that, while the applicant has not sought to cancel any consent notices imposed on current titles, it has determined that Consent Notice 9575090.13 shall be cancelled from the title of Lot 5 DP 470050 (CFR 634081) and that those existing conditions, together with fencing, planting and 'no further subdivision' conditions shall be included in a new consent notice for new Lot 1. A Consent Notice requiring the on-going maintenance of the planting corridor is also required for new Lot 3.

Hazards

- 24 The Committee accepts that issues associated with natural hazards are well understood through previous consent applications. Lots 2 and 3 are within areas previously identified as being suitable for building, and whilst Lot 1 is affected by some instability issues there

is adequate land available for building in a safe location. Furthermore existing consent notices attached to the underlying titles identifying restrictions on where buildings can be constructed will drop down onto any new titles to alert future owners to this restriction.

- 25 For completeness, the Committee accept the findings of HAIL-2015-59 undertaken for the property. The HAIL application involved a search of Council records which found no indication that the site had been used for a hazardous industry or activity. As such, the Committee are satisfied that the subdivision does not trigger the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

Earthworks

- 26 The Committee recognises that the applicant is seeking authorisation for up to 2000m³ of earthworks to construct an access within Right of Way E and to move clay and topsoil around the site to defined areas shown on the scheme plan. Given the proposed earthworks relate to the movement of material onsite, the Committee are satisfied that the effects of the earthworks are limited in nature and temporary in duration. The Committee consider it is appropriate to impose conditions to control sedimentation and runoff, dust and noise.
- 27 Furthermore, the Committee are satisfied that there are no known archaeological sites on the subject sites. However, the Committee are mindful that should any archaeological material be uncovered during any earthworks to develop the site, the applicant will need to obtain an archaeological authority before continuing further. This matter is administered by Heritage New Zealand in accordance with the Heritage New Zealand Pouhere Taonga Act 2014. An accidental discovery protocol is included as an advice note.

Other Matters

- 28 The Committee notes Mr D Anderson's interpretation of the King Salmon decision and disagrees with his assessment. The Committee's understanding of King Salmon is that the emphasis is placed on the mandate given by higher order policy documents to lower order policy documents. It is the Committee's opinion that the King Salmon decision should be given regard to at the time of plan and policy formation. As the application has been assessed against the relevant policy documents for this proposal, the Committee does not believe that the King Salmon decision is applicable in this case.
- 29 For clarification, the Committee note that while labelled a boundary adjustment; the application was lodged as a full subdivision. The Committee notes that, unlike other districts in New Zealand, there are no specific boundary adjustment rules contained within the Dunedin City District Plan. As such, the labelling of the activity is of little consequence as all subdivision applications are assessed against the same criteria.
- 30 The Committee also notes that no weight was given to the Sales and Purchase agreement for new Lot 3 and this agreement had no bearing on the decision to grant consent. It believes this agreement was entered into with each party being fully aware that there was no title for this lot and the risk is borne by those parties alone.

Determination

- 31 Overall, the Committee is satisfied that any adverse effects of the proposal can be mitigated by conditions of consent as discussed above. The Committee especially notes that the landscaping/screening along the shared boundary with 31 Dalziel Road, combined with the setbacks and the design restrictions for new Lot 3, will reduce any visual effects and limit the impacts on the neighbours. It notes that views of a rural nature will be maintained to the south and south east beyond the subject site.
- 32 With regard to the assessment of the objectives and policy, the Committee notes that the proposed District Plan is not far through the submission and decision-making process, and as such the objectives and policies of the Operative Dunedin City District Plan have been given more consideration comparatively. The Committee considers that the proposal is consistent with many of the objectives and policies of the operative Dunedin City District

Plan and the proposed District Plan. The Committee feels that on the face of it the proposal is inconsistent with those policies relating to amenity, rural productive worth, landscape, and the subdivision of rural land, but it acknowledges the current lot configuration is also inconsistent with these policies for the same reasons. Overall, the Committee does not believe that the amended proposal is contrary to the relevant objectives and policies.

- 33 The Committee considered that the proposed activity is consistent with the relevant objectives and policies of the Regional Policy Statement for Otago and proposed Regional Policy Statement for Otago.
- 34 The Committee notes that the "true exception" test was regularly applied by the Court to non-complying activities. It is considered that the test is no longer compulsory as determined in *Mason Heights Property Trust v Auckland Council* [2011] NZEnvC 175, para [88]. However, *Mason Heights Property Trust v Auckland Council* does note that the test can assist in assessing whether issues of precedent are likely to arise and whether the proposal meets the objectives and policies of the Plan by an alternative method. This approach was supported *Cookson Road Character Preservation Society Inc v Rotorua District Council* [2013] NZEnvC 194.
- 35 For completeness, the Committee recognises the applicant's amendments to the application and notes that the proposal does not result in an increase in development potential of the site or an overall increase in lot numbers. The committee acknowledges that the underlying land tenure is not commensurate with the values which the rural zone rules and policies seek to protect. Taking into consideration the topography and physical character of the site, the location of existing residential development to land close to, and surrounded by, rural residential zoned areas, and the close proximity to the urban area, the Committee is satisfied that the proposal will not set a precedent for other applications for non-complying activities.
- 36 The committee assessed the application against the relevant sections of the Act, namely 5(2)(c), 7(c) and 7(f). Overall, the Committee found that the proposal, if undertaken as amended by the applicant and in compliance with conditions of consent, will be consistent with the purpose of the Resource Management Act 1991 to promote the sustainable management of natural and physical resources.

Commencement of Consent

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

Right of Appeal

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

The Registrar
Environment Court
PO Box 2069
CHRISTCHURCH 8140

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

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

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

Please direct any enquiries you may have regarding this decision to Kirstyn Lindsay, whose address for service is City Planning, Dunedin City Council, PO Box 5045, Dunedin 9058.

Yours faithfully

A handwritten signature in black ink, appearing to read "Andrew Noone". The signature is written in a cursive, slightly slanted style.

Cr Andrew Noone
Chairman
Hearings Committee

Application Type: Subdivision and Land use Consent

Application Number: SUB-2016-45 & LUC-2016-245

Location of Activity: 35, 41, and 49 Dalziel Road, Dunedin

Legal Description: Lot 5 DP 470050 (CFR 634081), Lot 7 DP 470050 (CFR 634083), and Lot 9 DP 470050 (CFR 634085)

SUB Lapse Date: 29 September 2021, unless the consent has been given effect to before this date.

LUC Lapse Date: LUC-2016-245 shall lapse 5 years from the date that the s223 certificate for SUB-2016-45 is issued. For clarity, the lapse date shall apply to each lot independently, so that the giving effect to one Stage does not mean that the other Stage has been given effect.

Subdivision SUB-2016-45

Pursuant to Section 34A(1) and 104B and after having regard to Part 2 matters and Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying** activity being the subdivision (including subdivision earthworks for access formation) of land at 35, 41 and 49 Dalziel Road, legally described as Lot 5 DP 470050 (CFR 634081), Lot 7 DP 470050 (CFR 634083) and Lot 9 DP 470050 (CFR 634085), subject to conditions imposed under Section 108 of the Act

Conditions:

- 1 *The proposal shall be undertaken in general accordance with the plan prepared by Paterson Pitts Group titled, 'LOTS 1, 2 & 3 BEING A PROPOSED BOUNDARY ADJUSTMENT SUBDIVISION OF LOTS 5, 7 & 9 DP 470050', dated 30 August 2016 and attached as Appendix 1 to this certificate, and details submitted with the resource consent application SUB-2016-45 received by the Council on 2 June 2016 and further information provided at the resource consent hearing on 14 September 2016, except where modified by the following conditions of consent:*
- 2 *Prior to the commencement of earthworks approved by this subdivision consent, the consent holder shall:*
 - a) *Before any construction works commence, the consent holder shall provide notice to the Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz advising who the supervisor shall be for the design and supervision of the earthworks.*
 - b) *The consent holder shall advise the Council, in writing, of the start date of the works. The written advice shall be provided to Council at least five (5) working days before the works are to commence.*
 - c) *Advise all neighbouring property owners and residents of the proposed works at least seven days prior to works commencing.*
 - d) *Ensure all earthworks are designed and supervised by an appropriately qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development.*
- 3 *While undertaking earthworks approved by this subdivision consent, the consent holder shall ensure that:*

- a) *All measures (including dampening of loose soil) shall be undertaken to ensure that dust, resulting from the proposed earthworks, does not escape the property boundary.*
- b) *All practicable measures are used to mitigate erosion and to control and contain sediment-laden stormwater run-off from the site during any stages of site disturbance that may be associated with this subdivision.*
- c) *All fill shall be designed, supervised and certified by a suitably qualified individual.*
- d) *Any areas of certified or uncertified fill within the new lots shall be identified on a plan, and the plan and certificates submitted to Council for Council records.*
- e) *Any fill material to be carted to the site shall be comprised of clean fill only.*
- f) *Any material trafficked onto the road carriageway shall be removed as soon as possible at the consent holder's expense.*
- g) *All construction noise shall comply with the following noise limits as per New Zealand Standard NZS 6803:1999.*

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

Note: the lower limits for Sundays and public holidays will prevent the operation of heavy machinery.

- 5 *Prior to certification of the cadastral dataset pursuant to Section 223 of the Resource Management Act 1991, the subdivider shall ensure the following:*
 - a) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements shall be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.*
 - b) *Easements in gross in favour of the Dunedin City Council shall be created over any infrastructure to be vested in Council that passes through private land, and shall be shown on the survey plan in a Memorandum of Easements in Gross. The easement(s) must be made in accordance with the relevant section(s) of the Dunedin Code of Subdivision and Development 2010.*
 - c) *Right of Way E shall be duly granted or reserved over Lot 1 in favour of Lot 3, and shown in a Memorandum of Easements on the cadastral dataset. Right of Way E shall have a minimum legal width of 3.5m.*
- 6 *Prior to certification pursuant to Section 224(c) of the Resource Management Act, the subdivider shall complete the following:*
 - a) *Right of Way E shall be formed to a metalled all-weather standard with a minimum width of 3.0m for its duration.*

- b) *Detailed engineering design (plans, long-sections and calculations) for the water and wastewater infrastructure shall be provided to the Asset Planning Engineer, Water and Waste Services for approval prior to any works commencing on site. The engineering plans and associated calculations submitted to Water and Waste Services must meet the requirements of the Construction Plan Check List, the Dunedin Code of Subdivision and Development 2010 and the NZS4404:2004 standard.*
- c) *All work associated with installing Council owned infrastructure shall be undertaken in accordance with the engineering plans approved by the Asset Planning Engineer, Water and Waste Services, the Dunedin Code of Subdivision and Development 2010 and NZS4404:2004 standard.*
- d) *On completion of construction of the servicing infrastructure, as-built plans shall be submitted to the Asset Planning Engineer, Water and Waste Services for approval. The as-built plans shall be accompanied by a quality assurance report of the installed infrastructure to be vested in Council.*
- e) *New Lots 1, 2 and 3 shall be connected to the City's reticulated water supply network. in accordance with the details contained within the water design and associated "Application for Water Supply – New Service", approved by Dunedin City Council on 4 August 2016. An "Application for Water Supply – New Service" shall be submitted to the Water and Waste Services Business Unit for approval to establish new water connections to each un-serviced Lot. Details of how each new lot is to be serviced for water shall accompany the application.*
- f) *Upon approval by the Water and Waste Services Business Unit, water service connections shall be installed in accordance with the requirements of Section 6.6.2 of the Dunedin Code of Subdivision and Development 2010.*
- g) *New Lots 1, 2 and 3 shall be connected to the City's reticulated foul drainage network in accordance with the details contained within the foul drainage design, approved by Dunedin City Council on 4 August 2016.*
- h) *A consent notice shall be prepared for registration on the Computer Freehold Registers for Lots 1, 2 and 3 hereon which requires:*
 - 'An individual waste water pump system shall be installed when building a dwelling within the site.'*
- i) *A fence shall be installed on the boundary of Lots 1 and 3 where these sites adjoin Lot 1 DP 453493. This fence shall be installed to the following standards:*
 - i. The fence shall comprise a 1.8m high post and wire deer fence.*
 - ii. The fence shall include a shade cloth covering to its full height. The shade cloth shall be of a darker tone which is sympathetic to the surrounding natural environment (e.g. grey, brown or green).*
- j) *A consent notice shall be prepared for registration on the titles of new Lots 1 and 3 for the following on-going condition:*
 - 'For a period of 10 years from the date of issue of the Computer Freehold Register for this site, the fence and associated shade cloth installed along the north-western boundary shared by this site with Lot 1 DP 453493 site shall be maintained in good condition by the owners of Lots 1 and 3 (each being responsible for the section of fence on their boundary).'*
- k) *That a planted corridor shall be installed on the boundary of Lot 3 where this site adjoins Lot 1 DP 453493. Lists A to D shall be attached to the consent*

notice of condition 6(l) below. The associated plantings shall be installed to the following standards:

- i. The plantings shall be installed throughout a 3.0m wide corridor from the boundary in question.
 - ii. Larger trees shall be planted in a row at a distance of 1.0m from the boundary and at a separation of 2.0m from each other. These trees shall be selected from the 'List A' attached as Appendix 2 to this certificate, and shall be installed at a starting height of 1.8m (to grow to an anticipated height of 3.0m).
 - iii. Medium sized shrubs shall be planted in a row at a distance of 2.0m from the boundary, at a separation of 2.0m from each other, and staggered such that they are centred between the trees required by ii. above. These shrubs shall be selected from the 'List B' attached as Appendix 2 to this certificate and shall be installed at a starting height of 0.8m (to grow to an anticipated height of 1.6m).
 - iv. Small sized plants shall be planted in a row at a distance of 2.6m from the boundary and at a separation of 0.8m from each other. These plants shall be selected from the 'List C' attached as Appendix 2 to this certificate and shall be installed at a starting height of 0.3m (to grow to an anticipated height of 0.8m).
 - v. Under no circumstances are the plants from 'List D' attached as Appendix 2 to this certificate to be installed, or otherwise allowed to grow, within the 3.0m wide planted corridor. These plants are recognised as being potentially poisonous to animals.
- l) That a consent notice shall be prepared for registration on the title of new Lot 3 for the following on-going condition:
- 'The 3.0m wide corridor of plantings along the north-western boundary shared by this site with Lot 1 DP 453493 site shall be maintained in good condition by the owner of this site. Any vegetation that perishes due to natural causes shall be replaced by plants selected from the attached Lists A to C as soon as is practicable by the title holder.'*
- 'Under no circumstances are the plants from the attached List D to be planted, or otherwise allowed to grow, within the 3.0m wide planted corridor. These plants are recognised as being potentially poisonous to animals.'*
- m) That the consent notice 9575090.13 shall be cancelled from the titles of Lot 5 DP 470050 (CFR 634081).
- n) That a plan shall be prepared for Lot 1 showing a 'no build region' along the northwest boundary shared with Lot 1 DP 453493. The 'no build region' shall be 50m wide along the full length of this boundary, and shall be clearly labelled so as to indicate the restriction on building within this area. The plan shall also show the areas within Lot 1 which were identified by the plan of Consent Notice 9575090.13 as not being suitable for buildings (i.e. the gully area). This area shall also be identified on the plan as a 'no build area'. The plan shall be attached to the consent notice of condition 6(o) below.
- o) That a consent notice shall be prepared for registration on the title of new Lot 1 for the following on-going conditions:
- 'No buildings shall be constructed within the 'no build areas' as shown on the attached plan. In the case of the 'no building area' shown within 50m*

of the northwest boundary shared with Lot 1 DP 453493, the building restriction shall only apply until such time as the applicable rules of the Proposed Dunedin City District Plan (notified 25 September 2015) are made operative, or the appeal for SUB-2015-54 is resolved. An application to remove this 'no build region' from the title of the subject site may then be made to Council, which will consider the application in accordance with the applicable rules at the time, or the decision of the Court, whichever is applicable.

'There shall be no further subdivision of this lot until such time as the applicable rules of the Proposed Dunedin City District Plan (notified 25 September 2015) are made operative, or the appeal for SUB-2015-54 is resolved. This site can then be subdivided and/or developed in accordance with the operative rules of the Proposed Plan or the decision of the appeal (whichever is applicable). Regardless of the outcome of the appeal (should it be determined prior to the Proposed Plan being made operative), the future development rights for this land shall be set by the relevant operative rules of the Proposed Plan, with there being scope to breach these rules through the obtaining of resource consents which will be processed in the appropriate manner.'

'Any dry stone rock walls within this lot shall not be destroyed or removed but shall be maintained as a landscape amenity feature.'

'Where any part of the dwelling platform is to be founded on engineered fill, then this shall be specified, supervised and certified by an appropriately qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development'

'The 3.0m wide corridor of plantings along the north-western boundary shared by this site with Lot 1 DP 453493 site shall be maintained in good condition by the owner of this site. Any vegetation that perishes due to natural causes shall be replaced as soon as is practicable by the title holder'

'Forestry activity is prohibited'

Land Use LUC-2016-245

Pursuant to Section 34A(1) and 104D and after having regard to Part 2 matters and Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying** activity to establish a single residential unit on each of Lots 1, 2 and 3 of SUB-2016-45 at 35, 41 and 49 Dalziel Road, , subject to a conditions imposed under Section 108 of the Act.

Conditions:

- 1 The proposal shall be undertaken in general accordance with the plan prepared by Paterson Pitts Group titled, 'LOTS 1, 2 & 3 BEING A PROPOSED BOUNDARY ADJUSTMENT SUBDIVISION OF LOTS 5, 7 & 9 DP 470050', dated 30 August 2016 and attached as Appendix 1 to this certificate, and details submitted with the resource consent application LUC-2016-245 received by the Council on 2 June 2016 and further information provided at the resource consent hearing on 14 September 2016, except where modified by the following conditions of consent:

Conditions applying to Lots 1, 2, and 3 of SUB-2016-45

- 2 The activity authorised by this consent shall produce no greater than 8 lux of light onto any other site used for residential activity during nighttime hours pursuant to Rule 21.5.4 (i)(b) of the District Plan.
- 3 The consent holder shall ensure noise from activity taking place on the site will not exceed the performance standard set out in Rule 21.5.1 of the District Plan.
- 4 Stormwater from right of ways, roads, drives, drain coils and water tank overflows are not to create a nuisance on any adjoining properties.

Stage 1 – New Lot 3 of SUB-2016-45

- 5 The residential activity on new Lot 3 shall be undertaken in accordance with the following yards:
 - a) In respect of the boundary between new Lot 3 and Lot 1 DP 453493, a yard width of 10.0m.
 - b) In respect of the boundary between new Lot 3 and all other property boundaries not described above, a yard width of 4.0m.
- 6 The residential activity on new Lot 3 shall be undertaken in accordance with the following bulk and location restrictions:
 - a) No part of the residential dwelling or any associated structures within new Lot 3 shall be erected above an elevation of 293.0m above mean sea level.
 - b) The total footprint area of the residential dwelling and any associated permanent structures within new Lot 3 shall not exceed a total of 240m².
 - c) The dominant colours of all roof structures within new Lot 3 (including any accessory buildings) shall be comprised of dark tones which are sympathetic to the surrounding natural environment (e.g. greys, browns and greens), with light reflectivity value (LRV) not exceeding 20%.
 - d) The dominant colours of all external building wall structures within new Lot 3 (including any accessory buildings) shall be comprised of tones which are sympathetic to the surrounding natural environment (e.g. greys, browns, greens and creams), with light reflectivity value (LRV) not exceeding 50%.. The materials used for the external building wall structures, excluding windows, shall not have a glossy or shiny appearance.

Stage 2 – New Lot 1 of SUB-2016-45

- e) Until such time as the Proposed Dunedin City District Plan (notified 25 September 2016) is made operative, or the appeal for SUB-2015-54 is resolved, any residential dwelling and any associated structures shall be set back 50.0m from the boundary in common between new Lot 1 of SUB-2016-45 and of Lot 1 DP 453493. Once the relevant rules of the Proposed Dunedin City District Plan are made operative or the appeal for SUB-2015-54 is resolved then either:
 - i. The relevant zone yard setback at this boundary shall apply; or
 - ii. The yard setback at this boundary approved by SUB-2015-54 and LUC-2015-291 shall apply.
- f) Any residential dwelling and any associated structures on new Lot 1 shall be undertaken in accordance with the following yard setbacks:
 - i. In respect of the boundary between new Lot 1 and Dalziel Road, a yard setback of 12.0m must be maintained.

- ii. *In respect of the boundary between new Lot 1 and Taieri Road, a yard setback of 12.0m must be maintained.*
 - iii. *In respect of the boundary between new Lot 1 and all other property boundaries, excluding Lot 1 DP 453493, a yard setback of 4.0m must be maintained. The yard in respect of Lot 1 DP 453493 shall be in accordance with the provisions of condition 9 above.*
 - iv. *In respect of all right-of-way easement boundaries within new Lot 1, a yard setback of 1.0m must be maintained.*
- g) *Prior to residential activity being established on new Lot 1, a planted corridor shall be installed within new Lot 1 along the common boundary shared with Lot 1 DP 453493. The associated plantings shall be installed to the following standards:*
- i. *The plantings shall be installed throughout a 3.0m wide corridor from the boundary in question.*
 - ii. *Larger trees shall be planted in a row at a distance of 1.0m from the boundary and at a separation of 2.0m from each other. These trees shall be selected from the 'List A' attached as Appendix 2 to this certificate, and shall be installed at a starting height of 1.8m (to grow to an anticipated height of 3.0m).*
 - iii. *Medium sized shrubs shall be planted in a row at a distance of 2.0m from the boundary, at a separation of 2.0m from each other, and staggered such that they are centred between the trees required by ii. above. These shrubs shall be selected from the 'List B' attached as Appendix 2 to this certificate and shall be installed at a starting height of 0.8m (to grow to an anticipated height of 1.6m).*
 - iv. *Small sized plants shall be planted in a row at a distance of 2.6m from the boundary and at a separation of 0.8m from each other. These plants shall be selected from the 'List C' attached as Appendix 2 to this certificate and shall be installed at a starting height of 0.3m (to grow to an anticipated height of 0.8m).*
 - v. *Under no circumstances are the plants from 'List D' attached as Appendix 2 to this certificate to be installed, or otherwise allowed to grow, within the 3.0m wide planted corridor. These plants are recognised as being potentially poisonous to animals.*
- h) *The dominant colours of all roof structures within new Lot 1 (including any accessory buildings) shall be comprised of darker tones which are sympathetic to the surrounding natural environment (e.g. greys, browns and greens), with light reflectivity value (LRV) not exceeding 20%.*
- i) *The dominant colours of all external building wall structures within new Lot 1 (including any accessory buildings) shall be comprised of tones which are sympathetic to the surrounding natural environment (e.g. greys, browns, greens and creams), with light reflectivity value (LRV) not exceeding 50%. The materials used for the external building wall structures, excluding windows, shall not have a glossy or shiny appearance.*

Advice Notes:

- 1 It is advised that the matter of an esplanade strip is likely to be revisited at a future date.
- 2 In addition to the conditions of resource consent, the Resource Management Act 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.

- 3 Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
- 4 The lapse period specified above may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.
- 5 It is the responsibility of any party exercising this consent to comply with any conditions imposed on their resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
- 6 This is resource consent. Please contact the Building Control Office, Development Services, about the need for building consent for the work.
- 7 Any vehicle access from the carriageway to the property boundary will be over road reserve and is to be constructed in accordance with the Dunedin City Council Vehicle Entrance Specification (available from Council's Transportation Operations Department).
- 8 Parts 4, 5 and 6 (Stormwater Drainage, Wastewater and Water Supply) of the Dunedin Code of Subdivision and Development 2010 must be complied with.
- 9 The installation and connection of a new water service to the existing public water reticulation system or the upgrading of an existing water service connection will be carried out after the Consent Holder has completed and submitted an 'Application for Water Supply' form to the Water and Waste Services Business Unit or an approved AWSCI, as per the Dunedin City Council Water Bylaw 2011.
- 10 A quote for the required work must be obtained from an approved water supply connection installer (AWSCI). The list of AWSCI's, application form and the full process can be found here <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
- 11 All aspects relating to the availability of water for fire-fighting 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 the New Zealand Fire Service.
- 12 The Asset Planning Engineer and Quality Inspector, Water and Waste Services shall be notified by the development engineer prior to any inspections and/or tests sign offs for water and waste infrastructure to be vested in Council.
- 13 The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
 - ARC Technical Publication No. 90 Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region, March 1999.
 - Environment Canterbury, 2007 'Erosion and Sediment Control Guidelines for the Canterbury Region' Report No. CRCR06/23.
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guidelines for Small Sites."
- 14 Private drainage issues and requirements (including any necessary works) are to be addressed via the building consent process.
- 15 Certain requirements for building on this site may be stipulated via the building consent process and are likely to include the following points:
 - a. Stormwater from driveways, sealed areas and drain coils is not to create a nuisance on any adjoining properties.
 - b. For sites level with or above the road, the finished floor level of any building is to be a minimum of 150mm above the crown of the road.

- c. For sites below the road, the finished floor level is to be no less than 150mm above the lowest point on the site boundary. Surface water is not to create a nuisance on any adjoining properties.
 - d. For secondary flow paths, the finished floor level shall be set at the height of the secondary flow plus an allowance for free board.
 - e. As required by the New Zealand Building Code E1.3.2, surface water resulting from an event having a 2% probability of occurring annually, shall not enter dwellings. The finished floor level shall be set accordingly.
- 16 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.
- 17 If the consent holder:
- (a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder should without delay:
 - (i) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.
 - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Any koiwi tangata discovered should be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation.

Site work should recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.
 - (b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder should without delay:
 - (i) stop work within the immediate vicinity of the discovery or disturbance; and
 - (ii) advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, should make an application for an Archaeological Authority pursuant to the Historic Places Act 1993; and
 - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

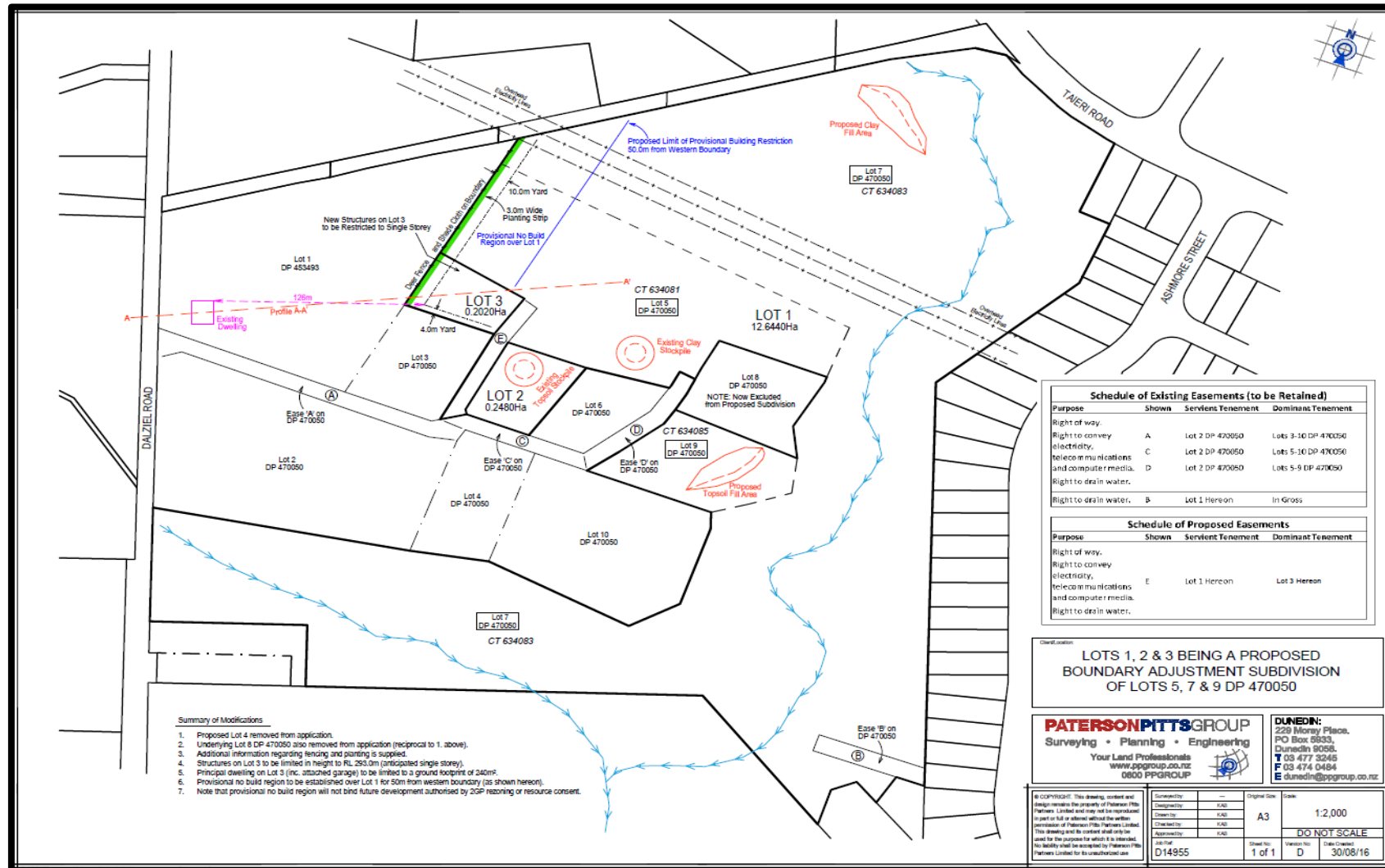
Site work should recommence following consultation with the Consent Authority.

Issued at Dunedin this 29th day of September 2016

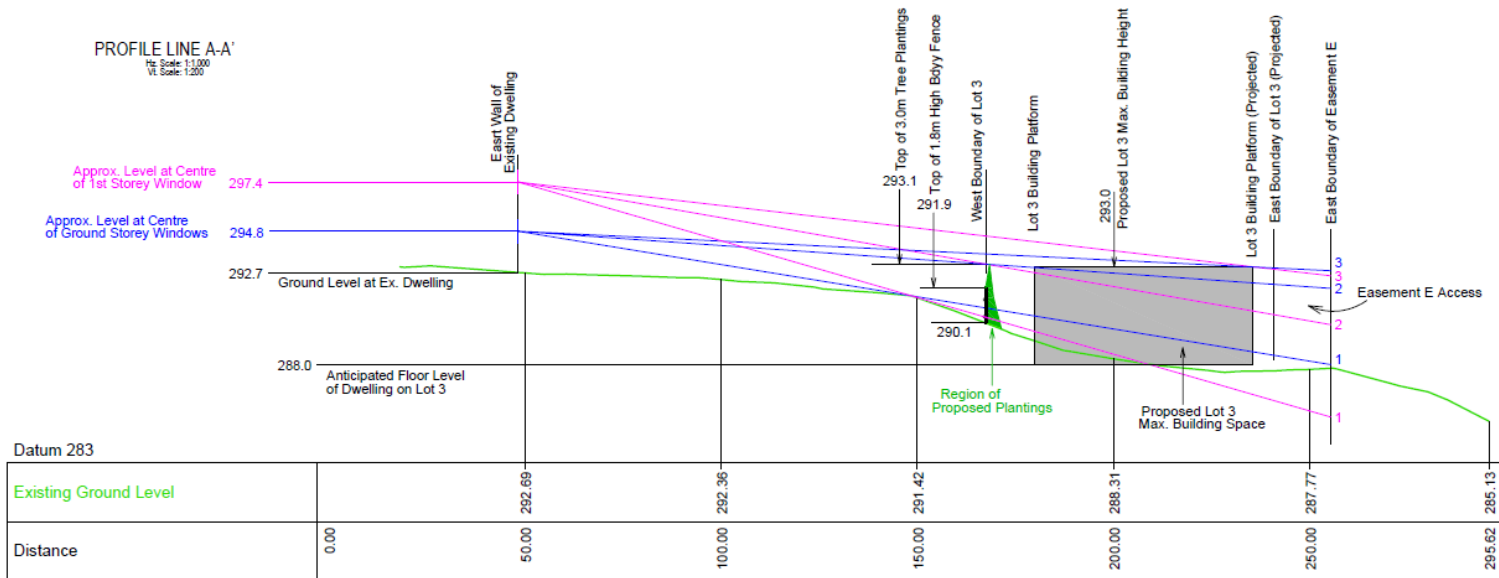


Andrew Noone
Chairman
Hearings Committee

Appendix 1: Copy of Approved Plans for SUB-2016-45 and LUC-2016-245:
(Scanned image, not to scale)



PROFILE LINE A-A' Ht Scale: 1:1,000 Vt Scale: 1:200



NOTES:

- Window heights of existing dwelling have been gauged from site photographs.
- View lines shown 1 and 1 are from respective windows to high point in existing ground.
- View lines shown 2 and 2 are from respective windows to top of proposed planting.
- View lines shown 3 and 3 are from respective windows to highest line of building space.

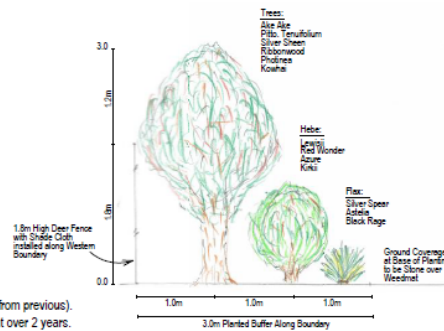


DIAGRAM OF PLANTED BUFFER CORRIDOR
 Diagram Scale: 1:50

NOTES:

- Trees and plants to be installed at 2.0m spacings (each row offset from previous).
- Trees to be installed at 1.8m height maturity, to grow to 3.0m height over 2 years.
- Consent Notice to be installed on Titles for Lots 1 and 3 to ensure ongoing maintenance of fence and plantings.

Client: owner

LOTS 1, 2 & 3 BEING A PROPOSED
 BOUNDARY ADJUSTMENT SUBDIVISION
 OF LOTS 5, 7 & 9 DP 470050

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Drawn by: KAD	Checked by: KAD	Approved by: KAD
Job Ref: D14955	Sheet No: 1 of 1	Version No: D

Original Date: 30/08/16
 Scale: Ht: 1:1,000
 Vt: 1:200
 DO NOT SCALE

Appendix 2: Approved Tree List

List A

- Akeake varieties
- Pittosporum Tenuifolium varieties
- Ribbonwood (NZ native) varieties
- Photinea varieties

List B

- Corokia (NZ native) varieties
- Coprosma (NZ native) varieties

List C

- Astelia (NZ native) varieties
- Flax (NZ native) varieties

List D (poisonous plants – not to be installed)

- | | |
|----------------------|----------------|
| • Arum Lily | • Milk Thistle |
| • Avocado | • Oak Tree |
| • Box Tree | • Oleander |
| • Buttercup | • Pine Tree |
| • Delphinium | • Rhododendron |
| • Foxglove | • Taro |
| • Lily of the Valley | • Yew |