

17 December 2025

Debra Louise Gale
81 Chain Hills Road
Dunedin
Dunedin, 9010

Via email: debragale75@gmail.com

Kia ora Debra,

RESOURCE CONSENT APPLICATION:

**LUC-2025-151
81 CHAIN HILLS ROAD
DUNEDIN**

The above application for the removal of a Scheduled Tree (TX010) at 81 Chain Hills Road, Dunedin, was processed on a publicly notified basis in accordance with section 95 of the Resource Management Act 1991. A Hearing Committee, comprising Independent Chairperson Megan Justice and Councillors Cherry Lucas and Steve Walker, heard and considered the application at a hearing on Wednesday 3 December 2025.

At the end of the public part of the hearing, the Panel, 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 17 December 2025. The full text of this decision commences below with a consent certificate attached to this letter.

The Hearing and Appearances

The applicant, Debra Gale, presented her own case.

Council staff attending were:

Jeremy Grey (Senior Planner/Advisor to Committee), Jane O'Dea (Processing Planner), Luke McKinlay (Landscape Architect), Mark Roberts (Consultant Arborist), Joe Fitzsimmons (Team Leader Inspections, Buildings Services), and Wendy Collard (Governance Support Officer).

One submitter, Jim Moffatt (representing Protect Private Ownership of Trees Society (POTS)) attended and presented at the hearing.

Procedural Issues

A late submission had been received from Malcolm Thomson on 14 October 2025. The Panel resolved that the submission did not introduce any new points beyond the existing submissions and was received four days after the close of the submission period. On this basis, the Panel determined that the submission could be accepted.

Principal Issues of Contention

The principal issues of contention are as follows:

- The ongoing risk the tree poses to a building.
- The ability to manage the risk posed to a building through pruning of the tree.

Summary of Evidence

Introduction from Processing Planner

Ms O'Dea outlined the application and presented a brief summary of her assessment of the proposal. She then responded to questions from the Committee regarding the history of the sleepout building at the site, which was being adversely affected by the tree, and when the building was established.

The Applicant's Case

Ms Gale spoke to the application and then responded to questions from the Committee.

She advised that she became aware of the damage the tree roots were causing to the sleepout when they undertook building works to convert the then garage to a sleepout. Ms Gale added that further damage has occurred since the sleepout conversion was completed in May 2025, indicating that the damage was ongoing. Ms Gale presented a slideshow of images of the tree depicting the branches that regularly fall from the tree, and video footage of the tree during storm events.

In response to questioning from the Committee, Ms Gale described the layout of the site and explained why it was not possible to park the caravan elsewhere on the site where it would not be impacted by tree TX010, or the other protected tree on the site. Ms Gale advised that no branches had fallen on the nearby powerline on Chain Hills Road, however, in her view, a total failure of the tree would impact these powerlines.

Submitter Presentation

Mr Moffatt expressed the view of POTS on the application. His view was that the tree was too large for its location near a building, and that it should be removed. Mr Moffatt stated that the inclusion of the tree in the schedule was inappropriate.

Council Officer's Evidence

In response to Committee questions, Mr Roberts advised that pruning the eucalyptus tree to reduce the risk to the building is possible, but it would require ongoing maintenance given the amount by which the tree size could be reduced by pruning is only 10-15% of the tree, and the fast growing nature of the tree. In response to questions from the Committee, Mr Roberts stated that as the tree gets larger, the branches that will fall from the tree will be larger, and would therefore be more damaging. When questioned about the likelihood of the tree falling and impacting the powerlines, Mr Roberts advised that, in his view, the likelihood of the tree falling towards the powerlines was slim given this would be the direction of the prevailing wind, and trees develop a resilience to wind coming from the prevailing direction. Trees are more likely to fail in the event of strong wind from an unusual direction.

Mr McKinlay reiterated his statement that the removal of the eucalyptus tree will result in moderate impact on existing amenity values at Chain Hills Road where it is located, and that the effects of the tree's removal

from distant locations will not be highly prominent due to the presence of tall shelter trees and other eucalyptus trees visible in the surrounding context.

Mr Fitzsimmons reiterated his statement that he agreed with the opinion of the applicant's builder, Mr Hamer, that the tree and root system is most likely causing damage to the sleepout, and that the tree and root system will continue to impact the building, including the building slab, structure and building elements.

Processing Planner's Review of Recommendation

Ms O'Dea reviewed her recommendation in light of the evidence presented at the hearing, maintaining her recommendation that consent be granted.

Applicants Right of Reply

In her right of reply, Ms Gale reiterated the concerns caused by the tree, particularly with the impacted building being used as a sleepout.

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 in Section 7 of the 2GP, which sets out the policy framework, rule provisions and relevant assessment criteria for resource consent applications concerning Scheduled Trees.

Statutory provisions considered included Sections 104, 104B and 104D.

Main Findings on Principal Issues of Contention

The Hearing Committee has considered the evidence heard, and the relevant statutory and plan provisions, on the principal 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. In addition, a site visit was undertaken by the Committee during the public-excluded portion of the hearing. This added physical reality to the Committee's considerations. The Committee reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991.

*That pursuant to Section 34A(1) and 104B and after having regard to Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Partially Operative Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying activity** being the removal of Scheduled Tree TX010 located at 81 Chain Hills Road, Dunedin, legally described as Lot 2 Deposited Plan 444991 (Record of Title 558886).*

Reasons for this Decision

1. The Committee agrees that the proposal is a non-complying activity under the relevant provisions of the Partially Operative 2GP. The provisions of this plan relating to scheduled trees are beyond

legal challenge and the equivalent provisions of the Dunedin City District Plan 2006 are no longer relevant to the consideration of this application.

2. The Committee agrees that in this case there is no relevant permitted baseline that could be applied to the effects assessment that would provide for the disregarding of effects of the proposal.
3. The Committee agrees with Mr Fitzsimmons about the damage that tree TX010 has caused to the sleepout building and that retaining the tree would pose an ongoing risk to the building. Mr Robert's evidence stated that the risk rating for the tree is 'moderate' because it is possible that whole or partial tree failure may occur within next 5 years. The Committee agrees, noting that damage had already occurred from the partial failure of the tree, caused by the branches that had fallen. The Committee agrees with Ms O'Dea that the risk posed by the tree on the building meets the threshold of 'moderate' risk to the building.
4. The Committee accepts the evidence of Mr Roberts that pruning the tree may mitigate the risk to the building. However, the reduction in risk achieved by pruning would be minimal and ongoing pruning would be required, for instance every 3-4 years, which is costly, particularly considering the minimal benefit gained. The Committee notes that pruning would not address the damage being caused by the tree's root system.
5. The Committee accepts the evidence provided by Council's Landscape Architect Mr McKinlay, that the removal of the eucalyptus tree will result in a moderate impact on existing amenity values at Chain Hills Road where it is located, and that the effects of the tree's removal from distant locations will not be highly prominent, due to the presence of tall shelter trees and other eucalyptus trees visible in the surrounding context.
6. The Committee agrees with Ms O'Dea's assessment that overall, the effects of removing the tree on amenity values will be localised and no more than minor. No other adverse environmental effects resulting from the removal of the tree have been identified.
7. Turning to the consideration of the relevant objectives and policies of the Partially Operative 2GP, the Committee finds that the proposal is not inconsistent with Policy 7.2.1.2. Policy 7.2.1.2 is considered to be the most relevant policy to guide decision making on applications to remove scheduled trees, and provides a pathway to consider removals where the tree poses a moderate to significant risk to a building (Policy 7.2.1.2(c)). The Committee agrees with Ms O'Dea that the proposal to remove the tree is consistent with this policy, based on the evidence heard from Mr Fitzsimmons and Mr Roberts that the proximity of the tree to the building has caused and will continue to cause damage to the sleepout building. The Committee agrees with Ms O'Dea that this is a moderate risk to the building.
8. The Committee concludes that the proposal will likely result in adverse effects on amenity values that will be less than minor and, on this basis, the first 'gateway' test of the Section 104D of the RMA is met. While the Committee considers that the proposal is inconsistent with Objective 7.2.1, which requires the contribution made by significant trees to the visual landscape and history of neighbourhoods to be maintained, the Committee considers the proposal to be generally consistent with the other relevant objectives and policies of the Partially Operative 2GP. The Committee therefore considers the proposal satisfies the second 'gateway' test in that the proposal is either consistent or inconsistent (and not contrary) with all the relevant objectives and policies of the Partially Operative 2GP, when considered in the round. As such, the Committee are able to consider granting consent to the proposal.

9. The decision of this Committee to grant the application has been guided by the provisions of the Partially Operative 2GP, and in particular Policy 7.2.1.2, and expert advice. Granting this consent, where the specific provisions in the Partially Operative 2GP in place to guide decision making on Scheduled Tree removals are satisfied, would not lead to an undesirable precedent being set.

Right of Appeal

Pursuant to 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 Mail Centre
Christchurch 8013

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

- The Dunedin City Council.
- The applicant(s).
- 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.

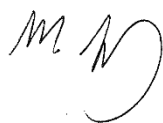
Commencement of Consent

As stated in section 116 of the Resource Management Act 1991, this consent will 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.

Monitoring

Section 35(2)(d) of the Resource Management Act 1991 requires every council to monitor resource consents that have effect in its region or district. The scale and nature of the activity, the complexity and number of the conditions needed to address the environmental effects and whether the conditions have been complied with determines the number of monitoring inspections required. Given the consent is for removal of a tree, this consent will require one inspection.

Please ensure that you read the conditions of your consent carefully to establish your obligations when exercising your consents.



Meg Justice
Chair
Hearings Committee



Consent Type: Land Use Consent

Consent Number: LUC-2025-151

Purpose: The removal of a scheduled tree (TX010).

Location of Activity: 81 Chain Hills Road, Dunedin

Legal Description: Lot 2 DP 444991 (Record of Title 558886).

Lapse Date: 17 December 2030, unless the consent has been given effect to before this date.

Conditions:

- The proposed activity must be undertaken in general accordance with the information provided with the resource consent application received by the Council on 9 May 2025, except where modified by the following conditions.*
- The removal of the tree must be undertaken by a suitably qualified person and in accordance with arboricultural best practice.*

Conditions to be met prior to site works commencing

- The consent holder must supply to the Council at rcmonitoring@dcc.govt.nz in writing at least five (5) working days prior to the works commencing the following information:*
 - The contractor who will be undertaking the works including the contact details of the contractor;*
 - The date the tree is to be removed.*
- Prior to commencement, the consent holder must obtain any necessary permit or “close approach” consent from the network utility operator responsible for the powerlines adjoining the site.*

Conditions to be met at commencement of, or during, site works

- All waste generated by the removal works must not cause nuisance.*
- The person exercising this consent must take all reasonable measures to ensure the use of machinery for the removal of Tree TX010 shall be limited to the times set out below and shall comply with the following noise limits (dBA):*

Time Period	Weekdays		Saturdays	
	(dBA)		(dBA)	
	Leq	L _{max}	Leq	L _{max}
0730-1800	75	90	75	90
1800-2000	70	85	45	75



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

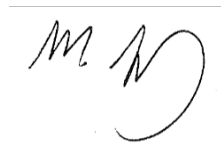
7. *Tree removal work must not be undertaken on Sundays or Public Holidays, nor between 8.00pm to 7.30am Weekdays or Saturdays.*

Advice Notes:

General

1. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
2. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
3. It is the 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.
4. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

Issued at Dunedin on 17 December 2025

A handwritten signature in black ink, appearing to be 'Meg Justice', written over a horizontal line.

Meg Justice
Chair
Hearings Committee