

HEARINGS COMMITTEE AGENDA

THURSDAY, 3 DECEMBER 2020, 9.00 AM
Edinburgh Room, Municipal Chambers

MEMBERSHIP: Commissioner Ros Day-Cleavin

IN ATTENDANCE: Campbell Thomson (Senior Planner/Committee Advisor),
Lianne Darby (Planner) and Wendy Collard (Governance
Support Officer)

PART A (Committee has the power to decide these matters):

1 RESOURCE CONSENT APPLICATION S127 VARIATION, SUB-2020-15/A, 107 WRAY STREET, DUNEDIN

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Report from Lianne Darby

Refer to pages 1 - 19

The Applicant's Presentation

Application

Refer to pages 20 - 23

Council Officer's Evidence

- Email from Development Contributions Officer
Refer to page 24 - 25
- Memorandum from 3 Waters
Refer to pages 26 – 27

SUB-2020-15

Refer to pages 28 - 66

The Planner's Review of their Recommendation

The Planner reviews their recommendation with consideration to the evidence presented

The Applicant's Response

The Applicant to present their right of reply

PLEASE NOTE: The **only** section of the hearing which is not open to the public is the Committee's final consideration of its decision, which is undertaken in private. Following completion of submissions by the applicant, submitters and the applicant's right of reply, the Committee will make the following resolution to exclude the public. All those present at the hearing will be asked to leave the meeting at this point.

RESOLUTION TO EXCLUDE THE PUBLIC

To be moved:

“That the public be excluded from the following parts of the proceedings of this meeting, namely, Item 1.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48 for the passing of this resolution.
1	Resource Consent application – 107 Wray Street, Dunedin	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

Report

TO: Hearings Commissioner

FROM: Lianne Darby, Planner

DATE: 16 October 2020

SUBJECT: **RESOURCE CONSENT APPLICATION:**
S127 VARIATION SUB-2020-15/A
107 WRAY STREET
DUNEDIN

1. INTRODUCTION

- [1] This report has been prepared on the basis of information available on 16 October 2020. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

2. BACKGROUND TO APPLICATION

- [2] Resource consents SUB-2020-15 and LUC-2020-54 were issued on 4 March 2020 for the staged subdivision of 107 Wray Street and 8 Saunders Street, Dunedin, and for the earthworks and retaining walls for Stage 2 of the subdivision. The subject sites are:
- 107 Wray Street, being the land legally described as Section 187 Wakari Survey District, held in Record of Title OT9A/958, and having an area of 7439m². The site has frontage to Wray Street at its north-eastern end, and 3.0m of frontage to Saunders Street via a leg-in at its southwest corner. The site is gently sloping downwards from north to south and much of it is hard surfaced for parking purposes. Recent earthworks have cleared vegetation from embankments on the upper and lower edges of the hard surfacing, and have installed some drainage along the lower boundary.
 - 8 Saunders Street, being the land legally described as Lot 357 Deposited Plan 11118, held in Record of Title OT5B/592, and having an area of 784m². The property is a residential property with a dwelling and formed access to Saunders Street.
- [3] Stage 1 was for the two-lot subdivision of the two subject sites, being in effect a boundary adjustment. The stage was completed with the deposit of DP 547784 on 18 August 2020. This created the subject site of Stage 2, being Lot 2 DP 547784 which has an area of 7567m².
- [4] Stage 2 of the subdivision is to subdivide Lot 2 DP 547784 so as to create 15 residential lots, all sharing an access from Wray Street. The consent was issued with the conditions:
- 5(a) *A Stormwater Management Plan (SWMP) prepared by a suitably qualified person must be submitted to rcmonitoring@dcc.govt.nz for approval prior to works commencing. The SWMP must include:*
- (i) *Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow;*

- (ii) *An assessment of the current and proposed imperviousness of the site;*
- (iii) *Secondary flow paths*
- (iv) *Any watercourses located within the property;*
- (v) *Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and*
- (vi) *An assessment of the ability of the current network to accept any additional flow from the proposed development.*

6(c) *Either:*

Stormwater management, including the installation of any detention tanks that might be required, must be undertaken in accordance with the approved Stormwater Management Plan of condition 5(a) above;

Or:

A consent notice must be prepared in consultation with Council's Subdivision Planner for registration on the titles of Lots 1 to 15 (or as appropriate) specifying the requirements for future development and on-going management of stormwater water in order to fulfil the requirements of the Stormwater Management Plan.

3. DESCRIPTION OF ACTIVITY

[5] The applicant now seeks to vary the subdivision consent by having the above two conditions removed from the consent. The applicant considers that:

- a) The application of stormwater management plans should only happen where there is an existing stormwater issue within the receiving environment or when the maximum impermeable surfacing rule of the Proposed Plan is to be contravened.
- b) The imposition of an 80% factor on detention systems (where post-development flows are to be 80% of pre-development flows) can only be imposed where detention tanks are to be installed. The 80% factor is designed to be an engineering solution to the consequences of a cluster of tanks discharging over a prolonged period into a localised environment.

[6] The applicant notes that the subject site is not in a flood hazard area and the development of the new lots is not expected to exceed the maximum impermeable surfacing allowed (being 70% of the site area) for the General Residential 1 zone.

3. ACTIVITY STATUS

[7] Section 127 of the Resource Management Act 1991 states:

- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent subject to the following:*
 - (a) *The holder of a subdivision consent must apply under this Section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under Section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*
 - (b) *No holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
- (2) *Repealed.*
- (3) *Sections 88 to 121 apply, with all necessary modifications, as if –*
 - (a) *The application were an application for a resource consent for a discretionary activity; and*

- (b) *The references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-*
 - (a) *Made a submission on the original consent application; and*
 - (b) *May be affected by the change or cancellation.*

[8] In accordance with the provisions of section 127(3)(a) of the Resource Management Act 1991, the application to vary resource consent SUB-2020-15/A is a **discretionary** activity.

4. AFFECTED PARTIES

- [9] Section 127(4)(b) of the Resource Management Act 1991 means that the Council can only consider the adverse effects of the variation itself, being those effects over and above the effects of the existing resource consent, when determining affected parties. Section 127(4)(a) of the Resource Management Act 1991 also directs the Council to consider whether any submitters on the original application could be adversely affected by the variation.
- [10] The affected party approvals of all surrounding neighbours were submitted for the application of SUB-2020-15. The proposed variation is in regard to stormwater management of the new development, which is to discharge to the existing reticulated stormwater network. It is therefore not expected to have any implications for any of the neighbouring properties. There are no changes to the subdivision or proposed development itself.
- [11] The consent was not processed on a limited or publicly notified basis, and as such, there are no submitters to consider.

5. ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

- [12] Section 104(1)(a) of the Act requires that the consent authority have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in the section 3 as including-
- a) *Any positive or adverse effect; and*
 - b) *Any temporary or permanent effect; and*
 - c) *Any past, present, or future effect; and*
 - d) *Any cumulative effect which arises over time or in combination with other effects— regardless of the scale, intensity, duration or frequency of the effect, and also includes –*
 - e) *Any potential effect of high probability; and*
 - f) *Any potential effect of low probability which has a high potential impact.*
- [13] An important consideration in the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. Rule 104(2)(b) allows a consent authority to disregard the effects of an activity if a rule permits an activity with that affect. The Council may choose to apply this process. This requires the establishment of what can occur as of right on the site (permitted activity), and overlays the existing lawfully established development of the site (*Bayley v Manukau City Council, Smith Chilcott Ltd v Auckland City Council, Arrigato Investments Ltd v Auckland Regional Council*). Any effect from an activity that is equivalent to that generated by an activity permitted by the District Plan need not be regarded.
- [14] Neither the Operative District Plan nor the Proposed District Plan ('Proposed Plan') allows any subdivision to occur as of right. All subdivisions are either restricted discretionary activities where the proposal meets all District Plan requirements, or restricted discretionary or non-complying activities where the proposal does not. However, Council rarely declines consent for proposals that create new sites meeting the minimum lot size, access, servicing and other requirements of the

District Plan. In such cases, the subdivision consent is a means of ensuring to Council's satisfaction that all necessary subdivision matters, e.g. hazards, access and infrastructure, are adequately addressed, and it is not an indication that Council is assessing whether or not the subdivision should proceed.

- [15] Residential activity is a permitted activity in the General Residential 1 zone at a density of not less than 500m² of site area per residential unit. A multi-unit development of three or more units is permitted provided that the residential units can be subdivided onto separate lots while complying with site coverage, height in relation to boundary, setbacks and access requirements. A development can have a maximum site coverage of 40%, or 70% if impermeable surfacing is included.
- [16] Lot 2 DP 547784 can be developed with 15 residential units as a permitted activity. It is noted that these units and all site development can be built without a stormwater management plan requirement being imposed as part of the building consent process.
- [17] It is considered that this is the appropriate baseline against which the activity should be considered. As a result, it is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements for consideration.
- [18] The existing and reasonably foreseeable receiving environment is made up of:
- The existing environment and associated effects from lawfully established activities;
 - Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
 - The existing environment as modified by any resource consents granted and likely to be implemented; and
 - The environment as likely to be modified by activities permitted in the district plan.
- [19] The subject site has been utilised as a car park with approximately 2400m² of hard surfacing. This covered approximately 31% of the present site area. It is a construction site intended for development with 15 residential units.
- [20] For adjacent land, the existing and reasonably foreseeable receiving environment comprises medium-density residential activity to the east, south and west of the subject site. To the north is a well-established rest home. It is against these that the effects of the activity, beyond the permitted baseline, must be measured.
- [21] This section of the report assesses the following environmental effects in terms of the relevant assessment matters of Rules 9.5, 9.6 and 15.11 of the Proposed Plan:
- Infrastructure
- [22] The following parts of this report represent my views on the effects of the proposal, having regard to the application, the submissions, and my visit to the site.

Infrastructure 15.11.4.1(c) & 9.6.

Effects on efficiency and affordability of infrastructure

- [23] The Proposed Plan directs that the Council should assess the efficiency and affordability of infrastructure at the time of subdivision, with reference specifically to Rule 9.6. That rule in turn discusses water supply and wastewater infrastructure in particular but identifies on-site retention of stormwater as being a design consideration which might support the granting of subdivision consent. It also lists:

Design considerations for large subdivisions that involve new stormwater management systems that may support a consent application:

1. *Stormwater management areas are integrated into the layout of the subdivision and neighbourhood including in reserves.*
2. *The subdivision integrates design elements to minimise adverse effects on the stormwater infrastructure, for example through:*
 1. *minimum impermeable surfaces*
 2. *grassed/landscaped swales and other vegetation areas*
 3. *infiltration trenches/bio-retention systems*
 4. *wetlands/sediment ponds*
 5. *rainwater tanks- harvesting and reuse*
 6. *rain gardens, rooftop greening and planting, and*
 7. *porous surface treatments.*

General assessment guidance:

If required, Council will consider the contents of an integrated stormwater catchment management plan or approved stormwater discharge consent.

- [24] Reviewing the above directives of the Proposed Plan, it is evident that the proposed subdivision does not have, or proposed to have, a new stormwater management system involving any of the listed elements. Typically, stormwater management plans result in either stormwater retention ponds or tanks, with the tanks often being installed at the time of site development following subdivision. The generally accepted norm is that the post-development flows will not exceed pre-development flows, although Three Waters has recently been requiring post-development flows to be only 80% of pre-development flows.
- [25] In assessing the proposed variation to consent, Three Waters also refers to the above assessment matter and consideration of effects on the efficiency and affordability of infrastructure, noting that the Dunedin Code of Subdivision and Development 2010 (section 4.2.1 and 4.2.8) also outlines the need for stormwater management that mimics natural run-off patterns and minimises damage to the environment and risk to downstream properties. It should be noted that the Proposed Plan does not mention the Dunedin Code of Subdivision and Development 2010 (while the Code refers to the 2006 District Plan) making the planning link between the two documents weak i.e. it is difficult to impose planning requirements based on the Code's specifications.
- [26] Three Waters advise that the proposed development for 107 Wray Street will increase the stormwater runoff rate from the site. Council's Subdivision Engineer comments:

'The increased stormwater flows from the site will most likely contribute to increased flows in private open watercourses (on private properties) in Glenelg Street. There is a known history of flooding issues on the corner of Glenelg St and Kaikorai Valley Road (see pictures below). Retention of the imposed conditions are necessary to minimise risks to downstream properties from flooding.'

'The requirement for a stormwater management plan ensures adequate assessment and attenuation of stormwater flows occurs onsite or provides the opportunity for the applicant to produce catchment analysis and prove that the increase in stormwater runoff will have no more than minor effect on the downstream environment. If proven to have no downstream effects, management of stormwater flows, using on-site detention tanks, would not be required.'

- [27] The Subdivision Engineer notes that if the conditions of consent are removed, as requested by the applicant, then Three Waters will not have an assessment of downstream effects or be able to require on-site attenuation to minimise any downstream effects. Without on-site attenuation,

increased stormwater runoff is, ‘... likely to contribute to, and possibly exacerbate ...’ existing flooding issues on the corner of Glenelg Street and Kaikorai Valley Road. Three Waters also considers that the developer, their consultants and the Council may hold some liability for flood damage if there is not an appropriate assessment or management of stormwater during the consenting process.

- [28] It is evident from the photographs provided by Three Waters that the park and roading at Glenelg Street/Kaikorai Valley Road intersection does flood. No information has been provided on how frequently this occurs or if it results in damage to the interior of buildings. As the crow flies, this intersection is 1.4km from the subject site, with the stormwater from this part of Brockville discharging from Council’s reticulated pipe system into an open watercourse through Sanda Road Reserve, Glenelg Street Recreation Reserve and private properties. The watercourse is then piped under the Glenelg Street Playground, across the intersection and under Stone Street to Kaikorai Stream. It appears that the capacity issues for this system are confined to the very lower extent where the watercourse re-enters the piped system. This is an existing situation unrelated to the proposed subdivision, but one which will be possibly exacerbated by the development. Three Waters are unable to conclude this is definitely the case, using the words ‘likely to’ and ‘possibly’ to describe the situation.
- [29] As noted above, condition 5(a) requires the stormwater management plan to include, but not be limited to, the following matters:
- (i) *Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow;*
 - (ii) *An assessment of the current and proposed imperviousness of the site;*
 - (iii) *Secondary flow paths*
 - (iv) *Any watercourses located within the property;*
 - (v) *Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and*
 - (vi) *An assessment of the ability of the current network to accept any additional flow from the proposed development.*
- [30] Looking at this list, the two crucial calculations would appear to be the difference between pre and post development flows, and the ability of the current network to accept any additional flow from the proposed development. This second point is perhaps the more contentious as the calculation is likely to be difficult to achieve with any real accuracy (or Three Waters would know already) and the inference is that the developer has responsibility for the capacity of the existing network. While this condition does not state the following, Three Waters discussion in the report makes the following comment:
- ‘It is to be noted that in some circumstances, post-development flows may need to be reduced to be as little as 80% of pre-development flows. The SWMP must be submitted and accepted by Three Waters prior to any construction commencing.*
- [31] While most applicants accept that, if there are capacity issues with the stormwater system, post-development flows should be no greater than pre-development flows, applying a factor of 80% to post-development flows suggests an element of improvement. Care is needed to ensure that conditions of consent are not being imposed to remedy deficiencies. Furthermore, as part of any development, a financial payment is made. In this case, the applicant will pay \$8400.00 (excluding GST) to Council as development contributions specifically for stormwater capital expenditure. This contribution will apply towards the City-wide capital projects and should be available for upgrade works. The resource consent conditions should target the actual likely effects arising from the development rather than funding or deferring network costs that Council is already responsible for.
- [32] The applicant is of the view that a stormwater management plan should not be required unless there is an existing stormwater issue within the local environment. The stormwater management plan is

to be used as a means of mitigating adverse effects of the stormwater discharge from the subdivision into the receiving community. In this case, there are no flooding issues for this specific subject site or the immediate neighbourhood, and the flooding is occurring some distance downstream at a location fed by a much larger catchment than Wray Street.

- [33] The applicant also notes that there is no means under the building consent process to impose a stormwater management plan requirement for a permitted development, resulting in a disconnect between the requirements of a subdivision consent and a development where building precedes subdivision. Applying the permitted baseline argument to this situation, 15 residential units can be constructed on this subject site, each with a floor area of up to 300m², plus a family flat. No consent would be required for this development (assuming all performance standards were met) and Council would not require a stormwater management plan or installation of retention tanks as part of the building consent. In particular, the capacity of the existing stormwater infrastructure would not be a consideration.
- [34] Considering again the assessment matters of the Proposed Plan, there is scope within the rules for a stormwater management plan to be required at the time of subdivision. As with any condition though, the requirement must be justified. The Newbury Principles which case law has determined apply to planning practice require that conditions of consent must:
1. Be imposed for a planning purpose.
 2. Fairly and reasonably relate to the development for which permission is being given.
 3. Be reasonable.

- [35] Care needs to be taken that conditions are not imposed as a matter of policy as this could lead to claims the condition is not specific to the circumstances, nor fair and reasonable. Three Waters comments on the proposed variation are broad in scope, in my opinion, and seek to have the applicant provide the assessment of effects on stormwater capacity within Council's system, with an expectation of ensuring no effects. It is noted that the purpose of the Resource Management Act 1991 is to '*... promote the sustainable management of natural and physical resources ...*' while, '*... avoiding, remedying, or mitigating any adverse effects of activities on the environment*'. The requirement of the Resource Management Act 1991 is not to have no effects.

Maximum building site coverage and impermeable surfaces

- [36] The applicant also considers that there is justification for the imposition of a stormwater management plan requirement where the development will exceed the maximum site coverage or impermeable surfaces. This is a land use rule relating to the development of the new sites. The Proposed Plan directs that the Council should assess the effects on efficiency and affordability of infrastructure (Rule 15.10.4.10(c)), referring to Rule 9.5.11. This notes:

Potential circumstances that may support a consent application [to contravene maximum site coverage or impermeable surfacing] include:

- iii. *There is a genuine need to have additional impermeable surfaces and:*
1. *mitigation measures such as stormwater storage are proposed; and*
 2. *there is no net increase in the amount or rate of stormwater leaving the site.*

- [37] Notwithstanding that no.2 above is possibly unachievable (an increase in runoff will result from any increase in hard surfacing unless there is an on-site holding tank and it never rains more than the tank can store), the assessment matter brings us more or less back to the arguments above. It is also noted that this proposal is not expected to contravene the maximum site coverage and impervious surfacing rule, at least at the time of subdivision. If this rule is identified as being contravened during the building consent application assessment, then the assessment matter of Rule 9.4.11 will apply, but not for a subdivision with no development proposal or a compliant development proposal.

Summary

- [38] There is scope within the Proposed Plan and Resource Management Act 1991 provisions for a condition of consent requiring a stormwater management plan to be imposed; however, this requirement must only be applied where there is specific evidence to justify the condition in the circumstances of an application. It should not be applied as a policy-based approach. The permitted baseline argument which allows an identical development to proceed without a stormwater management plan, or any mitigation measures being required, means that any process for imposing these as part of a subdivision consent should only be applied in limited circumstances, where there is a sound basis for doing so based on evidence of adverse effects. Furthermore, Council also takes development contributions as part of subdivision and development for capital expenditure on the City-wide stormwater system. This includes funding of works for the purpose of address deficiencies in the existing system. The effects of the proposed variation are considered to be less than minor and in accordance with the expectations of the Proposed Plan for this site and zone.

6. OBJECTIVES AND POLICIES ASSESSMENT (Section 104(1)(b))

- [39] Section 104(1)(b) requires the consent authority to have regard to any relevant objectives, policies and rules of a plan or proposed plan. The Dunedin City Council is currently operating under the provisions of both the Dunedin City District Plan and Proposed Plan. As such, the objectives and policies of both Plans were taken into account at the time of processing the subdivision consent. It is noted in the decision that the provision of the Proposed Plan for this site and proposal are largely beyond challenge. Consequently, the objectives and policies of the Proposed Plan have been greater weight during this assessment. Nevertheless, the objectives and policies of both Plans support the granting of consent.
- [40] The proposed variation has also been considered against the objectives and policies of Section 9: Public Health and Safety, as follows:

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 9.2.1	Land use, development and subdivision activities maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure.	The development is in accordance with the zoning of the land and the expectations of the Proposed Plan for this site. Stormwater infrastructure is provided by the Council and Rule 9.3.7.1 specifies that subdivision will utilise this infrastructure for servicing.
Policy 9.2.1.2	Require development in the residential zones and the Mercy Hospital, Wakari Hospital, Moana Pool and Schools zones to provide adequate permeable areas to enable a reasonable level of rain water ground absorption.	The proposed development will not contravene the maximum impermeable surfacing rule.
Objective 9.2.2.	Land use, development and subdivision activities maintain or enhance people's health and safety.	The residential development will provide for peoples' health and safety.
Policy 9.2.2.7	Only allow land use, development, or subdivision activities that may lead to land use and development activities, in areas without public wastewater and stormwater infrastructure where these activities ensure wastewater and stormwater will be disposed of in such a way that avoids or, if avoidance is not practicable, ensures any adverse effects on the health of people on the site or on surrounding sites will be insignificant.	The subject site is in an area with available public stormwater infrastructure.

- [41] Generally speaking, the objectives and policies of the Public Health and Safety section of the Proposed Plan do not address the requirements for stormwater management plans as part of subdivision works, and those objectives and policies mentioning stormwater drainage are not specific to this subdivision. The objective and policies of the Residential section do not discuss infrastructure or stormwater requirements at all. Overall, the proposed subdivision and the variation to consent are not contrary to, or inconsistent with, any objectives and policies of the Proposed Plan or Operative District Plan.

Assessment of Regional Policy Statement and Plans

- [42] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. The Regional Policy Statement for Otago 2019 is now partially operative. The following objectives and policies mention stormwater drainage:
- **Objective 4.2: Otago's communities are prepared for and able to adapt to the effects of climate change.** The word 'stormwater' is mentioned in the explanation but only in respect to stormwater systems not coping with heavier rainfall due to climate change. The objective is not considered to be relevant to this proposal.
 - **Objective 4.5: Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments.**
 - **Policy 4.5.4: Encourage the use of low impact design techniques in subdivision and development to reduce demand on stormwater, water and wastewater infrastructure and reduce potential adverse environmental effects.** The key element of this policy is 'potential adverse environmental effects'. The effects of a residential development in a residential zone where density requirements and site coverage are met are unlikely to have 'adverse'

environmental effects although this does not mean that there are no effects on stormwater drainage.

- [43] In light of the above matters, the proposal is considered to be generally consistent with the relevant objectives and policies of the statement.

7. DECISION MAKING FRAMEWORK

Part II Matters

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

Section 104

- [45] Section 104(1)(a) states that the Council shall have regard to any actual and potential effects on the environment of allowing the activity. Section 5.0 of this report assessed the environmental effects of the proposed development and concluded that the effects on the environment of the proposed variation will have adverse effects which are less than minor. Unless there is a specific reason to consider the locality flood prone, a site coverage contravention, or there is a significant volume of water being discharged into Council's system over and above that reasonably expected by the zoning, there is insufficient reason to require a stormwater management plan.
- [46] Section 104(1)(b) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. Section 6.0 concluded that the proposed variation is considered to be consistent the relevant objectives and policies of the Proposed Plan and Operative District Plan.
- [47] Section 104(1)(b) requires the Council to have regard to any relevant regional policy statement or regional plan. In paragraphs [40] and [41] of this report it was concluded that the application is consistent with the relevant objectives and policies of the Regional Policy Statement for Otago and the Proposed Regional Policy Statement for Otago.

8. RECOMMENDATION

SUB-2020-15

*Pursuant to Part 2 and sections 34A(1), 104 and 127(1) of the Resource Management Act 1991, and the provisions of the Operative Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **discretionary** activity being the removal of conditions regarding the provision of a stormwater management plan from SUB-2020-15 regarding 107 Wray Street and 8 Saunders Street, Dunedin, being the land held in titles RT Ot9A/958 and RT OT4B/592 subject to conditions imposed under sections 108 and 220 of the Act.*

9. REASONS FOR RECOMMENDATION

1. It is my opinion that any actual or potential adverse effects on the environment from the variation of SUB-2020-15 will be less than minor for the following reasons:
 - a) The Proposed Plan zoning for this land anticipates 15 residential units of up to 300m² in floor area, each with a family flat and an impermeable surface covering up to 70% of the land. The proposed development will meet these requirements and are therefore in accordance with the expectations for the zone. Such activities are not considered to have adverse effects on the environment.

- b) The subject site and local area are not in a flood hazard area. There is an existing flooding problem some distance downstream unrelated to this subdivision. No evidence has been provided by Three Waters that the proposed subdivision will create significant additional issues for the existing system during heavy rainfall events.
 - c) While Council can impose a requirement for stormwater management plans and attenuation as part of a subdivision consent, the Proposed Plan provisions do not give strong guidance as to when this is required. A broad policy-based approach to the provision of stormwater management plans is not necessarily helpful and may not fairly and reasonably relate to the proposed development.
 - d) The Council takes a development contribution at the time of subdivision for capital works on Council's systems. This is meant to represent the developers share of the costs associated with upgrading and developing the service network. There is a risk that requiring the developer of this subdivision to also provide stormwater management for the purpose of improving existing reticulated stormwater network issues is inappropriate.
2. The proposed variation is considered to be consistent with the relevant objectives and policies. Those of the Public Health and Safety section, being those most concerned with infrastructure, do not discuss the provision of stormwater management plans for developments with available reticulated services and compliant impervious hard surfacing. There is no objective or policy which directly supports the requirements for stormwater management plans.

Report prepared by:



Lianne Darby
Planner

16 October 2020

Date

Report checked by:



Campbell Thomson
Senior Planner

16 October 2020

Date

Should the Committee be of the mind to grant consent to the proposed variation, I recommend the following conditions (changes to the consent are shown as strike through and underlining).

SUB-2020-15/A

Conditions:

Stage 1: Subdivision of Section 187 Wakari SD & Lot 357 DP 11118 into Lots 1 and 2:

1. *The proposed activity must be undertaken in general accordance with the Stage 1 Layout Plan prepared by Paterson Pitts Group entitled, 'Lots 1 & 2 being a Proposed Subdivision of Sec 187 Wakari SD & Lot 357 DP 11118,' attached to this certificate as Appendix One, and the information provided with the resource consent application SUB-2020-15, received at Council on 12 February 2020, except where modified by the following:*
2. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*
 - a) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.*

Stage 2: Subdivision of Lot 2 Stage 1 into Lots 1 to 15

3. *The proposed activity must be undertaken in general accordance with the Stage 2 Layout Plan prepared by Paterson Pitts Group entitled, 'Lots 1-15 being a Proposed Subdivision of Lot 2 DP (Stage 1),' attached to this certificate as Appendix One, and the information provided with the resource consent application SUB-2020-15, received at Council on 12 February 2020, except where modified by the following:*
4. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*
 - a) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.*
 - b) *An easement in gross in favour of the Dunedin City Council must be created over any proposed or existing Council-owned services located within private property. The easements must be made in accordance with the relevant section of the Dunedin Code of Subdivision and Development 2010.*
 - c) *That Rights of Way A to I must be duly created or reserved in favour of all 15 lots, and must be shown on the survey plan in a Memorandum of Easements. The rights of way must have a minimum legal width of 6.0m.*
 - d) *That parking easements over Lots 1 to 5 in favour of all 15 lots must be created along the side of the rights of way, and must be shown on the survey plan in a Memorandum of Easements. The parking easements must be at least 2.3m wide.*
5. *Prior to works commencing, the subdivided must complete the following:*
 - a) ~~*A Stormwater Management Plan (SWMP) prepared by a suitably qualified person must be submitted to remonitoring@dcc.govt.nz for approval prior to works commencing. The SWMP must include:*~~

- ~~(i) Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow;~~
 - ~~(ii) An assessment of the current and proposed imperviousness of the site;~~
 - ~~(iii) Secondary flow paths~~
 - ~~(iv) Any watercourses located within the property;~~
 - ~~(v) Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and~~
 - ~~(vi) An assessment of the ability of the current network to accept any additional flow from the proposed development.~~
- b) The consent holder must provide detailed engineering design (plans, long-sections and calculations) for the proposed new water, wastewater and stormwater infrastructure to rcmonitoring@dcc.govt.nz for approval prior to works commencing. The engineering plans and associated calculations must meet the requirements of the Construction Plan Check List, the Dunedin Code of Subdivision and Development 2010, and the NZS4404:2004 standard.
- c) The consent holder must provide detailed design plans for the vehicle access over Rights of Way A to I to rcmonitoring@dcc.govt.nz for approval prior to works commencing.
- d) The consent holder must submit a name for the shared access to Transport at rcmonitoring@dcc.govt.nz for approval. The name must comply with the provisions of the Council's Road Naming Policy.
6. Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the subdivider must complete the following:

Earthworks

- a) The earthworks must be undertaken in accordance with the conditions of LUC-2020-64.
- b) During the earthworks period, the consent holder must adopt all practicable measures to mitigate erosion and to control and contain sediment-laden stormwater run-off to prevent it entering the Council's stormwater network or neighbouring properties during any stages of site disturbance associated with this development.

Services

~~e) Either:~~

~~Stormwater management, including the installation of any detention tanks that might be required, must be undertaken in accordance with the approved Stormwater Management Plan of condition 5(a) above;~~

~~Or:~~

~~A consent notice must be prepared in consultation with Council's Subdivision Planner for registration on the titles of Lots 1 to 15 (or as appropriate) specifying the requirements for future development and on-going management of stormwater water in order to fulfil the requirements of the Stormwater Management Plan.~~

- d) Construction and installation of infrastructure must be undertaken in accordance with the approved engineering plans of condition 5(b) above, the Dunedin Code of Subdivision and Development 2010 and the NZS4404:2004 standard.

- e) *On completion of construction of the servicing infrastructure, as-built plans must be submitted to the Council at rcmonitoring@dcc.govt.nz for approval. The as-built plans must be accompanied by a quality assurance report.*
- f) *Each lot must have a separate water service connection installed. An "Application for Water Supply" must be submitted to the Council's Three Waters. Details of how each lot is to be served for water must be provided to Three Waters for approval. This detail can accompany the application for water supply.*
- g) *The water connections must be installed at least 600mm into each new lot.*
- h) *Each lot must have stormwater and wastewater laterals from Council infrastructure installed at least 600mm into the lot.*
- i) *The consent holder must confirm that all aspects relating to the availability of the water for fire-fighting are in compliance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless an alternative is approved by the New Zealand Fire Service. Details of any alternative approval must be provided to Dunedin City Council.*

Transport

- j) *The new vehicle crossing from Wray Street must be constructed to the following standards:*
 - *The vehicle crossing must be constructed in accordance with the Council's Industrial Specification for Vehicle Entrances.*
 - *It must be formed to 6.0m width, be hard surfaced from the edge of Wray Street to the property boundary, and be adequately drained.*
 - *The first 5.0m of the vehicle access from the roadside boundary of Lot 1 into the site must have a gradient of no greater than 1 in 8.*
- k) *That the driveway through Rights of Way A to I must be constructed in accordance with the approved design plans of condition 5(c) above.*
- l) *That the driveway of Rights of Way A to I must be formed to a minimum width of 6.0m, be hard surfaced and adequately drained for its duration.*
- m) *The parking bay over Lots 1 to 5 must be formed to a minimum width of 2.3m and be hard surfaced and adequately drained for its duration.*
- n) *Any redundant vehicle crossing must be reinstated as footpath, kerb and channel to the satisfaction of DCC Transport at the consent holder's cost.*
- o) *Any damage to any part of the footpath or road formation as a result of the demolition or construction works must be reinstated to the satisfaction of DCC Transport at the consent holder's cost.*

Advice Notes:

Transportation

1. It is recommended that the consent holder liaise with the utility operator of the power pole on Wray Street to arrange for the relocation of the pole adjacent to the new vehicle crossing on Wray Street, if required.

2. It is advised that the access, parking and on-site manoeuvring provision for Lots 1 to 15 will be assessed by Transport at the time of building consent or resource consent application for any new development or redevelopment.
3. It is recommended that a formal agreement be drawn up between the owners and users of the right of way in order to clarify their maintenance responsibilities.
4. Any work within the road reserve will require a Corridor Access Request, submitted to and approved by Council prior to work commencing.
5. The consent holder will require a Traffic Management Plan prepared by a suitably qualified person if the proposed works affect the normal operating conditions of the transport network. The Traffic Management Plan will need to be approved by Transport prior to any works commencing.
6. Any damage to any part of the footpath or road formation as a result of the works of this consent or any future development and associated vehicle movements will need to be reinstated to the satisfaction of DCC Transport, at the developer's cost.

Earthworks

7. Where there is a risk that sediment may enter a watercourse at any stage during the earthworks, it is advised that the Otago Regional Council be consulted before works commence, to determine if the discharge of sediment will enter any watercourse and what level of treatment and/or discharge permit, if any, may be required.
8. The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
 - Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).
9. It is noted that the new lots will have new servicing infrastructure (to vest in Council) located within the lots. Any buildings constructed on these lots must meet the requirements of Section 5.5 of the Dunedin Code of Subdivision and Development 2010 in relation to building in close proximity to Council-owned infrastructure unless otherwise approved by the Three Waters Group.
10. When undertaking earthworks on the new lots in the future, it is advised that:
 - Temporary stability may be a concern on this project and remains the responsibility of the developer.
 - Prior to undertaking the work, a professional must assess the potential for instability on adjacent properties, as a result of the works.
 - All temporary slopes shall be inspected and signed off by a suitably qualified individual.
 - The excavations slopes shall be supported within 1 month of commencing the earthworks.
 - Slopes may not be cut steeper than 1:1 (45°) or two metres high without specific engineering design and construction.
 - Slopes may not be filled steeper than 2h:1v (27°) or two metres high without specific engineering design and construction.
 - As-built records of the final extent and thickness of any un-engineered fill should be recorded.
 - Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.

- All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s.
- 'Retaining structures have a finite design life. At some point in the future the retaining works that are the subject of this resource consent will need to be repaired or replaced. Ready access to the retaining works should be maintained to enable future repair or replacement works to be undertaken without creating cross-boundary land and/or structure instability issues or other hazards for neighbouring properties. At the time of designing the retaining structure, consideration should be given to the ease with which it could be repaired or replaced in the future.'

Infrastructure

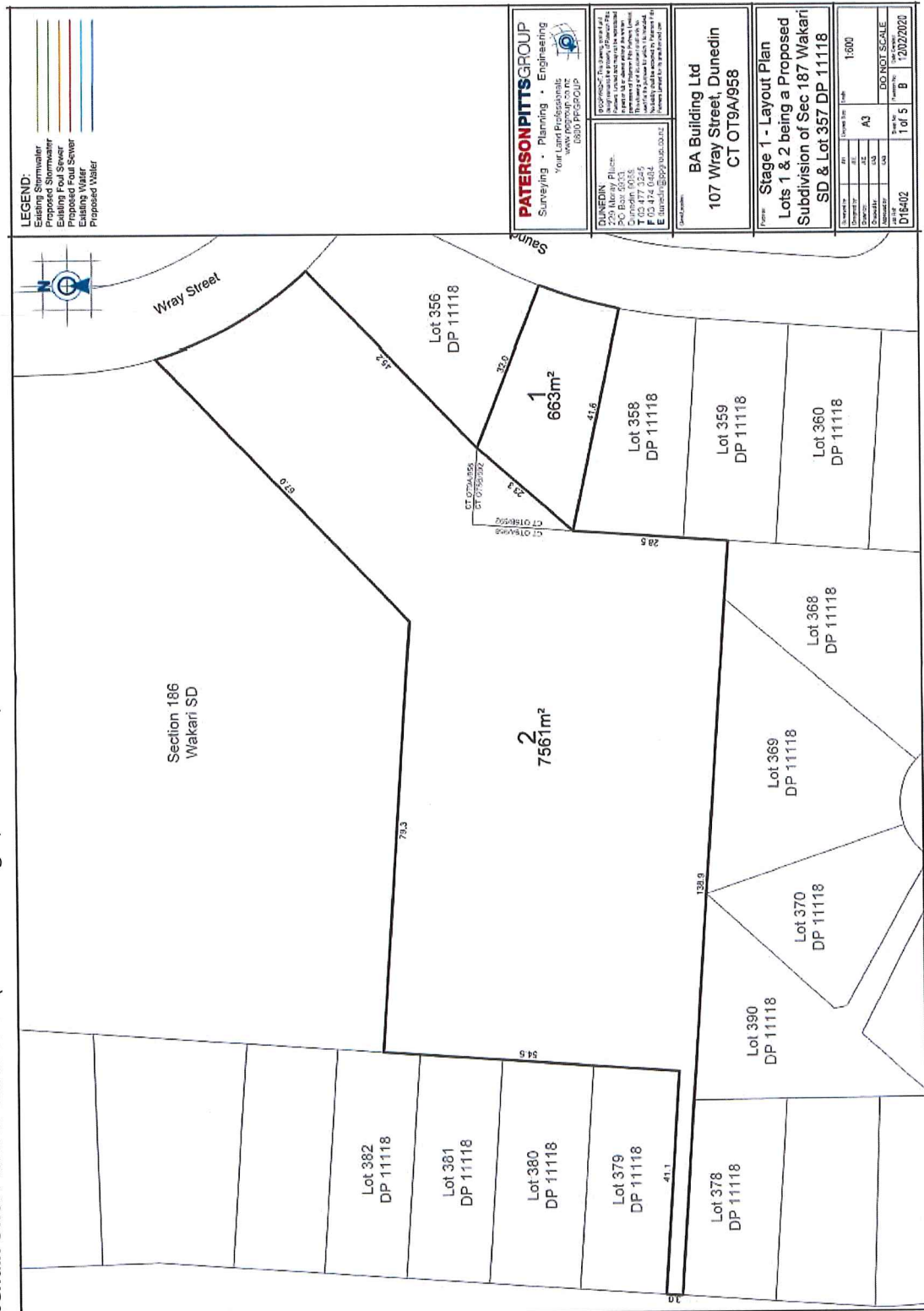
11. All aspects of this development must be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
12. Detail of the water supply application process can be found at <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
13. All aspects relating to 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.
14. To reduce water consumption and the volume of wastewater generated by the new properties, the developers of the new lots are encouraged to install water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers.
15. Requests for required infrastructure inspections should be made to Three Waters with at least three working day's notice.
16. Private drainage issues and requirements (including any necessary works) are to be addressed via the Building Consent process.
17. Future development on the new lots is expected to comply with the site coverage and impermeable surfacing rules of the Proposed Plan. It should be noted that a shared driveway (i.e. the rights of way) is considered to be part of the calculation for impermeable surfacing within a lot but will be excluded from any calculation of site coverage (Rule 15.6.10.2).
18. Certain requirements for building on this site may be stipulated via the building consent process and are likely to include the following points:
 - Stormwater from driveways, sealed areas and drain coils is not to create a nuisance on any adjoining properties.
 - Surface water is not to create a nuisance on any adjoining properties.
 - For secondary flow paths, the finished floor level shall be set at the height of the secondary flow plus an allowance for free board.
 - 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.

General

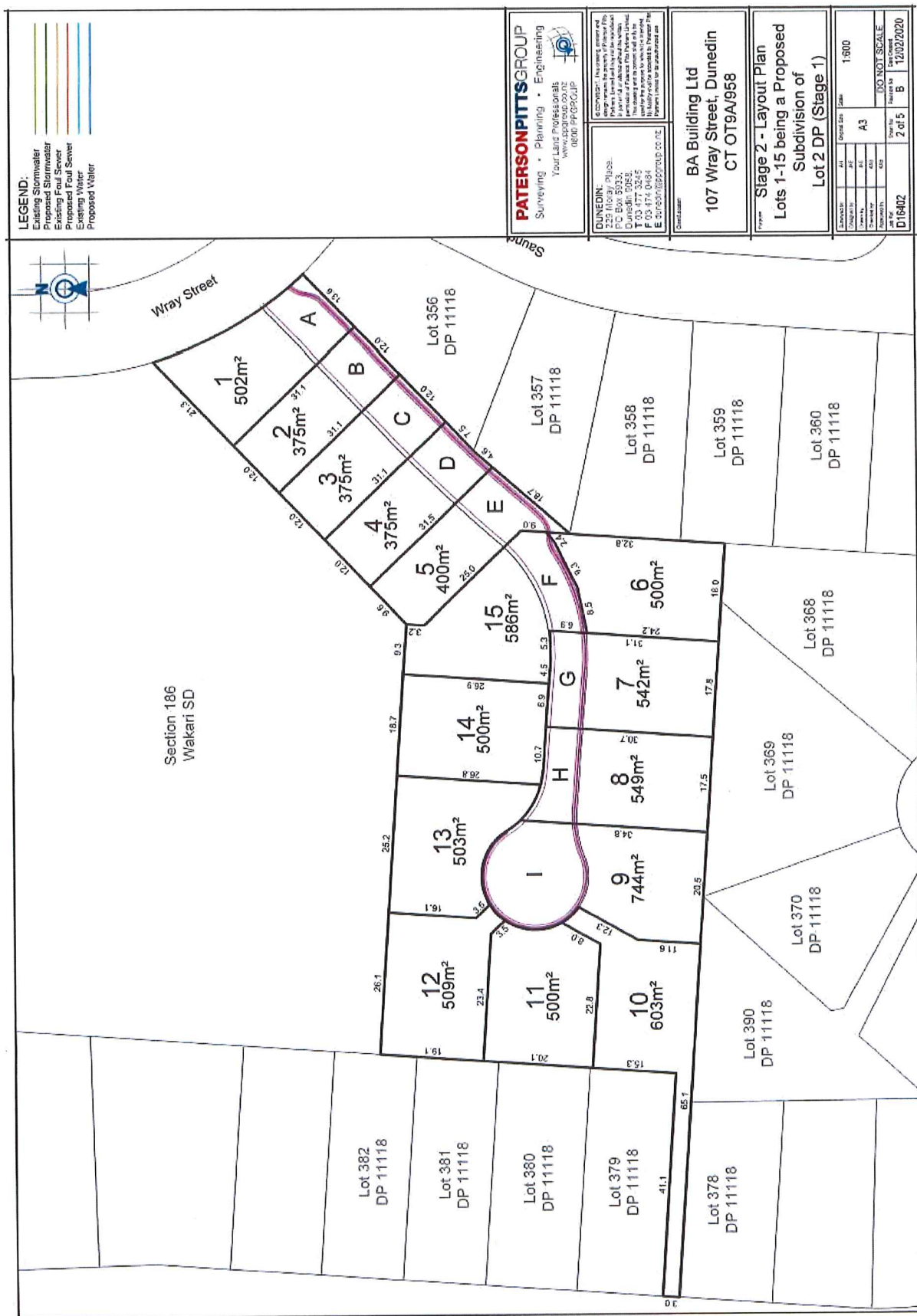
19. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.

20. 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.
21. 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.
22. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
23. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

Appendix One: Plans of subdivision (scanned images, not to scale)



50 The Octagon, PO Box 5045, Moray Place
Dunedin 9058, New Zealand
Telephone: 03 477 4000, Fax: 03 474 3488
Email: dcc@dcc.govt.nz
www.dunedin.govt.nz



APPENDIX A

APPLICATION

Your Land Professionals
www.ppgroup.co.nz
0800 PPGROUP



30 June 2020

City Planning
Dunedin City Council
PO Box 5045
Dunedin



Our Ref: 16402

Dear Sir / Madam

**REQUEST FOR CONSENT VARIATION
SUB-2020-15
107 WRAY STREET, DUNEDIN**

Please accept this request for a variation to consent SUB-2020-15 pursuant to section 127(1)(b) RMA. Also attached is the requisite deposit fee of \$1,200.00 inc. GST.

SUB-2020-15 comprises consent for an 15-Lot subdivision of the land at 107 Wray Street, Dunedin.

Within the consent, Condition 5.a) requires that:

"Prior to works commencing, the subdivided must complete the following:

- a) A Stormwater Management Plan (SWMP) prepared by a suitably qualified person must be submitted to rcmonitoring@dcc.govt.nz for approval prior to works commencing. The SWMP must include:*
 - (i) Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow;*
 - (ii) An assessment of the current and proposed imperviousness of the site;*
 - (iii) Secondary flow paths*
 - (iv) Any watercourses located within the property;*
 - (v) Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and*
 - (vi) An assessment of the ability of the current network to accept any additional flow from the proposed development."*

Condition 6.c) then requires:

"Either:

Stormwater management, including the installation of any detention tanks that might be required, must be undertaken in accordance with the approved Stormwater Management Plan of condition 5(a) above;

Or:

DUNEDIN:

P.O. Box 5933,
Dunedin 9058.

CHRISTCHURCH:

P.O. Box 160094,
Christchurch 8441.

ALEXANDRA:

P.O. Box 103,
Alexandra 9340.

CROMWELL:

P.O. Box 84,
Cromwell 9342.

QUEENSTOWN:

P.O. Box 2645,
Queenstown 9349.

WANAKA:

P.O. Box 283,
Wanaka 9305.

A consent notice must be prepared in consultation with Council's Subdivision Planner for registration on the titles of Lots 1 to 15 (or as appropriate) specifying the requirements for future development and on-going management of stormwater water in order to fulfil the requirements of the Stormwater Management Plan."

It is the objective of this variation request to see both of the above conditions removed from the consent.

Council will be aware that this request follows a recent variation request relating to SUB-2019-130 at 3 Church Street in Mosgiel, where similar stormwater management plan considerations were undertaken.

In that discussion, which dealt with two elements: the appropriateness of stipulating stormwater management conditions, and the use of a community benefit factor, several outcomes were established in a general sense. These were-

1. The application of stormwater management plan requirements should only occur where there is an existing stormwater issue resident within the local environment or when the form of the proposed development intends to breach the relevant district plan impervious surfaces rule. In these situations, the consent is able to impose stormwater management requirements as a means of mitigating the adverse effects of stormwater discharge to the receiving community. It was also discussed that the size of the development might be reason to apply a stormwater management plan requirement, however that is a more difficult concept to grasp as the size of the development (i.e. number of units/sites) has little relevance to the stormwater discharge from the site (which is better controlled by the imperviously surfaces provisions). One of the considerations that have contributed to this discussion is that there is no ability currently for the district plan to require the use of stormwater management plans when building consent for new units are issued (unless the impervious surfaces rules are breached). This results in a disconnect between building activities and subdivision activities, despite the built environment outcomes of both activities being identical. The relevant outcome of these discussions is that stormwater management plan conditions can rightly be imposed on subdivision consents when-
 - a. Stormwater management plan conditions can be appropriately imposed on subdivision consents if the site is located within a flood hazard region. In this instance the purpose of the condition will be to mitigate adverse effects on a known hazard.
 - b. Stormwater management plan conditions can be appropriately imposed on subdivision consents if the proposed development intends to breach the impervious surfaces rules. In this instance the purpose of the condition will be to mitigate adverse effects resulting from stormwater flows that are generated by the development at a level that is larger than the district plan anticipates.
2. That the use of an 80% factor on detention systems (post-development flows to meet 80% of pre-development flows) can only be applied where detention tanks are

proposed. This is because the 80% factor is not intended to provide a community benefit as previously thought, but is designed as an engineering solution to the consequence of a cluster of tanks all discharging over a prolonged period of time into a localised environment. In any case, this matter is not part of the current variation considerations.

Regarding this application, the consent issued under SUB-2020-15 meets neither of the elements described in 1 above, and accordingly the imposition by Council of the requirement for a stormwater management plan is considered unreasonable.

The development site is not located within a flood hazard region, and neither does it anticipate that resulting impervious surfaces will exceed 80% of the new sites (80% is the maximum extent of impervious surfaces permitted by the district plan in the General Residential 1 zone.

Condition 5.a) should therefore be removed in full, and as a consequence of this Condition 6.c) must also be removed.

If Council could consider this variation request that would be very much appreciated.

Please feel free to contact me if it would be helpful to discuss this request, otherwise we look forward to hearing from City Planning soon.

Yours faithfully

PATERSON PITTS LIMITED PARTNERSHIP



Kurt Bowen

Registered Professional Surveyor

APPENDIX B

COUNCIL OFFICERS' REPORTS

Lianne Darby

From: Galina Reinhardt
Sent: Tuesday, 13 October 2020 03:18 p.m.
To: Lianne Darby
Subject: SUB-2020-15/2 - 107 Wray Street Dunedin

Hi Lianne,

A development contribution assessment was undertaken on the subdivision consent (SUB-2020-15 Stage 2) in accordance with the Council's Development Contributions Policy (the Policy) contained within the 10 Year Plan 2018 – 28. The development contribution is triggered by 14 additional residential allotment on site.

The stormwater component of development contributions fees levied on the subdivision are \$8,400.00 (excluding GST).

The sole purpose of the Development Contributions Policy is to recover from those undertaking development a fair, equitable, and proportionate portion of the costs of capital expenditure necessary to service growth. This means that the Development Contributions apply towards city wide capital projects. My understanding is that capital expenditure is identified from the latest Annual Plan/Long Term Plan or any historic financial reports.

Kind Regards

[Galina Reinhardt](#)

DEVELOPMENT CONTRIBUTIONS OFFICER
CITY PLANNING ●●●●

P 03 477 4000 | E Galina.Reinhardt@dcc.govt.nz

Dunedin City Council, 50 The Octagon, Dunedin

PO Box 5045, Dunedin 9054

New Zealand

www.dunedin.govt.nz

 Please consider the environment before printing this e-mail

3 Waters comments on application for variation to conditions on SUB-2020-15 (107 Wray Street, Dunedin).

3 Waters sustain its position that conditions 5.a) and 6.c), being requirements for Stormwater Management Plan (SWMP) to be provided to, and approved by, 3 Waters, should remain in the subdivision consent. 3 Waters does not support the variation requested by the applicant.

Assessment matters for all subdivisions, as set out in Rule 9.6.2.4 of the 2GP, enables assessment of whether onsite detention is needed to manage stormwater. This includes considering the effects on the efficiency and affordability of infrastructure. The Code of Subdivision and Development (section 4.2.1 and 4.2.8) also outlines the need for stormwater management that mimics natural run-off patterns, and minimises damage to the environment and risks to downstream properties.

Why is retention of the conditions necessary?

The proposed development will increase the stormwater runoff rate from the site. The increased stormwater flows from the site will most likely contribute to increased flows in private open water courses (on private properties) in Glenelg St.

There is a known history of flooding issues on the corner of Glenelg St and Kaikorai Valley Road (see pictures below). Retention of the imposed conditions are necessary to minimise risks to downstream properties from flooding.

The requirement for a stormwater management plan ensures adequate assessment and attenuation of stormwater flows occurs onsite or provides the opportunity for the applicant to produce catchment analysis and prove that the increase in stormwater runoff will have no more than minor effect on the downstream environment. If proven to have no downstream effects, management of stormwater flows, using onsite detention tanks, would not be required.

What effects can be expected if the conditions are removed?

If the conditions are removed, 3 Waters will be unable to require onsite attenuation of stormwater flows to minimise the potential downstream effects or assessment of the catchment to determine if there are no downstream effects.

If onsite attenuation of stormwater does not occur, the increased stormwater runoff from the development is likely to contribute to, and possibly exacerbate, existing flooding issues on the corner of Glenelg St and Kaikorai Valley Road.

If future downstream effects occur, and an appropriate assessment or management of stormwater has not been required during the consenting process, the developer, their consultants and the DCC, may hold some liability for any resulting damage.

Photos of flooding in Kaikorai Valley – Glenelg Street Catchment



APPENDIX C
SUB-2020-15



4 March 2020

BA Building Ltd
C/- Andrew Robinson
Paterson Pitts Group
PO Box 5933
Dunedin 9054

Via email: andrew.robinson@ppgroup.co.nz

Dear Andrew

RESOURCE CONSENT APPLICATION:

**SUB-2020-15 & LUC-2020-54
107 WRAY STREET & 8 SANDERS STREET
DUNEDIN**

Your application for resource consent was processed on a non-notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991. The application was considered by a Senior Planner, under delegated authority, on 4 March 2020.

The Council has granted consent to the application with conditions. The assessment of the application, including the reasons for the decision, is set out in the report attached to this letter. The consent certificate is attached to the rear of this letter.

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

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

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

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

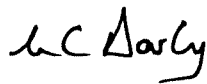
Alternatively, there may be appeal rights to the Environment Court. Please refer to section 120 of the Resource Management Act 1991. It is recommended that you consult a lawyer if you are considering this option.

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

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

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

Yours faithfully

A handwritten signature in black ink, appearing to read 'LC Darby'.

Lianne Darby
Planner

APPLICATION SUB-2020-15 & LUC-2020-64: 107 WRAY STREET & 8 SAUNDERS STREET, DUNEDIN

Department: Resource Consents

BACKGROUND TO APPLICATION

Resource consent RMA-1999-362755 (formerly RMA-990141) was obtained in 1999 to establish a car park on 107 Wray Street to supplement parking for the Little Sisters of the Poor rest home at 295 Brockville Road. The car parking was not a Council requirement and came about purely at the property owner's discretion. As it happened, there was a low level of use of the car park, and the Council accepted the surrender of the consent on 16 October 2018.

As part of resource consent RMA-1999-362755 the Council had required a covenant on the title for 107 Wray Street so that the parking would be associated with the rest home activity. This covenant was not established but the titles were held together by a Building Act restriction which was put in place to cover an expansion that did not progress. A request was made to remove this title restriction, and the titles are no longer held together.

Resource consents SUB-2018-147 and LUC-2018-757 were then issued on 1 March 2019 for the subdivision of the car park site into 13 residential lots, and earthworks to level the sites and form the accessway. To date, the subdivision has not proceeded as far as s223 or s224(c) certification.

DESCRIPTION OF ACTIVITY

The applicant has negotiated with the neighbour at 8 Saunders Street to buy a portion of their back yard. This allows the subdivision to be redesigned so as to bring the shared access into the development in a different location and to increase the number of residential lots by two. The subdivision is to be staged, with Stage 1 being in effect a boundary adjustment between the two subject sites, and Stage 2 being the subdivision to create 15 residential lots.

The subject sites are:

- 107 Wray Street, being the land legally described as Section 187 Wakari Survey District, held in Record of Title OT9A/958, and having an area of 7439m². The site has frontage to Wray Street at its north-eastern end, and 3.0m of frontage to Saunders Street via a leg-in at its southwest corner. The site is gently sloping downwards from north to south and much of it is hard surfaced for parking purposes. Recent earthworks have cleared vegetation from embankments on the upper and lower edges of the hard surfacing, and have installed some drainage along the lower boundary.
- 8 Saunders Street, being the land legally described as Lot 357 Deposited Plan 11118, held in Record of Title OT5B/592, and having an area of 784m². The property is a residential property with a dwelling and formed access to Saunders Street.

Stage 1 will subdivide both subject sites so as to create two lots. Proposed Lot 1 will have an area of 663m² and will contain the house of 8 Saunders Street. Access will continue as at present. Proposed Lot 2 will be a vacant site of 7561m².

Stage 2 will subdivide proposed Lot 2 of Stage 1 into 15 residential lots ranging in size from 357m² to 744m². A shared access is to be constructed along the boundary next to 4 and 8 Wray Street and into the centre of Lot 2. Rights of way will be created over the shared access through Lots 1 to 5, 15, and 7 to 9. The

carriageway will be 6.0m wide (including a 0.8m wide drivable footpath), and Lots 1 to 5 will also accommodate a 2.3m wide parking strip along their southeast boundaries.

The proposal includes earthworks at Stage 2 to provide level building platforms in each lot and to construct the shared access. The predicted cut will be 7100m³ and the predicted fill, 2300m³. The excess 4800m² of material will be transported to an approved clean fill site.

The earthworks will involve the construction of retaining walls. The plan submitted with the application showing the retaining walls relates to the subdivision of SUB-2018-147 and is no longer correct. A revised plan showing retaining walls has been submitted to Council on 3 March 2020. The proposed cut/fill plan (sheet 5 of 5) provides a better indication of the location and height of proposed retaining walls. There will be retaining walls next to the rest home (through Lots 12 to 15), 46, 48, 50 and 52 Saunders Road (Lots 10 to 12), and along the south-eastern corner next to 7, 8, 9 and 11 Domigan Street and 10 and 12 Saunders Street (Lots 6 to 10). The retaining wall previously shown as being along the rest home boundary of Lots 1 to 5 is now further from the boundary and will have a batter slope on top up to the boundary. The northeast boundary and driveway edge of Lot 15 through to Lot 14 will also have a retaining wall.

Unsupported batters are to be at a gradient of 1:1.5. The application states that the maximum change in ground level will be 'a little over' 3.0m, with the majority of the earthworks being less than 1.0m in depth. The earthworks cut/fill plan however, indicates that up to 4.0m of fill will be placed within Lot 6. The maximum height of retaining walls will be 3.0m, and they will be subject to surcharge arising from the gradient of the existing ground beyond the site's boundaries.

Earthworks around the edges of the site have already been commenced, and there is an element of retrospective consenting to this application.

REASONS FOR APPLICATION

Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the "Operative District Plan"), and the Proposed Second Generation Dunedin City District Plan (the "Proposed Plan"). Until the Proposed Plan is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.

The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

The Proposed Plan was notified on 26 September 2015, and some Proposed Plan rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.

In this case, the application was lodged on 12 February 2020 when the Proposed Plan rules were already in effect. The relevant zone and rules of the Proposed Plan are mostly beyond challenge. Accordingly, the relevant rules of the Operative District Plan are considered to have been superseded, or where a Proposed Plan rule has been appealed (e.g. Rule 15.7.6.2), there is no equivalent rule in the Operative District Plan to consider.

Operative District Plan

The relevant rules of the Proposed Plan for this zone and site have not been appealed and so the subdivision rules of the Operative Plan have been superseded. They do not need to be considered as part of this subdivision application.

Proposed Plan

The subject sites are zoned **General Residential 1**.

Rule 15.3.5.2 lists general subdivision as being a restricted discretionary activity in the residential zones subject to performance standards. The proposed subdivision will fail to comply with the following:

- Rule 15.7.4.1(a) specifies that minimum site size for the General Residential 1 zone is 500m². Lots 2 to 5 will be smaller than 500m².

Rule 15.7.4.2 specifies that subdivisions which contravene the minimum site size rule are non-complying activities except where the new lots are not less than 75% of minimum site size and the average of all lots complies; the subdivision will not result in any lot large enough to be subdivided further while meeting minimum site size requirements; and all undersized lots can accommodate a building platform measuring at least 7m by 10m. The proposed subdivision will meet these requirements and is therefore a **restricted discretionary** subdivision pursuant to Rule 15.7.4.2.

Land Use

Under the Proposed Plan, land use activities have both a land use activity and a development activity component.

Land Use Activity

Rule 15.3.3.3 lists standard residential activity as being a permitted activity for the General Residential 1 zone subject to compliance with the performance standards. While proposed Lots 2 to 5 will be undersized, Rule 15.5.2.2(k) allows a single residential unit to be built on an existing site of any size as a permitted activity provided all other performance standards are met.

Based on the information currently at hand, the future residential activity of Lots 1 to 15 is a **permitted** activity.

Development Activity

Rule 15.3.4.5 lists new buildings smaller than 300m² as being a permitted activity for this zone subject to the performance standards. There are no building proposals for the lots as part of this consent.

In regards to earthworks for this project, Rule 8A.3.2.2 lists earthworks – small scale as being a permitted activity subject to compliance with the performance standards.

Rule 8A.5.1.1 lists those circumstances where earthworks are always considered to be earthworks – small scale. The proposed earthworks do not fit into any of the listed categories.

Rule 8A.5.1.3(a)(i) specifies a maximum change in ground level for residential zones as 1.5m. The change in ground level of the earthworks will be approximately 3.0m cut and up to 4.0m of fill, therefore contravening this rule by approximately 1.5m to 2.5m.

Rule 8A.5.1.5(a)(i) specifies the maximum volume of earthworks permitted according to slopes of the site. The subject site will have slopes of less than 12° where earthworks at a scale of 30m³ per 100m² of site area are permitted (being a total of 2250m³ for this site). The applicant has calculated the earthworks as totalling 9400m³. Therefore, the earthworks will contravene the volume threshold for small scale earthworks.

Rule 8A.5.1.2(a) directs that earthworks exceeding the scale thresholds are considered to be earthworks – large scale which, pursuant to Rule 8A.3.2.3 is a **restricted discretionary** activity.

The earthworks will fail to comply with the following:

- Rule 8A.5.3.1 specifies a maximum fill batter gradient of 2H:1V. The fill batters will be up to 1.5H:1V, therefore contravening the maximum batter gradient.

Earthworks which contravene this rule are considered to be a **restricted discretionary** activity.

- Rule 8A.5.4.1 specifies that earthworks over 600mm in height or depth must be set back from property boundaries and foundations of buildings by specific amounts. Earthworks supported by retaining walls supporting cut or fill must be set back a distance at least equal to the height of the retaining walls except that retaining walls supporting cut are exempt from this rule.

There is no building consent or application for building consent currently lodged at Council. The retaining wall on the northern boundary will support cut and will range in height from 0.7m to 2.6m. The retaining wall near the southern and eastern boundaries (i.e. around the southeast corner of the site) will support fill ranging in height from 0.0m to 3.0m.

Rule 8A.5.4.2 specifies that earthworks which contravene this performance standard are **restricted discretionary** activities.

- Rule 8A.5.6 requires earthworks to comply with Rule 5.6.2 which requires earthworks to be setback at least 2.5m from any water mains and at least 1.5m from all other networks utility structures. Council has stormwater and wastewater mains in the southeast corner of proposed Lot 6. There will be fill placed over these drains.

Rule 5.6.2.2 specifies that earthworks which contravene this performance standard are a **restricted discretionary** activity.

Summary

Overall, the earthworks are considered to be a **restricted discretionary** activity.

National Environmental Standards

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 came into effect on 1 January 2012. The National Environmental Standard applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the soil contamination NES and/or might require resource consent.

The applicant's agent had a search of Council's records undertaken (HAIL-2018-152) at the time of SUB-2018-147. No evidence of HAIL activities occurring on-site was found within Council records. The applicant's agent wrote a summary of information reviewed and advised:

'We have reviewed retrievable information from a number of sources and have found no evidence of activities or industries on the site that would potentially have led to contamination of the site.'

The situation on-site is unlikely to have changed since HAIL-2018-152 and SUB-2018-147. Accordingly, the NES is not considered to be relevant to this application. There are no other National Environmental Standards relevant to this application.

Overall Status

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

In this case, the proposal is for separate, unlinked activities that do not overlap. As a result, each component has its own activity status, and must be considered separately in terms of the notification decision and also in terms of the substantive decision on whether consent should be granted.

The activity status of the subdivision is determined by the Proposed Plan and is considered to be a **restricted discretionary** activity. The land use is determined by the Proposed Plan, and is also considered to be a **restricted discretionary** activity.

WRITTEN APPROVALS AND EFFECTS ASSESSMENT

Affected Persons

The written approval of the persons detailed in the table below has been obtained. In accordance with sections 95D(e) and 104(3)(a)(ii) of the Resource Management Act 1991, the Council cannot have regard to the effects of the activity on these persons.

Person	Owner	Occupier	Address	Obtained
Kenneth Douglas Dennison Family Trust	✓	✓	48 Saunders Street	18 December 2019
Manea Tekii	✓	✓	50 Saunders Street	21 January 2020
Craig Peter Marshall	✓		52 Saunders Street	17 January 2020
Geert Roelof De Vries & Evelyn May De Vries	✓	✓	7 Domigan Street	16 January 2020
Ailsa Marlene Pitcher	✓	✓	8 Domigan Street	11 September 2019
Mary Jane Caragay & Ronald Caragay	✓		9 Domigan Street	31 August 2019
Jang Shik Yoo & Jung Ran Yoo	✓	✓	11 Domigan Street	31 August 2019
Donna Maree Thomson	✓	✓	12 Saunders Street	31 August 2019
Tane Alistair Francis Gray	✓	✓	10 Saunders Street	11 September 2019
Graham Alfred Robson			46 Saunders Street	16 January 2020
Little Sisters of the Poor (NZ) Trust Board	✓	✓	295 Brockville Road	11 November 2019

The above are all the immediately adjacent neighbours except for those of 4 and 8 Saunders Street. These properties are not considered to be affected parties as there are no retaining walls being constructed next to these properties and no contraventions of the setbacks or batter gradients anticipated within proximity to their boundaries. Furthermore, the property of 8 Saunders Street is part of the application and should the property owners be unhappy with the proposal, they need not participate meaning that the consent cannot be given effect to.

No other persons are considered to be adversely affected by this proposal.

Effects on the Environment

Permitted Baseline

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

This is the permitted baseline. Neither the District Plan nor the Proposed Plan allows any subdivision to occur as of right. All subdivisions are either restricted discretionary activities where the proposal meets all District Plan requirements or non-complying activities where the proposal does not. Council rarely declines consent for proposals that create new sites meeting the minimum lot size, access, servicing and other requirements of the District Plan. In such cases, the subdivision consent is a means of ensuring to Council's satisfaction that all necessary subdivision matters, e.g. infrastructure, are adequately addressed, and is not an indication that the proposal is deficient in some way.

Residential activity is a permitted activity at a density of not less than 500m² per residential unit or on an existing site of any size. The construction of residential buildings smaller than 300m² in footprint are also permitted activities.

A certain volume of earthworks are permitted activities depending on the area of the subject site. Up to 1.5m change in ground level is also permitted provided setbacks from boundaries and batter gradients are compliant.

It is considered that this is the appropriate baseline against which the activity should be considered. As a result, it is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements for consideration.

Receiving Environment

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

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

For the subject site, the existing and reasonably foreseeable receiving environment comprises a hard surfaced car parking area suitable for residential development.

For adjacent land, the existing and reasonably foreseeable receiving environment comprises medium-density residential activity to the east, south and west of the subject site. To the north is a well-established rest home.

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

Assessment Matters/Rules

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

1. Lot Size and Dimensions and Physical Limitations (Operative Plan 18.6.1(q) & 18.6.1(k); Proposed Plan 15.11.4.1)

Stage 1 of the subdivision is, in effect, a boundary adjustment between 8 Saunders Street and 107 Wray Street for the purpose of transferring approximately 122m² from one property to the other. The residential property of 8 Saunders Street will reduce in size from 784m² to 663m², and 107 Wray Street will increase from 7439m² to 7561m². Both new sites will meet minimum site size and will have adequate legal and physical access.

Stage 2 will subdivide Lot 2 Stage 1 into 15 residential lots ranging in size from 375m² to 744m². While four of the lots are undersized, none are smaller than 75% of minimum site size and the overall density of development is compliant with an average lot size of 504m². The undersized sites are therefore acceptable, and all can contain a building platform measuring 7.0m by 10.0m.

The shared access will come in from Wray Street and pass over Lots 1 to 5, 15, and 7 to 9. Rights of way will be created to ensure all lots have legal and physical access.

Lots 1 to 15 will be of practicable size and shape to accommodate a new residential dwelling. There are no known geotechnical issues affecting this land which are expected to compromise the building potential of the sites. Accordingly, there is no expectation that the proposed subdivision will create any site having physical limitations rendering it unsuitable for future use.

2. Easements (Operative Plan 18.6.1(i))

There are no existing easements registered on the title of either subject site. A building line restriction on the title of 8 Saunders Street will have no implications for the subdivision and will carry down onto proposed Lot 1 at the time of subdivision.

There are no new easements required at Stage 1.

At Stage 2, a series of rights of way will be created over the shared access in order to ensure that all 15 residential lots have legal access. These are shown on the application plan as A to I. In fact, these cover an area of driveway formation which is intended for parking. As vehicles are not permitted to park on a right of way, the extent of Rights of Way A to I will need to be narrowed to 6.0m, and parking easements created instead over the parking areas.

Sheet 3 of 5 shows water, stormwater and wastewater pipes laid within the shared driveway. These will require an easement in gross in favour of the Council as will the existing Council-owned pipes within Lots 6 and 10. Private easements can be created as necessary.

3. Infrastructure (Operative Plan 18.6.2(d), (e), (i), (j), (n), (o), & (p); Proposed Plan 15.10.5.5)

The Development Support Officer, Three Waters, has considered the application. A review of Council's GIS records indicates that there is a 150mm diameter water supply pipe, a 150mm diameter wastewater pipe and a 225mm diameter stormwater pipe in Wray Street. There is also a Council-owned 150mm diameter wastewater pipe and 150mm diameter stormwater pipe which intersect the narrow section on the west side of the development site, as well as a Council-owned 150mm diameter wastewater pipe and 150mm diameter stormwater pipe which commences at the south-eastern edge of the development site.

Infrastructure requirements

Dunedin Code of Subdivision & Development 2010

All aspects of this development shall be undertaken in accordance with the requirements of the Dunedin Code of Subdivision and Development 2010.

Water services

The Dunedin City Council Water Bylaw 2011 sets out the requirements for connections to the water supply network.

Each lot must be serviced from an individual Point of Supply. For a new water connection or any change to an existing water connection, an "Application for Water Supply" is required. The Proposed Plan Rule 9.3.7 requires that all services be laid at least 600mm into resultant sites. Therefore, when the connections are established, the water supply pipe must be laid at least 600mm into the lots.

Firefighting requirements

All aspects relating to the availability of water for firefighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies. Three Waters notes that there is no fire hydrant within 135m of Lot 11 (the furthest entrance). Based on SNZ PAS 4509:2008 a FW2 (25l/s) zone requires a fire hydrant within 135 m and a second within 270 m. The applicant proposes to install a fire hydrant within the property; therefore, the development will be compliant with the requirements for fire hydrants.

Stormwater services

Three Waters advises that, in order to allow adequate pervious area for natural stormwater drainage, the maximum site coverage specified in the District Plan must be complied with when the sites are developed or redeveloped. Please note that there are new site coverage rules in the Proposed Plan for both building coverage and maximum site imperviousness, and any contravention of these rules will require additional resource consent. It should be noted that a shared driveway (i.e. the rights of way) is considered to be part of the calculation for impermeable surfacing within a lot but will be excluded from any calculation of site coverage (Rule 15.6.10.2).

There are stormwater and wastewater issues in the wider catchment area. This development will aggravate these known issues. Additionally, due to an increase in imperviousness of the site, a Stormwater Management Plan (SWMP) will be required.

It is to be noted that in some circumstances, post-development flows may need to be reduced to be as little as 80% of pre-development flows. The SWMP must be submitted and accepted by Three Waters prior to any construction commencing.

Wastewater services

The Development Support Officer advises that there are stormwater and wastewater issues in the wider catchment area. Therefore, to reduce water consumption and the volume of wastewater generated, the developers of the new lots are encouraged to install water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers.

Engineering design

New infrastructure (to be vested in Council) is proposed to service the subdivision. The consent holder will be required to provide detailed engineering design (plans, long-sections and calculations) for the proposed new water, wastewater, and stormwater infrastructure, to the Dunedin City Council well prior to any works commencing on site. The engineering plans and associated calculations must meet the requirements of the *Construction Plan Check List*, the Dunedin Code of Subdivision and Development 2010 and the NZS4404:2004 standard.

Construction and installation of infrastructure shall be undertaken in accordance with the approved engineering plans, the Dunedin Code of Subdivision and Development 2010 and NZS4404:2004 standard.

On completion of construction of the servicing infrastructure, as-built plans shall be submitted to the Dunedin City Council, for approval. The as-built plans shall be accompanied by a quality assurance report.

DCC Infrastructure

There is a Council-owned 150mm diameter wastewater pipe and 150mm diameter stormwater pipe which crosses the leg-in to proposed Lot 10, as well as Council-owned 150mm diameter wastewater and 150mm diameter stormwater pipes which commence at the south-eastern edge of the development site. Easements in gross are required over these pipes.

Any earthworks or construction on this lot must meet the requirements of the Dunedin Code of Subdivision and Development (2010) in relation to building in close proximity to Council infrastructure, unless otherwise approved by Three Waters. The Code prohibits any building within 1.5m of a wastewater pipeline. If any building is proposed within 2.5m of a pipe or manhole, Three Waters must be notified to discuss options and whether an encumbrance on the title is required. 'Building' includes decks, fences, garages, sheds, retaining walls and so on.

Easements

Service easements are required where any private water supply pipes or wastewater/stormwater laterals cross property boundaries in favour of the property they service.

An easement in gross in favour of the Dunedin City Council is required over any proposed or existing Council owned services located within private property. The easements must be made in accordance with the relevant section of the Dunedin Code of Subdivision and Development 2010.

Private Drainage

The Technical Support Officer, Seepage Control Unit, has reviewed the proposal in respect of stormwater and wastewater drainage. He advises that Lots 1 to 14 are to discharge to Council services. Council-owned foul and stormwater sewer are available in proposed Lots 6 and 10 and in Wray Street. The proposed drainage plans will be assessed at the time of building consent.

4. Transportation (Operative Plan 18.6.1(c); Proposed Plan 15.11.2.1(b))

Council's Graduate Planner – Transport has considered the application. He notes that Wray Street and Saunders Street are both classified as Local Roads in the Proposed Plan roading classification hierarchy.

Stage 1

Access

An existing bevel kerb vehicle crossing approximately 2.8m wide is currently used to access the residential activity of 8 Saunders Street from Saunders Street. This will not change after subdivision. A relatively steep concrete driveway leads from the vehicle crossing to an internal basement garage within the existing dwelling.

Proposed Lot 2 is currently accessed from its Wray Street frontage via an existing bevel kerb vehicle crossing that also serves the neighbouring rest home to the north at 295 Brockville Road, with a total width of approximately 14.5m. An unformed 3.0m wide leg in also serves as access to proposed Lot 2 from its frontage to Saunders Street. It is anticipated that the vehicle access to proposed Lot 2 will be altered during Stage 2 of the proposal; therefore, the existing access to proposed Lot 2 will only remain for a limited period of time.

The applicant is advised that a portion of the existing vehicle crossing on the Wray Street frontage of proposed Lot 2 will become redundant once proposed Lot 2 is subdivided; therefore, it must be

reinstated to footpath, kerb and channel at the applicant's cost. A consent condition is recommended to this effect.

Parking and Manoeuvring:

On-site parking for at least two vehicles is available on proposed Lot 1 using the identified internal garage in combination with the area in front of the garage on the driveway. This is an existing situation and is considered acceptable under Rule 15.5.8.2. Manoeuvring space is not available on-site, but the reversing of vehicles onto or off the road is permitted as Saunders Street is classified as a Local Road.

Proposed Lot 2 has been utilised as a carpark for the neighbouring rest home until recently. Under Stage 2 of this proposal, proposed Lot 2 will be subject to site-wide earthworks; therefore, the current arrangement on-site will be disestablished. Assessment of the parking and manoeuvring on proposed Lot 2 is not considered necessary for Stage 1.

Stage 2

Access

Following Stage 1, new Lot 2 will retain its existing frontage to both Wray Street and Saunders Street. The proposed subdivision of Lot 2 into 15 new residential lots will see proposed Lot 1 comprising 32.4m of frontage to Wray Street, while proposed Lot 10 will have 3.0m of frontage to Saunders Street. All other proposed lots will be rear lots accessed via rights of way A to I over the proposed private cul-de-sac access.

The proposed right of way access and vehicle crossing will connect to Wray Street at the south-eastern corner of proposed Lot 1, approximately 12.0m from the intersection of Wray Street and Saunders Street to the south-east. This location complies with the requirement of Rule 6.6.3.4(a)(iii)(3) and therefore does not require assessment.

Transport notes the presence of an existing utility pole adjacent to the location of the proposed right of way access and advises that the applicant should liaise with the utility operator to arrange for the relocation of this pole if required. All work in road reserve will require a Corridor Access Request (CAR) to be applied for and approved before work commences. The vehicle crossing serving the right of way access must be formed to a width of 6.0m, hard surfaced from the edge of the Wray Street carriageway to the property boundary and be adequately drained. Given the number of allotments to be served by the vehicle crossing, Transport considers that the vehicle crossing must be constructed to Council's Industrial Specification for Vehicle Entrances.

A total of 15 residential units will be served by the proposed right of way access, three more than the maximum 12 units recommended to be accessed by a private access in the Dunedin Code of Subdivision and Development 2010. Consequently, more vehicle movements within the access are anticipated than typically expected within a private access, which may have implications for maintenance of the right of way surface as well as pedestrian safety. Notwithstanding this, the applicant proposes to provide a footpath on one side of the right of way formation, which is considered likely to mitigate any pedestrian safety issues that may result from the increased number of units accessed from the private access.

The applicant states that the right of way access will have a legal width of 6.5m and a formed width of 6.0m. The 0.8m wide footpath discussed above will be incorporated into the overall formed width of 6.0m, giving the carriageway a width of 5.2m, suitable for vehicles to pass while travelling in opposite directions. Rights of Way A to F over Lots 1 to 5 will incorporate a 2.3m wide by 60.0m long parking bay in their formation, giving an overall formed width of 8.3m in this location. Schedule 5 of the Property Law Act 2007 does not allow vehicles to park on a right of way, so parking easements will need to be created clear of the rights of way. Given the unusual typical cross section proposed

for the right of way access, Transport considers that detailed design plans for the vehicle access must be submitted to and approved by DCC Transport prior to works commencing.

Due to the gradient of the site near Wray Street, the applicant is advised that the first 5.0m of the right of way from the boundary of proposed Lot 1 into the site must have a gradient no greater than 1 in 8, in accordance with Rule 6.6.3.7(b). The applicant states that the cul-de-sac will be designed and constructed to a standard that permits a rubbish truck to carry out refuse collection. For these reasons also, Transport considers it appropriate to request that detailed design plans be submitted for approval by Transport prior to construction commencing. Transport advises that the vehicle access over Rights of Way A to I must be formed to a minimum 6.0m wide, comprising a 0.8m wide footpath, and be adequately drained and hard surfaced for its full duration.

Maintenance of all private accesses is the responsibility of their respective owners and users. The applicant is advised that Schedule 5 of the Property Law Act 2007 requires owners and users of right of way formations to establish and maintain private accesses to an appropriate standard. A formal agreement should therefore be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.

The DCC Road Naming Policy specifies that any new right of way access providing primary access and addressing to more than five lots must be named. The applicant must therefore submit a name for the proposed right of way access to Transport for approval. Section 4 of the Road Naming Policy provides criteria to assist in the selection of a suitable name for submission.

On the above basis, Transport considers that the proposed access to this 15-lot subdivision is unlikely to adversely impact the safe and efficient operation of the transport network. Transport considers the access component of this application to be acceptable, subject to recommended conditions and advice notes.

Parking and Manoeuvring:

The proposed residential lots are to be developed as residential properties; however, no site-specific plans have been provided as part of this application. Transport considers that a compliant parking and manoeuvring arrangement could be established on each proposed lot as required. The applicant is advised that Transport will assess the parking and manoeuvring provisions of any future development on the proposed lots at the time of resource consent or building consent application.

Generated Traffic:

The applicant states that a maximum of 4,800m³ of excavated material is to be removed from the site during the earthworks phase of the project, and will be deposited at a consented hard fill site. No details of the types of trucks to be used for this work, or the number of vehicle movements generated, have been provided. Due to the potential for loose material associated with the work to migrate into the legal road corridor, the applicant is advised to take all practicable measures to prevent material of any sort from being tracked from the subject site into the legal road corridor.

Heavy vehicles associated with the earthworks to be undertaken on-site create the potential to cause damage to public roading assets. Any damage caused to any part of the footpath or road formation as a result of the demolition or construction works must be reinstated to the satisfaction of Transport at the applicant's cost. Finally, should the normal operating conditions of the transport network be affected as a result of the work on-site, a Traffic Management Plan prepared by a suitably qualified person should be submitted to and approved by Transport prior to excavation and construction works commencing onsite.

Overall it is considered that the effects of the proposal on the transportation network will be less than minor, subject to the recommended consent conditions.

Conclusion:

Transport considers the effects of the proposed development on the transportation network to be less than minor, subject to the following conditions and advice notes consistent with the above.

5. Hazards (Operative Plan 18.6.1(t); Proposed Plan 15.11.4.1(b))

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

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

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

Council's Consulting Engineer, Stantec, has assessed the application in relation to the Hazards Register, street files and available aerial photography. There are no hazards shown on the Hazards Register for this site or adjacent properties.

The underlying geology consists of second eruptive phase volcanic material and is typically sloping by less than 12°.

Stantec recommends that the application not be declined on the grounds of known natural hazards. There are some minor potential instabilities of concern in the proposal do to with proposed batter slopes, and these should be designed and certified by a suitably qualified professional. The proposal will not create or exacerbate instabilities on this or adjacent properties.

6. Earthworks (Operative Plan 17.8; Proposed Plan 8A.6 & 8A.7.2)

Earthworks will be undertaken as part of the Stage 2 site works to establish more level building platforms on each site and to construct the shared access. There will be retaining walls around most of the exterior boundaries of the subject site, and along the driveway edge of Lot 14 and/or 15 and the northeast boundary of Lot 15. Another retaining wall will be constructed within Lots 1 to 5 parallel with, but approximately 4.0m from, their northwest boundary. The earthworks will involve 7100m³ of cut and 2300m³ of fill, with 4800m² of excavated material to leave the site. Maximum fill will be between 3.0m and 4.0m at the southeast corner of Lot 6. Maximum cut will be up to 3.6m along the proposed retaining wall of Lots 1 to 5.

Earthworks – large scale: Effects on visual amenity (8A.7.2.1(a))

The subject site is a rear site and not clearly visible from the wider area. Therefore, any adverse effects on visual amenity will be largely confined to the immediate neighbours. The site has already been cleared of vegetation, and the embankments above and below the hard-surfaced parking area are already exposed dirt. Any adverse visual effects are therefore already present, although the construction of retaining walls on boundaries might have greater effects. Those neighbours next to proposed retaining walls have given consent to construct retaining walls and fences along their boundary, and accordingly, pursuant to section 104(3)(a)(ii), Council must not have regard to any effects on these persons.

Earthworks – large scale: Effects on amenity of surrounding properties (8A.7.2.1(b))

The subject site is surrounded by residential activities and the works are expected to have some impact on the immediate neighbours due to potential noise, vibration and dust effects. These can be mitigated by appropriate management of the works.

Any adverse noise, dust and/or vibration effects are a result of the construction works needed for the subdivision of the site into residential properties. Rule 4.5.4.1 of the Proposed Plan deals with construction noise within the residential zones, and specifies acceptable hours of works and volumes. It also addresses vibration from construction by setting performance standards. These are designed to minimise adverse effects on neighbours, and the applicant must comply with these requirements during the earthworks phase or obtain further resource consent. Dust will be minimised by appropriate management by the construction workers.

The construction of retaining walls, particularly those retaining fill along the boundaries of Lots 6 to 10, have the potential to affect the amenity of surrounding residential properties because of the construction of large structures on or near the boundaries. In this case, all the neighbours have provided affected party approval for the construction of the retaining walls with a fence on top, and as such, pursuant to section 104(3)(a)(ii), Council must not have regard to any effects on these persons.

Earthworks – large scale: Effects on the stability of land, buildings and structures (8A.7.2.1(c)).

Council's Consulting Engineer, Stantec, has considered the proposed earthworks, noting that the earthworks are large scale and involve significant cut and fill quantities. Regarding the stability of other properties, the Consulting Engineer notes that the proposed activity includes significant earthworks on a contained property with other land and dwellings relatively close to the proposed works. Stantec advises:

- *Temporary stability may be a concern on this project, and remains the responsibility of the developer.*
- *No earthworks may be undertaken until building consent has been granted.*
- *The works are close to the boundary, and the planner may wish to consider whether the neighbour is affected by the proposal.*
- *Prior to undertaking the work, a professional must assess the potential for instability on adjacent properties, as a result of the works.*
- *All temporary slopes shall be inspected and signed off by a suitably qualified individual.*
- *The excavations slopes shall be supported within 1 month of commencing the earthworks.*

Stantec recommends the following conditions:

- *All walls retaining over 1.5m, or supporting a surcharge/slope, including terracing, require design, specification and supervision by appropriately qualified person/s*
- *Where the long-term stability of other's land or structures may rely upon the continued stability of retaining works, the designer must confirm that the retaining structure can be safely demolished following a complete design life without creating hazards for neighbouring properties.*
- *Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development*
- *Slopes may not be cut steeper than 1:1 (45°) or two metres high without specific engineering design and construction.*
- *Slopes may not be filled steeper than 2h:1v (27°) or two metres high without specific engineering design and construction.*
- *As-built records of the final extent and thickness of any un-engineered fill should be recorded.*

- Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.
- Any earthworks breaching earthworks thresholds should be subject to engineering design confirming the proposed works are stable and will not introduce instability on the lot or adjacent lots.

Batter gradient (8A.6.3.1).

The Consulting Engineer notes that the batter slopes will be steeper than typically accepted guidance. The application acknowledges this and suggests close supervision of compaction of the batters. Stantec recommends requiring input from a geotechnical specialist prior to construction and that the supervising geotechnical professional be prepared to sign off the slopes as being suitably stable. The engineer may require an engineered solution or scour protection or some form of protection of the surficial material before approving batter slopes as proposed in the application. Batter slopes of greater than 2m high or steeper than 1:2 should be designed and certified by a suitably qualified professional.

Setback from property boundary, buildings and structures (8A.6.3.2).

The proposed retaining walls and batters will not comply with the required setbacks from property boundaries. It is noted that in the case of the retaining walls supporting cut there is no setback requirement provided there is a building consent for the retaining walls. This would apply to the setbacks along the rear boundaries of Lots 10 to 15 except that there is no existing building consent for the retaining walls. However, it will be a requirement to have a building consent for the walls prior to their construction, effectively meeting the intent of this rule at the time the walls are constructed. Likewise for the retaining walls supporting cut through Lots 1 to 5, although it is possible that these walls will comply with the setback requirement in any case.

The retaining walls supporting fill along the boundaries of Lots 6 to 10 will not meet the boundary setbacks, and there is no exemption given for walls having building consent. In this case, the neighbours have all given affected party approval to the walls, and the Council need not consider the effects of the setback contravention in relation to these parties.

Setback from network utilities (8A.6.3.8).

Council has stormwater and foul sewer mains in two locations on-site. A pair of pipes pass under the leg-in of proposed Lot 10, and there is another pair of pipes in the corner of Lot 1. The applicant proposed earthworks within 2.5m of the Council pipes. This is particularly relevant for the pipes in Lot 6 which will be under a new retaining wall and up to 4.0m of fill. Three Waters advises that the applicant will be required to provide site plans and cross-sections shown the proximity of subdivision works to the Council-owned pipes. The plans and cross-sections must be approved prior to any works commencing.

Because the proposed works are within 2.5m of a Council-owned pipe, CCTV filming is required before and after any works to get the accurate location of the pipes and to ensure that no damage takes place during construction. The filming can be undertaken through Intergroup. Intergroup will need to liaise with the Three Waters Network Contracts Engineer. Any damage to the pipe during the earthworks and/or the construction process will need to be addressed at the developer's cost.

7. Amenity Values and Character (Operative Plan 8.13.5; Proposed Plan 15.11.4.1(a))

One means by which the Proposed Plan maintains the amenity values of an area is through the density provisions of the Plan. In this case, minimum site size is 500m² and one dwelling per 500m² of site area is permitted. While not all lots will meet minimum site size, the overall density will be compliant at one residential property per 500m², and the Proposed Plan allows such a subdivision to proceed as a restricted discretionary activity. Once the undersized sites are created, the Proposed

Plan allows their development as a permitted activity subject to compliance with the performance standards. Accordingly, the proposed residential development is consistent with the expectations of the Proposed Plan and will therefore meet the amenity values of the zone and residential area.

The retaining walls and batters of proposed Lots 6 to 9 will elevate the building platforms of Lots 5 to 6 some distance above their southern boundary which is shared with the Domigan Street neighbours. It needs to be realised that, when it comes to developing Lots 6 to 9, the calculation of height in relation to boundary is taken from the original ground level at the boundary. This will mean that any dwelling on these new lots will need to be built some distance from the boundary in order to comply, or further resource consent might be required. If so, it is likely that the immediately adjacent neighbour will be considered an affected party.

NOTIFICATION ASSESSMENT

Public Notification

Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification. Each step is considered in turn below.

Step 1: Mandatory public notification in certain circumstances

- Public notification has not been requested.
- There has been no failure or refusal to provide further information.
- There has been no failure to respond or refusal to a report commissioning request.
- The application does not involve the exchange of recreation reserve land.

Step 2: If not required by Step 1, public notification precluded in certain circumstances

- There are no rules or national environmental standards precluding public notification.
- The application is for the following, but no other, activities: a restricted discretionary or discretionary subdivision. As a result, public notification is precluded under Step 2.

Step 3: If not precluded by Step 2, public notification required in certain circumstances

- Step 3 does not apply because public notification is precluded under Step 2.

Step 4: Public notification in special circumstances

- There are no special circumstances that warrant the application being publicly notified. There is nothing exceptional or unusual about the application that makes public notification desirable.

Limited Notification

Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. Each step is considered in turn below.

Step 1: Certain affected groups and affected persons must be notified

- The activity is not in a protected customary rights area; the activity is not an accommodated activity in a customary marine title area; and, the activity is not on or adjacent to, or might affect, land that is the subject of a statutory acknowledgement.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- There are no rules or national environmental standards precluding limited notification.

- The application does not involve: a controlled activity; nor an activity prescribed in regulations as being precluded from limited notification.

Step 3: If not precluded by Step 2, certain other affected persons must be notified

- The application does not involve: a boundary activity; nor, an activity prescribed in regulations that prescribe who is an affected person.
- There are no persons where the activity's adverse effects on the person are minor or more than minor.

Step 4: Further notification in special circumstances

- There are no special circumstances that warrant the application being limited notified. There is nothing exceptional or unusual about the application that makes limited notification to any other persons desirable.

SUBSTANTIVE DECISION ASSESSMENT

Effects

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

Offsetting or Compensation Measures

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

Objectives and Policies

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

Operative District Plan

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

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)**
These seek to enhance and maintain the amenity values of the Dunedin area.
- **Objective 8.2.1 and Policy 8.3.1 (Residential Section)**
These seek to ensure that the adverse effects on the amenity values and character of residential areas are avoided remedied or mitigated.
- **Objective 17.2.3 and Policy 17.3.9 (Earthworks Section)**
These seek to control the location and scale of earthworks and to ensure that earthworks are undertaken in a manner that is safe and in a manner that minimises adverse effects on the environment.
- **Objective 18.2.1 and Policy 18.3.1 (Subdivision Section)**
These seek to ensure that subdivision activity takes place in a coordinated and sustainable manner.
- **Objective 18.2.2 and Policy 18.3.5 (Subdivision Section)**
These seek to ensure that physical limitations are identified and taken into account at the time of subdivision activity.
- **Objective 18.2.7, Policy 18.3.7 and Policy 18.3.8 (Subdivision Section)**
These seek to ensure that provision is made at the time of subdivision activity for appropriate infrastructure, including management of associated effects.

- **Objective 20.2.2 and Policy 20.3.5 (Transportation Section)**

These seek to ensure that activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.

Proposed Plan

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

- **Objective 6.2.3 and Policies 6.2.3.3, 6.2.3.4 and 6.2.3.9 (Transportation Section)**
These seek to ensure that land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods.
- **Policy 8A.2.1.2 (Earthworks Section)**
Require earthworks and retaining structures to be designed, located and undertaken in a way that minimises as far as practicable adverse effects on surrounding sites and the wider area, including sediment run-off onto any property, or into any stormwater pipes, drains, channels or soakage pits.
- **Policy 8A.2.1.3 (Earthworks Section)**
Earthworks exceeding the scale thresholds are only allowed where avoiding or adequately mitigating adverse effects.
- **Objective 15.2.2 and Policy 15.2.2.1 (Residential Zones)**
These seek to ensure that residential activities, development, and subdivision activities provide high quality on-site amenity for residents.
- **Objective 15.2.3 and Policy 15.2.3.1 (Residential Zones)**
These seek to ensure that activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.
- **Objective 15.2.4 and Policy 15.2.4.2 (Residential Zones)**
These seek to ensure that subdivision activities and development maintain or enhance the amenity of the streetscape and reflect the current of intended future character of the neighbourhood.
- **Policy 11.2.1.13 (Hazards)**
This seeks to only allow subdivision where the risk from natural hazards, including any future development, will be avoided or no more than low.

Objectives and Policies Assessment

The provision of the Proposed Plan for this site and proposal are largely beyond challenge. Consequently, the objectives and policies of the Proposed Plan have been greater weight during this assessment. Nevertheless, the objectives and policies of both Plans support the granting of consent.

Other Matters

Having regard to section 104(1)(c) of the Resource Management Act 1991, no other matters are considered relevant.

Part 2

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

RECOMMENDATION

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

1. This application be processed on a non-notified basis, pursuant to sections 95A and 95B of the Resource Management Act 1991.
2. The Council grant consent to the proposed activity under delegated authority, in accordance with section 104C of the Resource Management Act 1991.



Lianne Darby
Planner

Date: 4 March 2020

DECISION

I have read both the notification assessment and substantive decision assessment in this report. I agree with both recommendations above. Under delegated authority on behalf of the Dunedin City Council, I accordingly approve the granting of resource consent to the proposal:

SUB-2020-15

*Pursuant to Part 2 and sections 34A(1), 104 and 104C of the Resource Management Act 1991, and the provisions of the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **restricted discretionary** activity being the staged subdivision of Section 187 Wakari Survey District (RT OT9A/958) and Lot 357 DP 11118 (RT OT5B/592) at 107 Wray Street and 8 Saunders Street, Dunedin, subject to the conditions imposed under sections 108 and 220 of the Act, as shown on the attached certificate.*

LUC-2020-64

*Pursuant to Part 2 and sections 34A(1), 104 and 104C of the Resource Management Act 1991, and the provisions of the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council grants consent to a **restricted discretionary** activity being the undertaking of subdivision earthworks and retaining walls on Lot 2 Stage 1 SUB-2020-15 at 107 Wray Street, Dunedin, subject to the conditions imposed under section 108 of the Act, as shown on the attached certificate.*



John Sule
Senior Planner

Date: 4 March 2020



Consent Type: Subdivision Consent

Consent Number: SUB-2020-15

Purpose: Staged subdivision

Location of Activity: 107 Wray Street and 8 Saunders Street, Dunedin.

Legal Description: Section 187 Wakari SD (RT OT9A/958) & Lot 357 DP 11118 (RT OT5B/592)

Lapse Date: 4 March 2025, unless the consent has been given effect to before this date.

Conditions:

Stage 1: Subdivision of Section 187 Wakari SD & Lot 357 DP 11118 into Lots 1 and 2:

1. *The proposed activity must be undertaken in general accordance with the Stage 1 Layout Plan prepared by Paterson Pitts Group entitled, 'Lots 1 & 2 being a Proposed Subdivision of Sec 187 Wakari SD & Lot 357 DP 11118,' attached to this certificate as Appendix One, and the information provided with the resource consent application SUB-2020-15, received at Council on 12 February 2020, except where modified by the following:*
2. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*
 - a) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.*

Stage 2: Subdivision of Lot 2 Stage 1 into Lots 1 to 15

3. *The proposed activity must be undertaken in general accordance with the Stage 2 Layout Plan prepared by Paterson Pitts Group entitled, 'Lots 1-15 being a Proposed Subdivision of Lot 2 DP (Stage 1),' attached to this certificate as Appendix One, and the information provided with the resource consent application SUB-2020-15, received at Council on 12 February 2020, except where modified by the following:*
4. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*
 - a) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.*
 - b) *An easement in gross in favour of the Dunedin City Council must be created over any proposed or existing Council-owned services located within private property. The easements must be made in accordance with the relevant section of the Dunedin Code of Subdivision and Development 2010.*

- c) *That Rights of Way A to I must be duly created or reserved in favour of all 15 lots, and must be shown on the survey plan in a Memorandum of Easements. The rights of way must have a minimum legal width of 6.0m.*
 - d) *That parking easements over Lots 1 to 5 in favour of all 15 lots must be created along the side of the rights of way, and must be shown on the survey plan in a Memorandum of Easements. The parking easements must be at least 2.3m wide.*
5. *Prior to works commencing, the subdivided must complete the following:*
- a) *A Stormwater Management Plan (SWMP) prepared by a suitably qualified person must be submitted to rcmonitoring@dcc.govt.nz for approval prior to works commencing. The SWMP must include:*
 - (i) Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow;*
 - (ii) An assessment of the current and proposed imperviousness of the site;*
 - (iii) Secondary flow paths*
 - (iv) Any watercourses located within the property;*
 - (v) Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and*
 - (vi) An assessment of the ability of the current network to accept any additional flow from the proposed development.*
 - b) *The consent holder must provided detailed engineering design (plans, long-sections and calculations) for the proposed new water, wastewater and stormwater infrastructure to rcmonitoring@dcc.govt.nz for approval prior to works commencing. The engineering plans and associated calculations must meet the requirements of the Construction Plan Check List, the Dunedin Code of Subdivision and Development 2010, and the NZS4404:2004 standard.*
 - c) *The consent holder must provide detailed design plans for the vehicle access over Rights of Way A to I to rcmonitoring@dcc.govt.nz for approval prior to works commencing.*
 - d) *The consent holder must submit a name for the shared access to Transport at rcmonitoring@dcc.govt.nz for approval. The name must comply with the provisions of the Council's Road Naming Policy.*
6. *Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the subdivider must complete the following:*
- Earthworks*
- a) *The earthworks must be undertaken in accordance with the conditions of LUC-2020-64.*
 - b) *During the earthworks period, the consent holder must adopt all practicable measures to mitigate erosion and to control and contain sediment-laden stormwater run-off to prevent it entering the Council's stormwater network or neighbouring properties during any stages of site disturbance associated with this development.*

Services

c) *Either:*

Stormwater management, including the installation of any detention tanks that might be required, must be undertaken in accordance with the approved Stormwater Management Plan of condition 5(a) above;

Or:

A consent notice must be prepared in consultation with Council's Subdivision Planner for registration on the titles of Lots 1 to 15 (or as appropriate) specifying the requirements for future development and on-going management of stormwater water in order to fulfil the requirements of the Stormwater Management Plan.

- d) *Construction and installation of infrastructure must be undertaken in accordance with the approved engineering plans of condition 5(b) above, the Dunedin Code of Subdivision and Development 2010 and the NZS4404:2004 standard.*
- e) *On completion of construction of the servicing infrastructure, as-built plans must be submitted to the Council at rcmonitoring@dcc.govt.nz for approval. The as-built plans must be accompanied by a quality assurance report.*
- f) *Each lot must have a separate water service connection installed. An "Application for Water Supply" must be submitted to the Council's Three Waters. Details of how each lot is to be served for water must be provided to Three Waters for approval. This detail can accompany the application for water supply.*
- g) *The water connections must be installed at least 600mm into each new lot.*
- h) *Each lot must have stormwater and wastewater laterals from Council infrastructure installed at least 600mm into the lot.*
- i) *The consent holder must confirm that all aspects relating to the availability of the water for fire-fighting are in compliance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless an alternative is approved by the New Zealand Fire Service. Details of any alternative approval must be provided to Dunedin City Council.*

Transport

- j) *The new vehicle crossing from Wray Street must be constructed to the following standards:*
 - *The vehicle crossing must be constructed in accordance with the Council's Industrial Specification for Vehicle Entrances.*
 - *It must be formed to 6.0m width, be hard surfaced from the edge of Wray Street to the property boundary, and be adequately drained.*
 - *The first 5.0m of the vehicle access from the roadside boundary of Lot 1 into the site must have a gradient of no greater than 1 in 8.*
- k) *That the driveway through Rights of Way A to I must be constructed in accordance with the approved design plans of condition 5(c) above.*

- l) That the driveway of Rights of Way A to I must be formed to a minimum width of 6.0m, be hard surfaced and adequately drained for its duration.*
- m) The parking bay over Lots 1 to 5 must be formed to a minimum width of 2.3m and be hard surfaced and adequately drained for its duration.*
- n) Any redundant vehicle crossing must be reinstated as footpath, kerb and channel to the satisfaction of DCC Transport at the consent holder's cost.*
- o) Any damage to any part of the footpath or road formation as a result of the demolition or construction works must be reinstated to the satisfaction of DCC Transport at the consent holder's cost.*

Advice Notes:

Transportation

1. It is recommended that the consent holder liaise with the utility operator of the power pole on Wray Street to arrange for the relocation of the pole adjacent to the new vehicle crossing on Wray Street, if required.
2. It is advised that the access, parking and on-site manoeuvring provision for Lots 1 to 15 will be assessed by Transport at the time of building consent or resource consent application for any new development or redevelopment.
3. It is recommended that a formal agreement be drawn up between the owners and users of the right of way in order to clarify their maintenance responsibilities.
4. Any work within the road reserve will require a Corridor Access Request, submitted to and approved by Council prior to work commencing.
5. The consent holder will require a Traffic Management Plan prepared by a suitably qualified person if the proposed works affect the normal operating conditions of the transport network. The Traffic Management Plan will need to be approved by Transport prior to any works commencing.
6. Any damage to any part of the footpath or road formation as a result of the works of this consent or any future development and associated vehicle movements will need to be reinstated to the satisfaction of DCC Transport, at the developer's cost.

Earthworks

7. Where there is a risk that sediment may enter a watercourse at any stage during the earthworks, it is advised that the Otago Regional Council be consulted before works commence, to determine if the discharge of sediment will enter any watercourse and what level of treatment and/or discharge permit, if any, may be required.
8. The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.

- Dunedin City Council “Silt and Sediment Control for Smaller Sites” (information brochure).
9. It is noted that the new lots will have new servicing infrastructure (to vest in Council) located within the lots. Any buildings constructed on these lots must meet the requirements of Section 5.5 of the Dunedin Code of Subdivision and Development 2010 in relation to building in close proximity to Council-owned infrastructure unless otherwise approved by the Three Waters Group.
 10. When undertaking earthworks on the new lots in the future, it is advised that:
 - Temporary stability may be a concern on this project and remains the responsibility of the developer.
 - Prior to undertaking the work, a professional must assess the potential for instability on adjacent properties, as a result of the works.
 - All temporary slopes shall be inspected and signed off by a suitably qualified individual.
 - The excavations slopes shall be supported within 1 month of commencing the earthworks.
 - Slopes may not be cut steeper than 1:1 (45°) or two metres high without specific engineering design and construction.
 - Slopes may not be filled steeper than 2h:1v (27°) or two metres high without specific engineering design and construction.
 - As-built records of the final extent and thickness of any un-engineered fill should be recorded.
 - Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.
 - All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s.
 - ‘Retaining structures have a finite design life. At some point in the future the retaining works that are the subject of this resource consent will need to be repaired or replaced. Ready access to the retaining works should be maintained to enable future repair or replacement works to be undertaken without creating cross-boundary land and/or structure instability issues or other hazards for neighbouring properties. At the time of designing the retaining structure, consideration should be given to the ease with which it could be repaired or replaced in the future.’

Infrastructure

11. All aspects of this development must be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
12. Detail of the water supply application process can be found at <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
13. 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.
14. To reduce water consumption and the volume of wastewater generated by the new properties, the developers of the new lots are encouraged to install water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers.

15. Requests for required infrastructure inspections should be made to Three Waters with at least three working day's notice.
16. Private drainage issues and requirements (including any necessary works) are to be addressed via the Building Consent process.
17. Future development on the new lots is expected to comply with the site coverage and impermeable surfacing rules of the Proposed Plan. It should be noted that a shared driveway (i.e. the rights of way) is considered to be part of the calculation for impermeable surfacing within a lot but will be excluded from any calculation of site coverage (Rule 15.6.10.2).
18. Certain requirements for building on this site may be stipulated via the building consent process and are likely to include the following points:
 - Stormwater from driveways, sealed areas and drain coils is not to create a nuisance on any adjoining properties.
 - Surface water is not to create a nuisance on any adjoining properties.
 - For secondary flow paths, the finished floor level shall be set at the height of the secondary flow plus an allowance for free board.
 - 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.

General

19. 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.
20. 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.
21. 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.
22. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
23. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

Issued at Dunedin on 4 March 2020



Lianne Darby
Planner

Consent Type: Land Use Consent

Consent Number: LUC-2020-64

Purpose: Earthworks for the subdivision of SUB-2020-15

Location of Activity: 107 Wray Street, Dunedin.

Legal Description: Lot 2 Stage 1 SUB-2020-15 currently part of Section 187 Wakari SD (RT OT9A/958) & Lot 357 DP 11118 (RT OT5B/592)

Lapse Date: Three years from the signing of the Stage 2 s223 certificate for SUB-2020-15, unless the consent has been given effect to before this date.

Conditions:

1. *The proposed activity must be undertaken in general accordance with the plans and cross-sections prepared by Paterson Pitts Group, attached to this certificate as Appendix One, and the information provided with the resource consent application SUB-2020-15, received at Council on 12 February 2020, and the further information received at Council on 2 March 2020 and 3 March 2020, except where modified by the following:*

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

2. *Earthworks must not commence until a building consent for the retaining walls have been issued.*
3. *The consent holder must provide notice to the resource consent monitoring team by email to recomintoring@dcc.govt.nz the start date of the earthworks. This notice must be provided at least five (5) working days before the works are to commence.*
4. *The consent holder must provide notice to the resource consent monitoring team by email to recomintoring@dcc.govt.nz of the suitably qualified geotechnical specialist who will be designing and supervising the earthworks.*
5. *The consent holder must provide to the resource consent monitoring team by email to recomintoring@dcc.govt.nz confirmation by a suitably qualified geotechnical engineering specialist that the earthworks are subject to specific engineering design and that the works will not exacerbate instability on this or any adjacent properties.*
6. *The consent holder must submit to rcmonitoring@dcc.govt.nz site plans and cross-sections showing the proximity of the proposed earthworks and retaining walls to the Council-owned wastewater and stormwater pipes within the property for approval of the retaining walls on boundaries positioned over Council infrastructure. No works may commence until the plans have been approved.*
7. *Pre-construction CCTV filming by Intergroup must be undertaken of the Council-owned wastewater and stormwater pipes within the subject site, and the report submitted to the Three Waters Group at rcmonitoring@dcc.govt.nz as soon as it is received.*

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

8. *The consent holder must establish a construction phase vehicle access point to the site and ensure it is used by construction vehicles. The access is to be stabilised by using a geotextile fabric and either topped with crushed rock or aggregate. The access is to be designed to prevent runoff.*
9. *The earthworks and construction work are to be under the control of the nominated and suitably qualified person and/or geotechnical engineering specialist.*
10. *Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development. If cut material is used on site for fill purposes then moisture controls may be required to meet this standard.*
11. *If fill is to be reused on the site, it is to be deposited in accordance with best practice and keyed into any slopes. Any batter slopes constructed on the site must comply with the setback requirements of Section 8A of the Proposed Plan or a further land use consent will be required.*
12. *Any change in ground levels is not to cause a ponding or drainage nuisance to neighbouring properties.*
13. *Any fill material to be introduced to the site must comprise clean fill only.*
14. *Slopes must not be cut steeper than 1H:1V (45°) without specific engineering design and construction.*
15. *Slopes must not be filled steeper than 2H:1V (27°) without specific engineering design and construction.*
16. *The consent holder's engineer must be engaged to determine any temporary shoring requirements at the site during earthworks construction and the consent holder must install any temporary shoring recommended by the engineer.*
17. *The earthworks must be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater management, traffic management, along with dust and noise controls at the sites.*
18. *To ensure effective management of erosion and sedimentation on the site during earthworks and as the site is developed, measures are to be taken and devices are to be installed, where necessary, to:*
 - a) *divert clean runoff away from disturbed ground;*
 - b) *control and contain stormwater run-off;*
 - c) *avoid sediment laden run-off from the site'; and*
 - d) *protect existing drainage infrastructure sumps and drains from sediment run-off.*
19. *No soil disturbance or soil shifting, unloading, loading will take place if wind speed is higher than 14 metres per second if the soil is dry and prone to becoming airborne, unless a dust suppressant is applied.*
20. *All loading and unloading of trucks with excavation or fill material is to be carried out within the subject site.*

21. *Surplus of unsuitable material is to be disposed of away from the site to a Council approved destination.*
22. *The consent holder must:*
 - a) *be responsible for all contracted operations relating to the exercise of this consent; and*
 - b) *ensure that all personnel (contractors) working on the site are made aware of the conditions of this consent, have access to the contents of consent documents and to all associated erosion and sediment control plans and methodology; and*
 - c) *ensure compliance with land use consent conditions.*
23. *Should the consent holder cease, abandon, or stop work on site for a period longer than 6 weeks, the consent holder must first take adequate preventative and remedial measures to control sediment discharge/run-off and dust emissions, and must thereafter maintain these measures for so long as necessary to prevent sediment discharge or dust emission from the site. All such measures must be of a type and to a standard which are to the satisfaction of the Resource Consent Manager.*
24. *All excavated slopes for retaining walls must be supported within one month of commencing the earthworks.*
25. *If at the completion of the earthworks operations, any public road, footpath, landscaped areas or service structures that have been affected/damaged by contractor(s), consent holder, developer, person involved with earthworks or building works, and/or vehicles and machineries used in relation to earthworks and construction works, must be reinstated to the satisfaction of Council at the expense of the consent holder.*
26. *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 must 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 must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.*

Site work may 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 must 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, must make an application for an Archaeological Authority pursuant to Heritage New Zealand Pouhere Taonga Act 2014; and*
- iii) *arrange for a suitably qualified archaeologist to undertake a survey of the site.*

Site work may recommence following consultation with the Consent Authority.

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

- 27. *Post-construction CCTV filming by Intergroup must be undertaken of the Council-owned wastewater and stormwater pipes within the subject site, and the report submitted to the Three Waters Group at rcmonitoring@dcc.govt.nz as soon as it is received.*
- 28. *If the report of condition 25 above determines that damage has occurred to the Council-owned wastewater and/or stormwater pipes within the subject site as a direct result of the site earthworks, then the consent holder must restore the pipes to a standard comparable to their pre-construction state (as determined by condition 6 above), to the satisfaction of Three Waters.*

Advice Notes:

Development

- 1. Neighbouring property owners should be advised of the proposed works at least seven days prior to the works commencing.
- 2. All measures (including dampening) should be undertaken to ensure that dust, resulting from the proposed earthworks, does not escape the property boundary.
- 3. All construction noise should comply with the following noise limits as per New Zealand Standard NZS 6803:1999 refer [G:\Planning\RMA\Processing Resource\Current Templates\Standard Conditions\Noise Condition Guidance.docx](#). Construction noise is also required to comply with Rule 4.5.4.1 of the Proposed Plan or further resource consent will be required.
- 4. When developing the new lots, it should be noted that buildings are to comply with Rule 15.6.6.1, height in relation to boundary, where the calculation of the height plane is taken from original ground level at the boundary. For example, this will be at the base of the retaining wall along proposed Lots 6 to 9. Any contraventions of this rule will require further resource consent, and neighbours are likely to be considered affected parties.

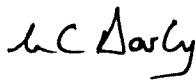
Heritage

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

General

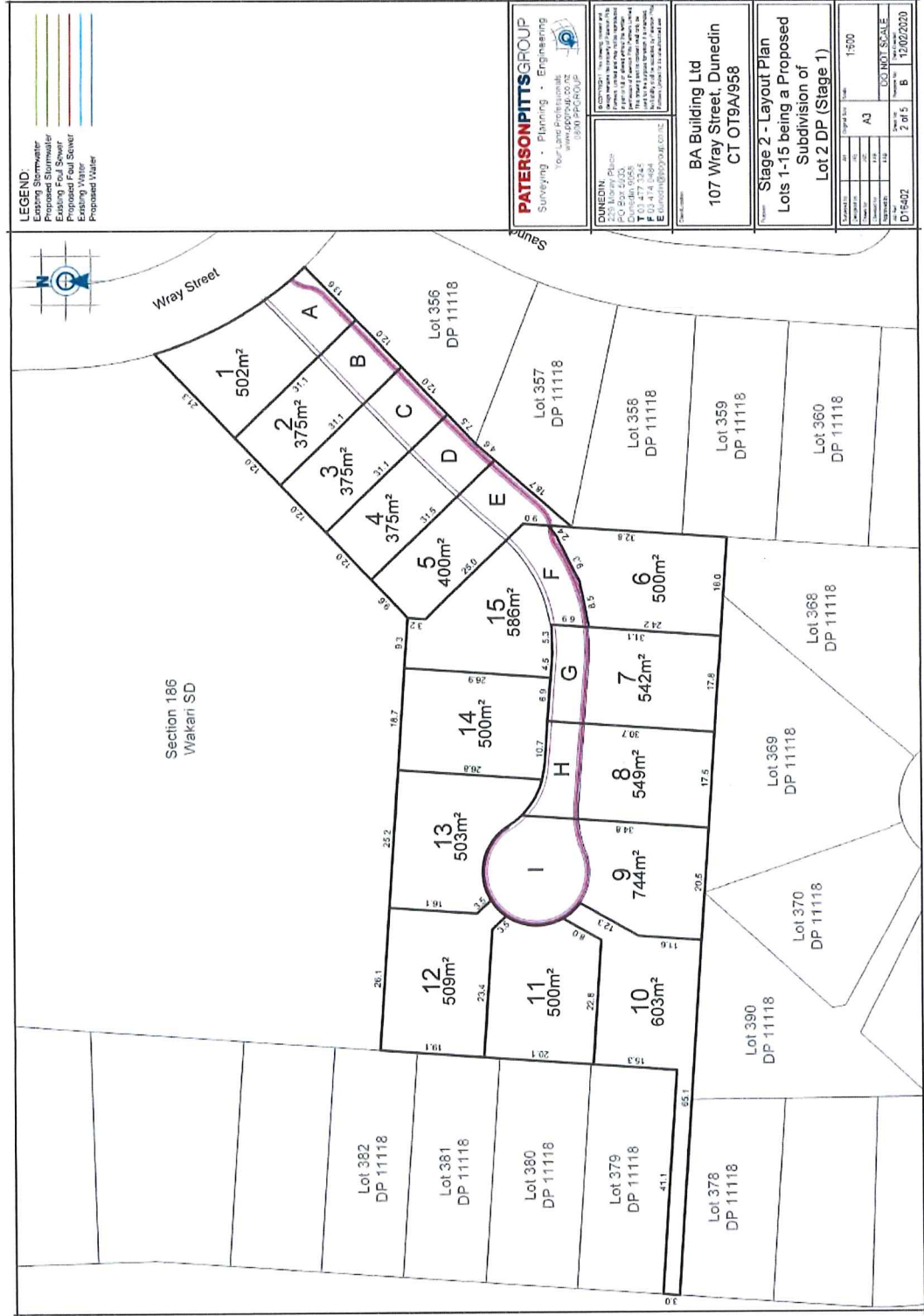
6. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
7. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
8. 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.
9. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
10. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

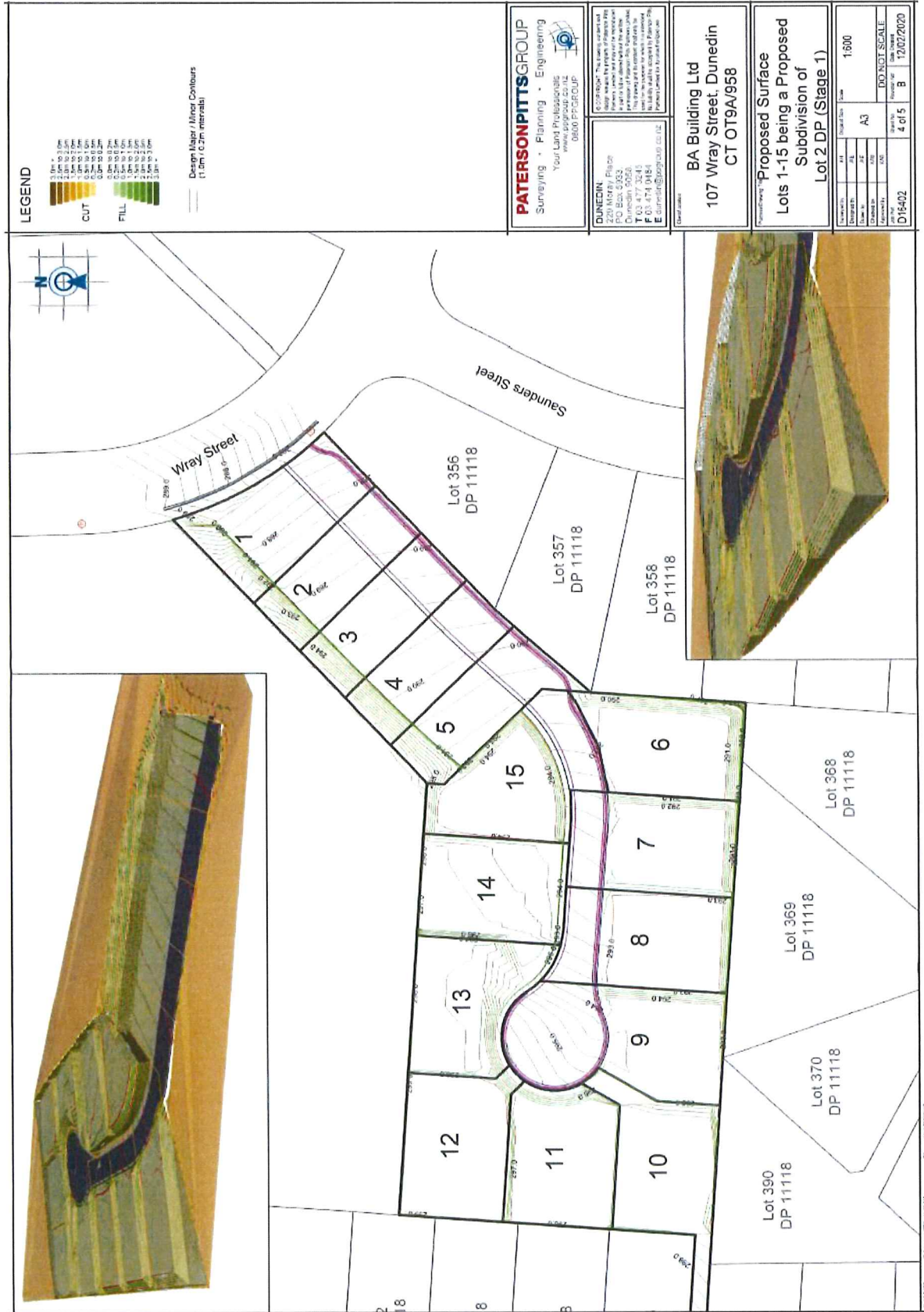
Issued at Dunedin on 4 March 2020

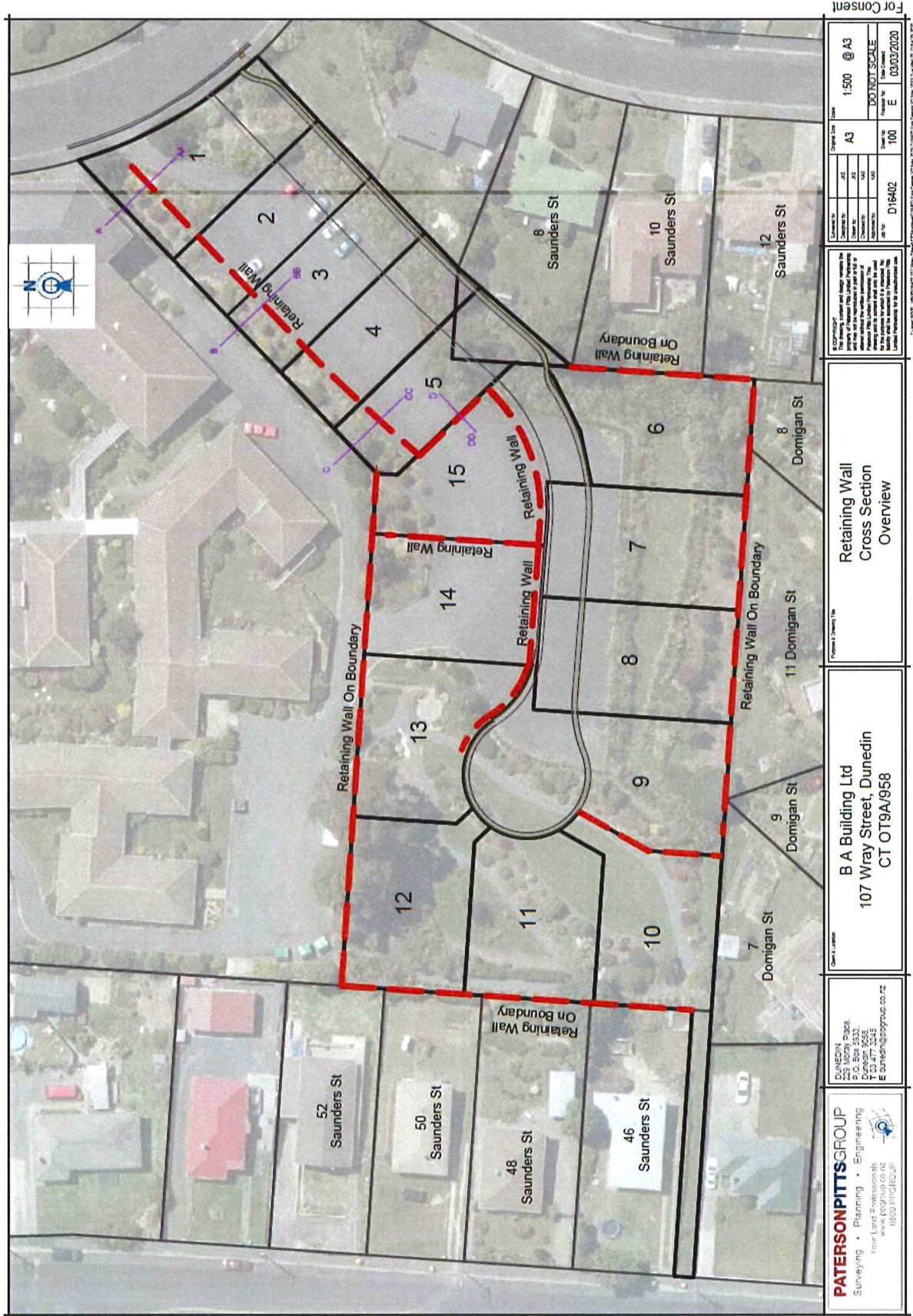


Lianne Darby
Planner

Appendix One: Approved Plan for SUB-2020-15 (scanned image, not to scale)







For Consent

NOTES

1. The contractor shall be responsible for locating all existing services prior to commencement of works. The contractor shall be responsible for any damage to existing services.
2. Levels are in terms of Ortho Mean Sea Datum.
3. All works are to be installed as per NZS 4203:2000 and DCC amendments to those standards. Standard drawings are available from the Engineer.

LEGEND

