

HEARINGS COMMITTEE AGENDA

FRIDAY, 14 JUNE 2024, 9.30 AM
Council Chamber, Dunedin Public Art Gallery
2nd Floor, 30 The Octagon, Dunedin
30 The Octagon, Dunedin

MEMBERSHIP:

Commissioner Colin Weatherall, Councillors David Benson-Pope and Andrew Whiley

IN ATTENDANCE:

Campbell Thomson (Senior Planner/Committee Advisor), Ian McCabe (Associate Senior Planner), Elizabeth Schonwald (Senior Parks and Recreation Planner), Zoe Lunniss (Biodiversity Advisor) and Jenny Lapham (Governance Support Officer)

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

1 ESPLANADE RESERVE WAIVER – SUB-2024-37, 11 Hugh Street, Sawyers Bay

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Report from Ian McCabe

Refer to pages 1 - 6

The Applicant's Presentation

Application

Refer to pages 7 - 44

Council Officer's Evidence

- Memorandum from Senior Parks and Recreation Planner
Refer to pages 45 - 48

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 – 11 Hugh Street, Sawyers Bay	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

TO: Hearings Committee

FROM: Ian McCabe, Associate Senior Planner

DATE: 28 May 2024

SUBJECT: **SUB-2024-37**
11 HUGH STREET
SAWYERS BAY

DESCRIPTION OF ACTIVITY

Resource consent is sought for a two-lot residential subdivision of the property at 11 Hugh Street, Sawyers Bay. One new allotment will contain an existing residential dwelling, while the other will be a vacant allotment available for further residential development.

The subject site is legally described as Lot 1 DP10193, held in Record of Title OT7B/834. The subject property is 1626m² in area.

The subject property is a roughly square front section with frontage to Hugh Street. The subject property is mostly flat — it slopes very gently uphill away from Hugh Street. There is an existing standalone residential dwelling located toward the northeast boundary, with a garage in the northern corner and several small accessory buildings spread over the property located to the west and southwest of the dwelling. Most of the subject property is vacant and is the lawn and garden associated with the existing residential activity.

Vehicle access is off Hugh Street and onto a metalled driveway that runs along the northeast boundary into the existing garage.

The proposal is to subdivide the subject property into two fee simple residential allotments.

Proposed Lot 1 will be 876m² and will contain the existing residential dwelling and garage. The existing dwelling will lose most of its lawn and garden, but it will retain its primary outdoor living space— an area of lane/garden located on the northwest side of the dwelling accessed off the dwelling's living room/conservatory.

Proposed Lot 2 will be 750m² and will be vacant – the existing shed on the subject property will be removed. The applicant anticipates a residential dwelling being constructed on-site in the future and has shown an indicative building platform and residential dwelling footprint on the scheme plan supporting the application.

Sawyers Bay Stream passes through the southern corner of the subject property. The waterway is shown on the Proposed Plan as requiring an esplanade strip.

Sawyers Bay Stream runs downhill from Grahams Bush and discharges to Otago Harbour. 2GP Appendix 10C identifies the conservation values of the stream as an *“important refuge for native fish in significant lifecycles.”* No public recreation and access values are identified. The stream is not listed in the Otago Regional Plan: Water as having any nature or human use values (Schedule 1A) but in relation to any sensitivity to dredging mining, is recognised as a valuable native fish habitat (schedule 7).

The Proposed 2GP requires that an esplanade strip of 20m be provided along the northern band of the Sawyers Bay Stream. The applicant rightly points out that a strip provided on-site at the full 20m width would encroach on the existing residential dwelling, significantly limiting use of the subject property and curtailing any future residential development options for the new vacant allotment.

In response, the applicant proposes creating a narrower esplanade strip to be 9m wide. The applicant suggests this will support the biodiversity values associated with the stream and allow for an appropriate fit-for-purpose residential development of the proposed vacant allotment. This includes avoiding an ornamental tree on-site which the applicant intends to keep.

The applicant contends that providing the full strip would encroach upon the existing residential dwelling and would significantly limit the use of the subject property. Further development and/or subdivision of the resulting allotments would be impractical.

The applicant notes that Council's Parks and Recreation Services Department has signalled in pre-application discussion this may be acceptable provided the strip is planted in native species, and that a consent notice is registered on any record of title for Proposed Lot 2 requiring the landowner to maintain the plantings.

The applicant has agreed to potentially planting out the strip and to registering the appropriate consent notice requiring ongoing maintenance. The applicant is not proposing any easements in gross for access to the stream as it can easily be accessed off Hugh Street.

The applicant advises they have progressed with obtaining native plants with the advice of a specialist at BudgetPlants. A variety of plants have been purchased: the large shrub *Muehlenbeckia astonii*, smaller shrubs (a *Corokia* cultivar, rengarenga), tussocks (*Chionochloa flavicans*, *Chionochloa rubra* and *Poa cita*) and a dwarf flax cultivar (*Phormium cookianum* 'Emerald Gem').

PLANNING PROVISIONS

Proposed 2GP

The subject property is zoned **Township and Settlement** in the Proposed 2GP. The subject property is not located within any mapped areas or overlay zones.

The subject property has no site-specific hazards listed under the Proposed 2GP.

Rule 15.3.5.2 lists general subdivision as being a **restricted discretionary activity** subject to performance standards listed in **Rule 15.7**. The scheme plan submitted with this application indicates the proposed subdivision will breach the following performance standards set out in **Rule 15.7**.

Rule 15.7.2 requires subdivision activities to comply with **Rule 10.3.1**, which sets out the provisions for esplanade reserves and strips. **Rule 10.3.1.2.ab** requires subdivision activity along the bank the Sawyers Bay Stream to provide an esplanade strip with a minimum width of 20m. Sawyers Bay Stream bisects the southern end of 5 Hugh Street west to east before crossing the subject site's southern corner. After exiting the subject property, it runs under a bridge across Hugh Street. The applicant proposes providing for an esplanade strip 9m wide.

Subdivision activities that contravene this performance standard are **restricted discretionary activities** (refer to **Rule 10.3.1.4**). Council's discretion is restricted to the following matters (refer **Rules 10.5.3.1** and **10.5.3.2**):

- Positive effects on biodiversity values or the natural character of riparian margins and the coast;
- Effects on biodiversity values or the natural character of riparian margins and the coast; and,
- Effects on public access.

Although not relevant to this report, in addition to the specific performance standards set out in **Rule 15.7**, **Rule 15.11.4.1** sets out matters of discretion applying to all restricted discretionary subdivision activities. Council's discretion under this rule is restricted to the following:

- Effects on neighbourhood residential character and amenity;
- Risk from natural hazards;
- Effects on efficiency and affordability of infrastructure;
- Effects of stormwater from future development; and,
- Effects on the safety and efficiency of the transport network.

Resource Management Act 1991

Section 232 of the Resource Management Act 1991 (RMA) enables an esplanade strip of the width specified by a rule in the district plan to be created for the purposes specified in section 229 by registering an instrument between Council and the subdividing owner prepared in accordance with this section.

An esplanade strip may have one or more of the following purposes under section 229 of the RMA:

- (a) *To contribute to the protection of conservation values by, in particular:*
 - (i) *Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
 - (ii) *Maintaining or enhancing water quality; or*
 - (iii) *Maintaining or enhancing aquatic habitats; or*
 - (iv) *Protecting the natural values associated with the strip or reserve; or*
 - (v) *Mitigating natural hazards; or*
- (b) *To enable public access to or along any sea, river, or lake; or*
- (c) *To enable public recreation use of the strip or reserve and adjacent sea, river or lake, where the use is compatible with the conservation values.*

Section 232(4) requires Council to decide on what matters to include in the instrument and in doing so must consider which provisions from amongst clauses 2, 3 and 7 of Schedule 10 to include, modify or exclude, and any other matters Council considers appropriate to include.

When modifying or excluding provisions in the instrument, section 232(5) requires Council to consider:

- (a) *any relevant rules in the district plan; and*
- (b) *the provisions and other matters included in any existing instrument for an esplanade strip, or easement for an access strip, in the vicinity; and*
- (c) *the purpose or purposes of the strip, including the needs of potential users of the strip; and*
- (d) *the use of the strip and adjoining land by the owner and occupier; and*
- (e) *the use of the river, lake, or coastal marine area within or adjacent to the strip; and*
- (f) *the management of any reserve in the vicinity.*

ASSESSMENT

The proposal is for a two-lot residential subdivision in a medium density residential zone. The subject property is 1626m² and will be subdivided into two allotments with areas well above the minimum site size set in the district plan – Proposed Lot 1 (containing the existing residential dwelling) will be 876m² and Proposed Lot 2 (being the proposed vacant allotment) will be 750m².

Sawyers Bay Stream will be situated within Proposed Lot 2 affecting the southern tip of the new allotment. It enters the property approximately 17m along the boundary from the street frontage (being Hugh Street) and immediately curves southeast and runs parallel to the boundary before crossing under Hugh Street via a small bridge.

Rule 10.3.1.2.ab of the Proposed 2GP requires subdivision activity along the bank the Sawyers Bay Stream to provide an esplanade strip with a minimum width of 20m. The esplanade strip must be created at the time of subdivision.

The applicant has not disputed the need for an esplanade strip, but argues that providing the full width strip would encroach upon the existing residential dwelling and would significantly limit the use of the existing property. Further subdivision and/or development of the resulting allotment would likely be impractical.

The applicant-initiated pre-application discussions with Council's Parks and Recreation Services (PARS) seeking advice about making any esplanade strip as wide as possible without potentially impacting on the residential development potential of the resulting allotment, or an existing tree at the front of the allotment.

These discussions were held without prejudice.

PARS advised the applicant that reducing the width of the esplanade may be acceptable but there would be an expectation on the property owner to plant and maintain the esplanade strip with native species. The esplanade strip would require regular management and maintenance to support the establishment and/or ongoing restoration of vegetation.

Any application to waive and/or amend the width requirements is subject to **Rule 10.5.3.2** which outlines the following matters of discretion:

- Effects on biodiversity values or the natural character of riparian margins – the effects on the conservation values of the water body which have been identified above, the effects on the natural functioning of the water body, effects on other biodiversity values, natural character values and any other measures proposed to enhance the biodiversity of the riparian margin and associated water body.; and,
- Effects on public access – being effects on public recreation and access values, and potential effects of reduced width associated of sea level rise.

On the question of biodiversity and natural character, the water body values of listed waterbodies are set out in Appendix 10C of the Proposed 2GP. The Sawyers Bay Stream is listed for its conversation values, being *"important as a refuge for native fish in significant lifestyle stages"*.

PARS advise the district plan recognises the stream as providing suitable habitat for native fish, including *Galaxias fasciatus*. The land alongside the stream is predominantly low-intensive farming or residential, but I note the banks are often vegetated providing the shading and cooler temperatures needed for the galaxiid to survive and potentially thrive.

PARS has reached the view that in this circumstance, 9m will be sufficient width to potentially maintain and enhance water quality and aquatic habitat, will protect natural values associated with the strip (see s229 – RMA) and will enable appropriate residential use of the adjoining land (see s232(5) – RMA), and maintain and potentially enhance biodiversity in and along the bank of the stream.

PARS has recommended conditions that require the landowner to appropriately manage and maintain the strip as ongoing obligation. Assuming the consent is granted for the substantive subdivision, these conditions will likely form part of a combination of condition, consent notices and expectations included in the instrument creating the esplanade strip.

I agree with PARS assessment and recommendation, and I am satisfied reducing the width of the esplanade strip is unlikely to have an adverse effect on the biodiversity values or natural character of the riparian margins of the stream. The recommended conditions will enhance the anticipated outcome and will form a suite of conditions and consent notice of any subdivision consent granted, and potential provision included in the relevant instruments creating the esplanade reserve.

PARS notes that in response to the pre-application discussions, the applicant has already secured plants for the proposed esplanade strip. However, the plant species purchased by the applicant are not local to the site or region. PARS has expressed a preference for local plant species suitable for riparian margins and referred Otago Regional Council's Otago Native Planting Guide and maps for guidance. PARS suggests the owner utilise the plants already purchased but if any additional plants are required these are from the relevant ORC schedule. This can also be reflected in the conditions attached to any subdivision consent.

On the question of public access, the Sawyers Bay Stream is not listed in Appendix 10C of the Proposed 2GP as having any identifiable public recreation or access values. PARS has considered this noting an esplanade strip will safeguard future public access if it were ever necessary. PARS posit there may be opportunity in the future to establish a continuous walkway along the bank of the stream if subdivision activity were to continue in the vicinity of the subject site.

PARS has also suggested the esplanade strip need not be fenced. This allows for the esplanade strip to be incorporated into any residential activity carried out on-site and will limit any potential barriers to ongoing management requirements.

RECOMMENDATION

That, pursuant to Section 232 of the Resource Management Act 1991, the Consent Hearings Panel approve reducing the requirement for an esplanade strip of 20m for any subdivision of 11 Hugh Street, Sawyers Bay under Rule 10.3.1.2.ab of the Proposed 2GP to a width of no less than 9m at the time of subdivision if authorised by resource consent SUB-2024-37.

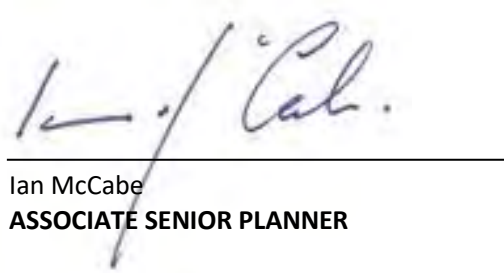
That the Consent Hearings Panel note the following conditions likely to form part of a suite of conditions and/or consent notices for any subdivision consent granted and/or provisions included in any instrument create the esplanade reserve;

- 1) *All cost associated with the preparation and lodgement of the esplanade instrument will be covered by the applicant (including DCC legal costs).*
- 2) *All survey costs will be covered by the applicant unless agreed otherwise.*
- 3) *The plants selected for the esplanade strip shall be trees and shrubs set out in one of the Otago Regional Council's "Otago Native Planting Guides" appropriate to the site.*
- 4) *Plants will be sourced from a nursery that provides ecologically sourced plants suitable to the ecological district of the site.*
- 5) *Plants will be adequately spaced to ensure they fill out the area within a couple of growing seasons. Spacing is dependent on the type of plant, grasses/reeds maximum spacing of 40cm, shrubs/flaxes maximum spacing of 1.5m and trees maximum spacing of 5m.*
- 6) *Plants will be healthy and of good size (container size PB5 or larger).*
- 7) *Planting of the esplanade strip will take place within a growing season.*
- 8) *Plants will be regularly watered and protected from all pests.*
- 9) *Plants shall be monitored to support their survival and any plants that fail should be replaced immediately with ecologically appropriate species.*
- 10) *The property owner must not do, or allow others to do, any of the following activities on or within the area of the Esplanade Strip:*
 - a) *Fell, remove, burn, take, or damage any plant species native to the Dunedin Ecological District. If the plant species are likely to cause damage to any person*

or building on the Esplanade Strip, the property owner may fell or remove the plant with written consent from Dunedin City Council Parks and Recreation Services, which shall not be unreasonably withheld;

- b) *Plant any tree, shrub, or plant, or scatter or sow any tree, shrub or plant other than species native to the Dunedin Ecological District;*
- c) *Introduce substance noxious or otherwise injurious to any plant species native to the Dunedin Ecological District; or*
- d) *Any activity which might harm any plant species native to the Dunedin Ecological District.*

Prepared by:



Ian McCabe
ASSOCIATE SENIOR PLANNER

Report Approved by:



Campbell Thomson
SENIOR PLANNER

Date report prepared: 28 May 2024

Appendix One: Subdivision Application
Appendix Two: PARS Memorandum



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

Application details

I/We Maureen Townsend

(must be the FULL name(s) of an individual or an entity registered with the New Zealand Companies Office. Family Trust names and unofficial trading names are not acceptable: in those situations, use the trustee(s) and director(s) names instead) hereby apply for:

☐ Land Use Consent ☒ Subdivision Consent

I opt out of the fast-track consent process: ☐ Yes ☐ No

(only applies to controlled activities under the district plan, where an electronic address for service is provided)

Brief description of the proposed activity:

The applicant proposes to subdivide the subject site into two residential lots. A 20 m wide esplanade strip along Sawyers Bay Stream is required as part of the subdivision, and a narrower esplanade strip is proposed.

Have you applied for a Building Consent? ☐ Yes, Building Consent Number ABA ☒ No

Site location/description

I am/We are the: ☒ owner, ☐ occupier, ☐ lessee, ☐ prospective purchaser etc) of the site (tick one)

Street address of site: 11 Hugh St, Sawyers Bay, Dunedin

Legal description: Lot 1 DP 10193

Certificate of Title: OT7B/834

Contact details

Name: Vyvienne Evans, Paterson Pitts Group (☐ applicant ☒ agent (tick one))

Address: PO Box 5933, Dunedin

Postcode: 9058

Phone (daytime):

Email: vyvienne.evans@ppgroup.co.nz

Chosen contact method (this will be the first point of contact for all communications for this application)

I wish the following to be used as the address for service (tick one): ☒ Email ☐ Post ☐ Other:

Ownership of the site

Who is the current owner of the site? The applicant

If the applicant is not the site owner, please provide the site owner's contact details:

Address:

Postcode:

Phone (daytime):

Email:

Planning Application Fees Payment Details (Who are we invoicing)

THIS FORM MUST BE COMPLETED FOR ALL PLANNING APPLICATIONS THAT ATTRACT A FEE. ALL FIELDS ARE MANDATORY.

This information is required to assist us to process resource consent invoices and refunds at lodgement and the end of the process. If you have any queries about completing this form, please email planning@dcc.govt.nz

Deposit Payment Payee Details:

Full Name of Deposit Payee (Person or Company): Maureen Townsend

c/o Paterson Pitts Group

Mailing Address of Deposit Payee (please provide PO Box number where available): PO Box 5933, Dunedin 9058

Email Address of Deposit Payee: vyvienne.evans@ppgroup.co.nz

Daytime contact phone number: [REDACTED]

Important Note: The Payee will automatically be invoiced for the deposit and/or any additional costs. Should a portion of the deposit be unspent, it will be refunded to the payee.

Fees

Council recovers all actual and reasonable costs of processing your application. Most applications require a deposit and costs above this deposit will be recovered. A current fees schedule is available on www.dunedin.govt.nz or from Planning staff. Planning staff also have information on the actual cost of applications that have been processed. This can also be viewed on the Council website.

Development contributions

Your application may also be required to pay development contributions under the Council's Development Contributions Policy. For more information please ring 477 4000 and ask to speak to the Development Contributions Officer, or email development.contributions@dcc.govt.nz.

Occupation of the site

Please list the full name and address of each occupier of the site:

Monitoring of your Resource Consent

To assist with setting a date for monitoring, please estimate the date of completion of the work for which Resource Consent is required. Your Resource Consent may be monitored for compliance with any conditions at the completion of the work. (If you do not specify an estimated time for completion, your Resource Consent, if granted, may be monitored three years from the decision date).

(month and year)

Monitoring is an additional cost over and above consent processing. You may be charged at the time of the consent being issued or at the time monitoring occurs. Please refer to City Planning's Schedule of Fees for the current monitoring fee.

Detailed description of proposed activity

Please describe the proposed activity for the site, giving as much detail as possible. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please provide proposed site plans and elevations.

Please see the attached application.

Description of site and existing activity

Please describe the existing site, its size, location, orientation and slope. Describe the current usage and type of activity being carried out on the site. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please also provide plans of the existing site and buildings. Photographs may help.

Please see the attached application.

(Attach separate sheets if necessary)

District plan zoning

What is the District Plan zoning of the site? Township & Settlement

Are there any overlaying District Plan requirements that apply to the site e.g. in a Landscape Management Area, in a Townscape or Heritage Precinct, Scheduled Buildings on-site etc? If unsure, please check with City Planning staff.

Esplanade Reserves and Strips Mapped Area (Sawyers Bay Stream, esplanade strip)

Breaches of district plan rules

Please detail the rules that will be breached by the proposed activity on the site (if any). Also detail the degree of those breaches. In most circumstances, the only rules you need to consider are the rules from the zone in which your proposal is located. However, you need to remember to consider not just the Zone rules but also the Special Provisions rules that apply to the activity. If unsure, please check with City Planning staff or the Council website.

Please see the attached application.

Affected persons' approvals

I/We have obtained the written approval of the following people/organisations and they have signed the plans of the proposal:

Name:

Address:

Name:

Address:

Please note: You must submit the completed written approval form(s), and any plans signed by affected persons, with this application, unless it is a fully notified application in which case affected persons' approvals need not be provided with the application. If a written approval is required, but not obtained from an affected person, it is likely that the application will be fully notified or limited notified.

Assessment of Effects on Environment (AEE)

In this section you need to consider what effects your proposal will have on the environment. You should discuss all actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effect. i.e. small effect equals small assessment.

You can refer to the Council's relevant checklist and brochure on preparing this assessment. If needed there is the Ministry for the Environment's publication "A Guide to Preparing a Basic Assessment of Environmental Effects" available on www.mfe.govt.nz. Schedule 4 of the Resource Management Act 1991(RMA) provides some guidance as to what to include.

Please see the attached application.

(Attach separate sheets if necessary)

The following additional Resource Consents from the Otago Regional Council are required and have been applied for: ☐ Yes ☐ No
☐ Water Permit ☐ Discharge Permit ☐ Coastal Permit ☐ Land Use Consent for certain uses of lake beds and rivers ☒ Not applicable

Assessment of Objectives and Policies

In this Section you need to consider and assess how your application proposal aligns with the relevant objectives and policies in the District Plan relating to your activity. If your proposal is a discretionary or non-complying activity under the District Plan more attention to the assessment will be necessary as the objectives and policies of the District Plan may not always be in support of the proposed activity.

Please see the attached application.

Declaration

I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.

I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.

Subject to my/our rights under section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Dunedin City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid.

Signature of: ☐ Applicant ☒ Agent (tick one):

Vyvienne Evans

Date: 19/03/2024

Privacy – Local Government Official Information and Meetings Act 1987

You should be aware that this document becomes a public record once submitted. Under the above Act, anyone can request to see copies of applications lodged with the Council. The Council is obliged to make available the information requested unless there are grounds under the above Act that justify withholding it. While you may request that it be withheld, the Council will make a decision following consultation with you. If the Council decides to withhold an application, or part of it, that decision can be reviewed by the Office of the Ombudsmen.

Please advise if you consider it necessary to withhold your application, or parts of it, from any persons (including the media) to (tick those that apply):

- ☐ Avoid unreasonably prejudicing your commercial position
- ☐ Protect information you have supplied to Council in confidence
- ☐ Avoid serious offence to tikanga Māori or disclosing location of waahi tapu

What happens when further information is required?

If an application is not in the required form, or does not include adequate information, the Council may reject the application, pursuant to section 88 of the RMA. In addition (section 92 RMA) the Council can request further information from an applicant at any stage through the process where it may help to a better understanding of the nature of the activity, the effects it may have on the environment, or the ways in which adverse effects may be mitigated. The more complete the information provided with the application, the less costly and more quickly a decision will be reached.

Further assistance

Please discuss your proposal with us if you require any further help with preparing your application. The Council does provide pre-application meetings without charge to assist in understanding the issues associated with your proposal and completing your application. This service is there to help you.

Please note that we are able to provide you with planning information but we cannot prepare the application for you. You may need to discuss your application with an independent planning consultant if you need further planning advice.

City Planning Staff can be contacted as follows:

IN WRITING: Dunedin City Council, PO Box 5045, Dunedin 9054

IN PERSON: Customer Services Centre, Ground Floor, Civic Centre, 50 The Octagon

BY PHONE: (03) 477 4000

BY EMAIL: planning@dcc.govt.nz

There is also information on our website at www.dunedin.govt.nz

Information requirements

- ✓ Completed and Signed Application Form
- ✓ Description of Activity and Assessment of Effects
- ✓ Site Plan, Floor Plan and Elevations (where relevant)
- ☐ Written Approvals
- ✓ Payee details
- ☐ Application fee (cash, eftpos, direct credit or credit card (surcharge may apply))
- ✓ Certificate of Title (less than 3 months old) including any relevant restrictions (such as consent notices, covenants, encumbrances, building line restrictions)
- ☐ Forms and plans and any other relevant documentation signed and dated by Affected Persons

In addition, subdivision applications also need the following information:

- ✓ Number of existing lots
- ✓ Number of proposed lots
- ✓ Total area of subdivision
- ✓ The position of all new boundaries

In order to ensure your application is not rejected or delayed through requests for further information, please make sure you have included all of the necessary information. A full list of the information required for resource consent applications is in the Information Requirements Section of the District Plan.

OFFICE USE ONLY

Has the application been completed appropriately (including necessary information)? ☐ Yes ☐ No

Application: ☐ Received ☐ Rejected

Received by: ☐ Counter ☐ Post ☐ Courier ☐ Other:

Comments:

(Include reasons for rejection and/or notes to handling officer)

Planning Officer:

Date:

D19091 11 Hugh St
Rev A

19 March 2024

City Planning
Dunedin City Council
PO Box 5045
Dunedin 9054

Attn: The Senior Planner

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



RESOURCE CONSENT APPLICATION

11 Hugh St, Sawyers Bay, Dunedin

On behalf of our client, we submit for consideration by the Dunedin City Council a resource consent application prepared in accordance with the sch 4 of the Resource Management Act 1991.

The application seeks subdivision consent for a **restricted discretionary** activity. Form 9 is attached.

For any further information or discussion in respect of this application, please do not hesitate to contact the author below.

Yours faithfully,
PATERSON PITTS GROUP

Vyviene Evans
Planner

M: 021-198-0716
T: 03-477-3245
E: vyviene.evans@ppgroup.co.nz

DUNEDIN:

P.O. Box 5933,
Dunedin 9058.
T 03 477 3245

CHRISTCHURCH:

P.O. Box 160094,
Christchurch 8441.
T 03 928 1533

ALEXANDRA:

P.O. Box 103,
Alexandra 9340.
T 03 448 8775

CROMWELL:

P.O. Box 84,
Cromwell 9342.
T 03 445 1826

QUEENSTOWN:

P.O. Box 2645,
Queenstown 9349.
T 03 441 4715

WANAKA:

P.O. Box 283,
Wanaka 9305.
T 03 443 0110

1 SITE

The subject site is the land at 11 Hugh St, which has an area of 1626 m² and is legally described as Lot 1 Deposited Plan 10193. It is held in Record of Title OT7B/834 and is owned by Claire and Maureen Townsend (the applicant). A copy of this title is provided in Appendix C.

The site is fairly flat—it slopes very gently uphill away from Hugh St. There is an existing standalone dwelling on the site's northeastern end, a garage in its northern corner and several sheds on its western side. A driveway runs along the site's northeastern boundary to the garage. Most of the site is vacant and forms the existing dwelling's large garden. Sawyers Bay Stream passes through southern corner of the site (Figure 1, Figure 2), and this is discussed further in section 3.5.

Under the Second Generation Dunedin District Plan (2GP) the site is zoned Township and Settlement (T&S). Additionally, the Esplanade Reserves and Strips Mapped Area applies to Sawyers Bay Stream, and therefore the site. However, we note that the mapping of Sawyers Bay Stream on the 2GP Planning Map is not consistent with its actual alignment, and according to 2GP Planning Map, Sawyers Bay Stream does not pass through the site at all. This is also discussed further in section 3.5.

Key features of the site are described further below in relation to the proposal.



Figure 1. Aerial photo of the subject site (marked in yellow) (source: www.grip.co.nz, retrieved 6 March 2024).



Figure 2. View of the site, looking northwest from above Hugh St (source: <https://homes.co.nz/address/dunedin/sawyers-bay/11-hugh-street/EjXr7>, retrieved 6 March 2024).

2 SURROUNDING ENVIRONMENT

The site is located in the suburb of Sawyers Bay, and its immediate surrounding environment comprises residential land and a Local Road (Figure 3).

- To the southeast, the site adjoins Hugh St, a formed and sealed road classified by the 2GP as a Local Road.
- Adjoining the site in all other directions is developed residential land zoned T&S. As the site is located in Sawyers Bay's main residential area (which runs inland from Otago Harbour), all the land nearby is zoned T&S.

Looking further afield, the site is not within easy walking distances of many services or amenities, although it is near Sawyers Bay School (450 m/7 minutes' walk) and multiple bus stops. Sawyers Bay Recreation Reserve is approximately 750 m/11 minutes' walk from the site, but it is only a small park with no facilities other than a seat. However, the site is only around 2 km (3 minutes' drive) from the centre of Port Chalmers, which has a wide variety of services and amenities, including a supermarket. Safe pedestrian and cyclist access to Port Chalmers is provided by the shared pathway on the southern side of Sir John Thorn Dr/State Highway 88, which is part of Te Aka Ōtākou. Using this pathway, Port Chalmers is approximately a 30 minute walk or an 8 minute bike ride from the site.

Regarding existing neighbourhood character, the site is in an established residential area zoned T&S, where typical residential densities are around 1 residential unit per 700 m²–1000 m². In Sawyers Bay, as in most Dunedin suburbs, standalone dwellings are the most common type of residential development.



Figure 3. 2GP Planning Map excerpt showing zoning of the subject site (marked in yellow) and its surrounding environment. The blue dots denote the Sawyers Bay Stream Esplanade Reserves and Strips Mapped Area (retrieved 6 March 2024).

3 PROPOSAL

The applicant proposes to subdivide the site into two fee simple, residential sites.

- Lot 1 will be an 876 m² site containing the existing house and its garage.
- Lot 2 will be a vacant 750 m² site—the existing sheds on the subject site will be removed. We anticipate that a dwelling will be erected on this site in the future, and an indicative building platform and dwelling footprint are shown on the scheme plan.

The existing dwelling will lose most of its garden, but it will retain its primary outdoor living space—the area of garden on its northwestern side, which is accessed from the dwelling's living room/conservatory.

Key elements of the proposal are described further below and are illustrated by the subdivision scheme plan in Appendix A.

3.1 Legal matters

RT OT7B/834 is a fee simple title with no relevant interests recorded on it, and the resultant sites will be held in separate fee simple titles. An easement in gross will be created over Lot 2 in favour of DCC; this will grant the DCC the right to drain foul sewage over Lot 2. We also expect that a private easement for the right to drain foul sewage over Lot 2 in favour of Lot 1 will be required. This, and any other private service easements will be confirmed at the Land Transfer Plan (LT Plan) stage, prior to certification under s 223 of the Resource Management Act 1991 (RMA). Additionally, a consent notice will be registered on the title for Lot 2—this is discussed further in section 3.5.

3.2 Natural hazards

The site is fairly flat, and neither the 2GP Planning Map nor the Otago Regional Council (ORC) Natural Hazards Database show it as being at risk from natural hazards. There are therefore no specific concerns with respect to natural hazards that need to be addressed before building consent for future dwelling on Lot 2 is sought.

3.3 Transportation

The site is a front site with frontage and legal access to Hugh St. Vehicle access to the site is via a driveway at the northeastern end of its frontage, which runs along the site's northeastern boundary to the garage in its northern corner. A pathway leading up to the dwelling from the southwestern side of the driveway provides separate pedestrian access to the site.

Both the resultant sites will be front sites with frontage and legal access to Hugh St. Lot 1 will retain the site's existing parking and access provisions, while Lot 2 will have a new driveway at the northeastern end of its frontage. The driveway will pass close by an established ornamental tree (which will be on Lot 2) that the applicant wishes to retain. It will be constructed with a special treatment to protect this tree.

3.4 Infrastructure

The existing dwelling is fully serviced and will retain its existing service connections. Any private service easements necessary for Lot 1 to retain these connections will be created at the LT Plan stage, as section 3.1 discussed. Lot 2 will have new connections to the infrastructure in the Hugh St road corridor. In terms of water infrastructure, there is a 100 mm water main and a 150 mm foul sewer main in Hugh St and Lot 2 will have domestic water supply and wastewater drainage via new connections to this infrastructure. Stormwater from Lot 2 will drain to the Hugh St kerb and channel.

Regarding water supplies for firefighting, the resultant sites will be within 135 m of two fire hydrants in Hugh St (WFH05935 and WFH05936) and within 270 m of another (WFH05937). They will therefore have firefighting water supplies in accordance with SNZ/PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.

The 150 mm foul sewer main mentioned above actually crosses the site's southern corner, just to the north of Sawyers Bay Stream. The proposed easement in gross described in section 3.1 will protect this infrastructure.

3.5 Sawyers Bay Stream and esplanade strip

Sawyers Bay Stream runs downhill from Grahams Bush and discharges to Otago Harbour. 2GP Appendix 10C identifies the conservation values of the stream as an "important refuge for native fish in significant lifecycles." No public recreation and access values are identified. Sawyers Bay Stream is not listed in sch 1A of the Otago Regional Plan: Water as having any natural or human use values. However, sch 7 of this plan does recognise it as a valuable native fish habitat (in relation to its sensitivity to suction dredge mining).

As section 1 mentioned, the alignment of Sawyers Bay Stream shown on the 2GP Planning Map is inconsistent with the stream's actual alignment. The map shows the stream as running generally southeast through 5 Hugh St's western edge and then under Hugh St from 3A Hugh St. In reality,

Sawyers Bay Stream bisects the southern end of 5 Hugh St west to east before crossing the subject site's southern corner. After exiting the site, it runs under a bridge across Hugh St.

The 2GP requires the proposal to provide an esplanade strip at least 20 m wide along the northern bank of Sawyers Bay Stream. Providing this full strip would encroach upon the existing dwelling and would significantly limit the use of the site—developing it further or subdividing it, for instance, would be impractical.

We therefore propose a narrower esplanade strip with a width of 9 m, whose purpose is the protection of conservation values. This will support the biodiversity values of Sawyers Bay Stream while still providing enough space for a dwelling at the rear of Lot 2, and to construct a driveway on this lot while retaining the ornamental tree. We have had some pre-application discussion with Dunedin City Council's Parks and Recreation Services department, and they have advised that the proposed esplanade strip reduction may be acceptable if the strip is planted out with native species and a consent notice is registered on the title for Lot 2. This consent notice should require the owners of Lot 2 to maintain the planting.

The applicant volunteers the planting and consent notice as conditions of consent. No easement in gross for DCC access to Sawyers Bay Stream is proposed, as the stream can easily be accessed for monitoring from Hugh St. Additionally, following advice from a specialist at BudgetPlants, the applicant has purchased 240 native plants to cover the 140 m² area of the esplanade strip. A variety of plants have been purchased: the large shrub *Muehlenbeckia astonii*, smaller shrubs (a *Corokia* cultivar, *rengarenga*), tussocks (*Chionochloa flavicans*, *Chionochloa rubra* and *Poa cita*) and a dwarf flax cultivar (*Phormium cookianum* 'Emerald Gem'). The applicant has repotted the plants and will grow them on until they can be planted out across the esplanade strip.

We understand that the decision on the esplanade strip reduction cannot be made under delegated authority and will instead be made at a non-notified hearing.

3.6 Earthworks

The only earthworks proposed are those necessary to provide Lot 2 with vehicle access and services as described above, and these are expected to be minor. They will also be more than 5 m from Sawyers Bay Stream.

4 REASONS FOR APPLICATION

The documents referred to in s 104(1)(b) of the RMA with rules and regulations relevant to the proposal are:

- The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).
- The 2GP.

The proposal is assessed against the relevant rules and regulations of these documents below.

4.1 NES-CS

The NES-CS came into force on 1 January 2012. It applies when a person wants to do an activity described in reg 5(2)–(6) on a piece of land described in reg 5(7) or 5(8), unless the requirements of reg 5(9) are met.

- A piece of land described in reg 5(7) is one on which an activity or industry described in the Hazardous Activities and Industries List (HAIL) is being, has been or is more likely than not to have been undertaken.
- Reg 5(8) describes when the NES-CS applies to a piece of land that is production land.
- Reg 5(9) states that the NES-CS does not apply if a Detailed Site Investigation shows that any contaminants in or on a piece of land are at, or below, background concentrations.

The proposal involves subdividing residential land and earthworks. Therefore, if the site contained a piece of land described in reg 5(7), the proposal would involve the activities described in regs 5(4) and 5(5) (disturbing the soil of and subdividing a piece of land) and the NES-CS would apply. The HAIL assessment report provided in Appendix B concludes that more likely than not, no HAIL activities have been undertaken on the site. It therefore does not contain a piece of land described in reg 5(7) and the NES-CS does not apply.

4.2 2GP

As section 1 mentioned, the site is zoned T&S and is subject to the Esplanade Reserves and Strips Mapped Area associated with Sawyers Bay Stream.

SUBDIVISION ACTIVITIES

The proposal involves a fee simple subdivision. This meets the definition of general subdivision, an activity in the subdivision activities category. General subdivision is a restricted discretionary activity in residential zones if it complies with the relevant performance standards (rule 15.3.5.2). The proposed subdivision will contravene one of these standards, and it is a **restricted discretionary** activity (Table 1).

Table 1. Compliance of the proposed subdivision with relevant the performance standards.

PERFORMANCE STANDARD	COMPLIANCE	COMMENT
Access Rules 6.8.1, 15.7.1	Complies	The resultant sites will have legal accessways in the form of driveways.
Esplanade reserves and strips Rules 10.3.1, 15.7.2	Does not comply	Subdivision activities along the banks of Sawyers Bay Stream are required to provide an esplanade strip at least 20 m wide (rule 10.3.1.2.af), whereas a 9 m wide esplanade strip is proposed. This aspect of the proposal is a restricted discretionary activity (rule 10.3.1.4).
Firefighting Rules 9.3.3, 15.7.3	Complies	The resultant sites will have access to firefighting water supplies consistent with the SNZ/PAS 4509:2008.
Minimum site size Rule 15.7.4	Complies	All the resultant sites will be larger than the 400 m ² minimum site size for the T&S Zone (rule 15.7.4.1.h).
Service connections Rules 9.3.7, 15.7.5	Complies	The resultant sites will be provided with connections to all necessary infrastructure in accordance with rules 9.3.7.X–9.3.7.Z (rule 9.3.7.2).

Shape Rule 15.7.6	Does not comply	This standard does not apply to Lot 1, as it will contain an existing dwelling. Lot 2 will be able to accommodate a compliant 7 m × 10 m building platform that slopes by less than 12°.
Setback from National Grid Rules 5.6.1.X, 15.7.X	Not applicable	—
Minimum landscaping Rule 15.7.Y	Not applicable	—
Structure plan mapped area performance standards Rule 15.8	Not applicable	—

DEVELOPMENT ACTIVITIES

The proposal involves constructing a new driveway on Lot 2. This meets the definition of parking, loading and access, an activity in the development activities category and the site development sub-category. Parking, loading and access is a permitted activity in residential zones if it complies with the relevant performance standards (rule 15.3.4.23). The proposed driveway will comply with the relevant standards.

For completeness, we note that as none of the circumstances described in rule 6.6.1.2.a apply to Lot 2, the minimum manoeuvring space dimensions performance standard will not apply to future parking provided on this site.

LAND USE ACTIVITIES

The proposal provides for standard residential (domestic-scale residential activity) on Lot 2. This is an activity in the residential activities category, and it is permitted in residential zones if it complies with the relevant performance standards (rule 15.3.3.3). The proposal enables future standard residential activity on Lot 2 to comply with the relevant standards and it will not cause the existing standard residential activity on Lot 1 to contravene any relevant standards, including the standards for outdoor living space (rule 15.5.11). The proposal therefore enables standard residential to be undertaken on both resultant sites as a permitted activity.

CITY-WIDE ACTIVITIES

The proposal involves earthworks, a city-wide activity in the earthworks activities category. Earthworks – small scale and earthworks – large scale are sub-activities of earthworks.

- Provided they comply with the relevant performance standards, earthworks – small scale are a permitted activity and earthworks – large scale are a restricted discretionary activity (rules 8A.3.2.2 and 8A.3.2.3, respectively).
- Earthworks listed in rule 8A.5.1.1 are always considered small scale. All other earthworks must not exceed the scale thresholds in rules 8A.5.1.3–8A.5.1.5 to be considered small scale (rule 8A.5.1.2.a).

The proposed earthworks are not listed in rule 8A.5.1.1. However, we expect that they will comfortably fall within the scale thresholds and will comply with the relevant performance standards. They are therefore a **permitted** activity. If we find that they will exceed the scale thresholds or contravene any relevant performance standards, we will apply for land use consent.

4.3 Overall activity status

In summary, the proposal requires resource consent under the 2GP for the following reasons:

- General subdivision is a restricted discretionary activity in residential zones (rule 15.3.5.2).
- Contravening the esplanade reserves and strips performance standard is a restricted discretionary activity city wide (rule 10.3.1.4).

Overall, we consider the proposal's activity status to be **restricted discretionary**.

5 ASSESSMENT OF ENVIRONMENTAL EFFECTS

Under s 104C(1) of the RMA, when considering a resource consent application for a restricted discretionary activity, a consent authority must consider only those matters:

- To which its discretion is restricted in its plan or proposed plan.
- To which its discretion is restricted in national environmental standards or other regulations.

The assessment of environmental effects (AEE) for the proposal responds to the relevant 2GP matters of discretion (Table 2) as well as other relevant effects.

Table 2. 2GP matters of discretion relevant to the proposal.

ACTIVITY/PERFORMANCE STANDARD	MATTERS OF DISCRETION
Subdivision activities in residential zones	• Effects on neighbourhood residential character and amenity (rule 15.11.4.1.a) • Risk from natural hazards (rules 11.5.2.1, 11.5.2.5, 15.11.4.1.b) • Effects on efficiency and affordability of infrastructure (rules 9.6.2.2, 9.6.2.2.a, 15.11.4.1.c) • Effects of stormwater from future development (rules 9.6.2.2.b, 15.11.4.1.d) • Effects on the safety and efficiency of the transport network (rules 6.11.2.1, 6.11.2.7, 15.11.4.1.d)
Esplanade reserves and strips	• Positive effects on biodiversity values or the natural character of the coast (rule 10.5.3.1) • Effects on biodiversity values and natural character of riparian margins and the coast (rules 10.5.3.2.a, 15.10.5.2.a) • Effects on public access (rules 10.5.3.2.b, 15.10.5.2.b)

5.1 Positive effects

The proposal will use existing residential land more efficiently; the site is currently occupied by a single residential unit and the proposed subdivision will result in the same area of land accommodating an additional residential unit on a fee simple title. This will help to ensure that Dunedin has sufficient housing to meet demand while avoiding urban expansion and retaining its compact and accessible urban form. The proposal will also positively affect biodiversity compared to the existing situation by providing a wider, planted riparian margin.

5.2 Effects on neighbourhood residential character and amenity

The proposal involves a residential subdivision in a residential zone, so in a general sense, its effects on character and amenity are anticipated by the 2GP. Apart from the proposed esplanade strip reduction, the proposal complies with the relevant performance standards. In particular, although the proposed 140 m² esplanade strip will occupy a significant portion of Lot 2, its remaining area will be a size and shape that can accommodate a small but compliant dwelling. The proposal will therefore result in residential activity at a density that is anticipated in the T&S Zone and is consistent with existing as well as anticipated future neighbourhood character.

Overall, we consider the proposal's adverse effects on neighbourhood residential character and amenity to be **less than minor**.

5.3 Risk from natural hazards

Lot 1 will contain the site's existing standard residential activity, and the proposal provides for standard residential activity to be established on Lot 2. 2GP Table 11.1.3A of the 2GP classifies residential activities as natural hazards sensitive activities. In this case, the site is fairly flat and neither 2GP nor ORC mapping identify it as being subject to natural hazards, so we consider the risk of natural hazards to future residential activity on Lot 2 to be no more than low.

Overall, we consider the proposal's adverse effects with respect to risk from natural hazards to be **less than minor**.

5.4 Effects on the safety and efficiency of the transport network

As the proposal will enable residential activity at a density anticipated in the T&S Zone, the resulting traffic volume will also be anticipated for the zone. The site's existing parking and access arrangement, which will be inherited by Lot 1, complies with the relevant performance standards. The proposed Lot 2 driveway will also be fully compliant, and compliant parking can be provided on this resultant site in the future.

Overall, we consider the proposal's adverse effects on the safety and efficiency of the transport network to be **less than minor**.

5.5 Effects on the efficiency and affordability of infrastructure and effects of stormwater from future development

The existing dwelling is fully serviced and will retain its existing service connections—any private service easements necessary to enable this will be created at the LT Plan stage. Lot 2 will be provided with new connections to all necessary infrastructure in accordance with the service connections performance standard, and will have sufficient water supplies for firefighting. Additionally, a DCC foul sewer main crosses the southern corner of the site, and this will be protected by a new easement in gross.

Regarding the burden on water infrastructure, the sites are in an area serviced by DCC infrastructure and the proposal enables the existing dwelling on Lot 1 and future residential land use and development on Lot 2 to comply with the relevant performance standards. This includes the standards for density and impermeable surfaces, which control the burden on infrastructure and stormwater generation.

We therefore consider that:

- The public water infrastructure that will support the resultant sites has the capacity to absorb the additional stormwater enabled by the proposal.
- The proposal will not cause the current or planned capacity of public water infrastructure to be exceeded, nor will it compromise the ability of that infrastructure to service permitted activities.

Overall, we consider the proposal's adverse effects on the efficiency and affordability of infrastructure and effects of stormwater from future development to be **less than minor**.

5.6 Effects on biodiversity and public access

As section 3.5 mentioned, a full 20 m esplanade strip would encroach on the site's existing dwelling and would significantly limit the use of the site. Full esplanade strips are not currently provided on nearby sites and are unlikely to be provided in the future given the location of existing development on these sites. Providing a full esplanade strip would therefore place an unduly onerous burden on the applicant, and they have proposed a reduced esplanade strip with a width of 9 m and an area of 140 m². For clarity, we note that the esplanade strip will be a natural boundary that moves with any changes to the alignment of the stream—it will move with Sawyers Bay Stream. However, historic aerial photos suggest that the stream's alignment has been fairly static over the past century.

Under s 229 of the RMA, an esplanade strip has 1 or more of the following purposes:

- (a) to contribute to the protection of conservation values by, in particular, —*
 - i. maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
 - ii. maintaining or enhancing water quality; or*
 - iii. maintaining or enhancing aquatic habitats; or*
 - iv. protecting the natural values associated with the esplanade reserve or esplanade strip; or*
 - v. mitigating natural hazards; or*
- (b) to enable public access to or along any sea, river, or lake; or*
- (c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.*

Irrespective of its width, an esplanade strip on the site will have effectively no public access benefits. The 2GP does not identify any public recreation and access values for Sawyers Bay Stream, and there are no nearby public reserves nearby that an esplanade strip on the site could connect to. So even if a full esplanade strip and/or public access was provided, most of the stream would remain inaccessible and there would be no enhanced connectivity between public reserves.

Accordingly, we have proposed that the sole purpose of the reduced esplanade strip is the protection of conservation values—particularly Sawyers Bay Stream's value as a habitat for native fish. Although it will be narrower than 20 m, the proposed esplanade strip will:

- Help to maintain the natural character of Sawyers Bay Stream's riparian margin.
- Help to protect the stream's value as a habitat for native fish.
- Help to maintain the water quality and natural function of Sawyers Bay Stream.

Ongoing protection of the stream's conservation values will be provided by the proposed consent notice, which will require the esplanade strip planting to be maintained. The biodiversity benefits provided by an additional 11 m of esplanade strip width would be limited, as this strip would be isolated.

Overall, we consider the proposal's adverse effects on biodiversity and public access to be **less than minor**.

5.7 Cumulative effects

Although it is not a permitted activity, subdivision is still anticipated in Residential Zones—the intention of its restricted discretionary activity status is to ensure that all necessary subdivision matters are adequately addressed. The proposed subdivision complies with the relevant performance standards except with respect to the width of the proposed esplanade strip, and the adverse effects of the reduction in esplanade strip are considered to be less than minor. Its cumulative effects for both the subject site and the surrounding environment will therefore be less than minor.

5.8 Overall effects

Based on the above assessment, we conclude that the proposal's adverse effects on the environment will be **less than minor**.

6 NOTIFICATION ASSESSMENT

We consider that the application can be processed on a **non-notified** basis, and an assessment against the steps to determine the notification status of an application is carried out in Table 3.

Under s 95A(8)(b), an application must be publicly notified if its adverse effects on the environment are more than minor, and under s 95B(8) affected persons identified in accordance with s 95E must be notified. A person is an affected person if the adverse effects of the activity on the person are minor or more than minor (but not less than minor) (s 95E(1)). In this case, we consider the proposal's adverse effects on the environment and neighbouring sites to be less than minor. As mentioned previously, we understand that the decision on the esplanade strip reduction component of the proposal will be made at a non-notified hearing rather than under delegated authority.

Table 3. Notification assessment under ss 95A and 95B.

S 95A PUBLIC NOTIFICATION	
Step 1: Does the application meet the criteria for mandatory public notification under s 95A(3)?	No.
Step 2: Does the application meet the criteria for precluding public notification under s 95A(5)?	No.
Step 3: Does the application meet the criteria for public notification under ss 95A(8) and 95D?	No.
Step 4: Are there special circumstances that warrant public notification under s 95A(9)?	No.

S 95B LIMITED NOTIFICATION	
Step 1: Are there certain affected groups and affected persons who must be notified under s 95B(2)–(3)?	No
Step 2: Does the application meet the criteria for precluding limited notification under s 95B(6)?	No
Step 3: Does the application meet the criteria for other affected persons to be notified under ss 95B(7)–(8) 95E?	No.
Are there special circumstances that warrant limited notification under s 95B(10)?	No.

7 OBJECTIVES AND POLICIES ASSESSMENT

There are objectives and policies relevant to the proposal in the Transportation, Earthworks, Natural Environment, Natural Hazards and Residential Zones sections of the 2GP. The proposal is assessed against these objectives and policies below.

Transportation (2GP Section 6)

The proposal is consistent with the relevant transportation objectives and supporting policies, which are set out in Table 4.

The proposal provides for a traffic volume anticipated by the 2GP, and no changes to the transport network requiring public funding are proposed. Lot 1 will retain its existing, compliant parking and access arrangement, while Lot 2 will have a new, compliant driveway. Lot 2 will be able to accommodate compliant onsite parking, should this be provided in the future.

Table 4. Transportation objectives and policies relevant to the proposal.

Objective 6.2.3 Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel modes and its affordability to the public.	
Policy 6.2.3.3	Require land use activities to provide adequate vehicle loading and manoeuvring space to support their operations and to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on the safety and efficiency of the transport network.
Policy 6.2.3.4	Require land use activities to provide the amount of parking necessary to ensure that any overspill parking effects, that could adversely affect the safety and efficiency of the transport network are avoided or, if avoidance is not practicable, adequately mitigated.
Policy 6.2.3.9	Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where: a. adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and b. any associated changes to the transportation network will be affordable to the public in the long term.

Objective 6.2.4 Parking areas, loading areas and vehicle accesses are designed and located to: - provide for the safe and efficient operation of both the parking or loading area and the transport network; and - facilitate the safe and efficient functioning of the transport network and connectivity for all travel modes.	
Policy 6.2.4.1	Require parking and loading areas, including associated manoeuvring and queuing areas, to be designed to ensure: - the safety of pedestrians travelling on footpaths and travelling through parking areas; - that vehicle parking and loading will be carried out safely and efficiently; - that any adverse effects on the safe and efficient functioning of the transport network are avoided or, if avoidance is not practicable, will be no more than minor; - the safe and convenient access to and from parking and loading areas for vehicles, emergency vehicles, pedestrians and cyclists; and - that mud, stone, gravel or other materials are unlikely to be carried onto hard surface public roads or footpaths.
Policy 6.2.4.2	Require driveways to be designed to ensure that: the surfacing and gradient of the driveway allows it to be used safely and efficiently; - mud, stone, gravel or other materials are unlikely to be carried onto hard surface public roads or footpaths; - the width of the driveway is sufficient to allow the type and number of vehicles (including emergency vehicles), likely to be using it to do so safely and efficiently; and - sufficient distance is provided between shared driveways and dwellings

Public Health and Safety (2GP Section 9)

The proposal is consistent with the relevant public health and safety objectives and supporting policies, which are set out in Table 5.

The site is in an area serviced by DCC water infrastructure and the resultant sites will have service connections in accordance with the relevant performance standards. The proposal complies with the minimum site size standard and future development on Lot 2 will be able to comply with the standard for impermeable surfaces. Infrastructure demand will therefore be in line with what is anticipated by the 2GP. Overall, the proposal will maintain the efficiency and affordability of public water infrastructure.

Regarding Policy 9.2.2.X, we have assessed the most up-to-date information about the site, including a search of DCC records (HAIL-2024-31). Based on this evidence, we have concluded that the site is not a HAIL site.

Table 5. Public health and safety objectives and policies relevant to the proposal.

Objective 9.2.1 Land use, development maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure.	
Policy 9.2.1.1A	Only allow land use or subdivision activities that may result in land use or development activities in a wastewater serviced area where: it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or

	b. for controlled and restricted discretionary land use activities, communal on-site wastewater detention infrastructure can be integrated into the public wastewater network prior to development in a way that meets DCC's requirements; or c. an unplanned upgrade to the public wastewater network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC.
Policy 9.2.1.2	Only allow multi-unit development; supported living facilities; subdivision; or development that contravenes the impermeable surfaces performance standard, where: a. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through DCC stormwater public infrastructure at any point: i. there is adequate capacity in the stormwater public infrastructure; or ii. any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor; and b. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through a private, natural/informal stormwater system, or Otago Regional Council public infrastructure at any point, that stormwater system or public infrastructure has the capacity to absorb the additional stormwater with no more than minor adverse effects on it or on other sites (public or private), including but not limited to, adverse effects from an increase in overland flow or ponding.
Policy 9.2.1.3	Require subdivision activities to ensure future land use and development activities: X. have access to electricity and telecommunications networks; Y. in areas where there is water or wastewater public infrastructure, have access to this infrastructure in a way that will maintain its efficiency and affordability; and - AA. in the commercial and mixed use zones and Recreation Zone, have access to piped stormwater public infrastructure, where available; Z. unless, for either (X), (Y) or (AA), allowing development without access will have long term positive effects on the public infrastructure or relevant network utility, or any adverse effects will be insignificant.
Policy 9.2.1.4	Only allow land use or subdivision activities that may result in land use or development activities in an area with public water supply where: a. it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or b. an unplanned upgrade to the public water supply network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC.
Objective 9.2.2 Land use, development and subdivision activities maintain or enhance people's health and safety.	
Policy 9.2.2.X	Activities on land that has a history of land use that may have resulted in contamination are managed in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, including by: a. at the time of subdivision, land use or when land development activities involving soil disturbance take place, identifying and assessing risk to human health from contaminants in soil, where practicable; and b. if necessary based on the intended use of the land, remediating or managing the contaminants to make it safe for human use.

Natural Environment (2GP Section 10)

The proposal is consistent with the relevant natural environment objectives and supporting policies, which are set out in Table 6.

The proposed esplanade strip will be narrower than the required 20 m. There are some trees and shrubs along the bank of Sawyers Bay Stream, but most of the esplanade strip area is currently lawn. The applicant is proposing to plant it out with native plants, and a consent notice will ensure that this planting is maintained. The proposed esplanade strip will therefore be an improvement on the existing situation and will support the maintenance and enhancement of Sawyers Bay Stream's biodiversity values. The 2GP does not identify any public access or recreation values for the stream, and the proposed esplanade strip will not be near any public reserves. The proposed esplanade strip is therefore an appropriate width and will maintain the (already limited) public access to Sawyers Bay Stream.

Table 6. Natural environment objectives and policies relevant to the proposal.

Objective 10.2.1 Biodiversity values are maintained or enhanced, including by protecting areas of significant indigenous vegetation and the significant habitats of indigenous fauna.	
Policy 10.2.1.5	Encourage conservation activity in all zones.
Policy 10.2.1.11	Only allow subdivision activities where the subdivision design will ensure any future land use or development will: a. maintain or enhance, on an on-going basis, biodiversity values; b. protect any areas of significant indigenous vegetation and the significant habitats of indigenous fauna; and c. be in accordance with policies 10.2.1.X, 10.2.1.Y and 10.2.1.8.
Objective 10.2.2 In the coastal environment natural character is preserved and biodiversity values are protected. Outside the coastal environment, the biodiversity values and natural character of riparian margins are maintained and enhanced.	
Policy 10.2.2.1	Encourage conservation activity in coastal and riparian margins.
Policy 10.2.2.7	Only allow subdivision activities adjacent to water bodies and the coast where the subdivision is designed to ensure that the following biodiversity values and natural character values are maintained or enhanced, including through provision of an esplanade reserve or esplanade strip in identified locations: a. biodiversity values of riparian margins and the coast; the water quality and aquatic habitats of the water body or coast; and b. the natural functioning of the adjacent sea or water body.
Objective 10.2.4 Subdivision and development activities maintain and enhance access to coastlines, water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai.	
Policy 10.2.4.3	Require subdivision of land to enhance public access to the natural environment through: a. requiring an esplanade reserve or esplanade strip of an appropriate width and location adjacent to identified water bodies and the coast; and b. where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads.

Natural Hazards (Section 11)

The proposal is **consistent** with the relevant natural hazards objective and supporting policy, which are set out in Table 7.

Lot 1 will contain the existing dwelling on the site, and the proposal provides for residential activity on Lot 2. According to DCC and ORC mapping there are no known natural hazards associated with the site, so future residential activity on Lot 2 will be at no more than low risk from natural hazards.

Table 7. Natural hazards objectives and policies relevant to the proposal.

Objective 11.2.1 Land use and development is located and designed in a way that ensures that the risk from natural hazards, and from the potential effects of climate change on natural hazards, is no more than low, in the short to long term.	
Policy 11.2.1.12.	In all hazard overlay zones, the swale mapped area, the dune system mapped area, or in any other areas that the DCC has information to suspect there maybe risk from a natural hazard, only allow subdivision activities where there is a reasonable level of certainty that any future land use or development will meet Policies 11.2.1.1–11.2.1.11.

Residential Zones (Section 15)

The proposal is **consistent** with the relevant residential zones objectives and supporting policies, which are set out in Table 8.

The proposal enables the existing residential activity on Lot 1 to remain compliant with the relevant performance standards, and it enables compliant residential land use and development on Lot 2. It is therefore in line with the 2GP's expectations for subdivision design and its effects on character and amenity are anticipated in the T&S Zone.

Table 8. Residential zones objectives and policies relevant to the proposal.

Objective 15.2.2 Residential activities, development and subdivision activities provide high quality on-site amenity for residents.	
Policy 15.2.2.1	Require residential development to achieve a high quality of on-site amenity by: a. providing functional, sunny, and accessible outdoor living spaces that allow enough space for on-site food production, leisure, green space or recreation; b. having adequate separation distances between residential buildings; c. retaining adequate open space uncluttered by buildings; and d. having adequate space available for service areas.
Objective 15.2.3 Activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.	
Policy 15.2.3.1	Require buildings and structures to be of a height and setback from boundaries that ensures there are no more than minor effects on the sunlight access of current and future residential buildings and their outdoor living spaces.

Objective 15.2.4 Activities maintain or enhance the amenity of the streetscape and reflect the current or intended future character of the neighbourhood.	
Policy 15.2.4.2	Only allow residential activity that exceeds the permitted density where the built form of any new development, as viewed from public places, reflects the existing residential character or intended future character of the zone as set out in the residential zone descriptions.
Policy 15.2.4.6	Only allow subdivision activities where the subdivision is designed to ensure any future land use and development will: a. maintain the amenity of the streetscape; b. reflect the current or future intended character of the neighbourhood; c. provide for development to occur without unreasonable earthworks or engineering requirements; and d. provide for quality housing.

8 SECTION 104 ASSESSMENT

Additional matters that must be considered under s 104 of the RMA are discussed below.

8.1 Offsetting or compensation measures

S 104(1)(ab) requires a consent authority to have regard to any measure proposed or agreed to by the applicant to offset or compensate for any adverse effects that the proposal will or may have on the environment. We do not propose any offsetting or compensation measures.

8.2 Relevant planning provisions

Sch 4 requires the proposal to be assessed against any relevant provisions of a document referred to in s 104(1)(b). The proposal has already been assessed against the relevant provisions of the NES-CS and 2GP. As the proposal is not contrary to the relevant 2GP objectives and policies, we consider that there is no need to assess it against higher order planning documents.

8.3 Other matters

S 104(1)(c) requires a consent authority to have regard to any other matters it considers relevant and reasonably necessary to determine the application. There are no other relevant matters to consider.

9 PART 2 ASSESSMENT

Pt 2 of the RMA (ss 5–8) sets out the purpose and principles of the Act. S 5 identifies the purpose and s 6 outlines a number of matters of national importance that must be recognised and provided for. S 7 sets out other matters to be given particular regard by all persons exercising functions and powers under the RMA, and s 8 requires the principles of the Treaty of Waitangi to be taken into account.

Sch 4 of the Act requires all resource consent applications to assess proposals against the matters set out in pt 2. This requirement has been met by the above assessment of the proposal against the provisions of the relevant planning documents. Based on this assessment, we conclude that the proposal will achieve the purpose of the RMA.

10 CONCLUSION

The applicant proposes to subdivide the subject site into 2 fee simple allotments: one will contain the existing dwelling on the site, and the other will be a vacant residential lot. As part of the subdivision, the applicant also proposes to establish a reduced esplanade strip along Sawyers Bay Stream.

The proposal has a **restricted discretionary** activity status and requires:

- **Subdivision consent** to subdivide a residential site into 2 residential sites and to contravene the esplanade reserves and strips performance standard.

We consider that the proposal's adverse environmental effects are less than minor and have not identified any affected persons. Furthermore, the proposal is not contrary to the relevant 2GP objectives and policies. We therefore believe it is appropriate for this application to be processed on a non-notified basis, although we understand that the decision on the proposed esplanade strip reduction will be made at a non-notified hearing.

APPENDIX A

SUBDIVISION SCHEME PLAN



OPTION A1b

PATERSONPITTSGROUP
Surveying • Planning • Engineering
Your Land Professionals
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0800 PPGROUP

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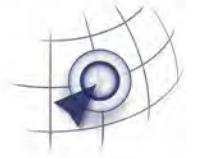
Client/Location:
Maureen Townsend
11 Hugh Street, Sawyers Bay
Lot 1 DP 10193

Purpose/Drawing Title:
Lots 1 and 2 being a Proposed Subdivision of RT OT7B/834

Surveyed by:	-	Original Size:	Scale:
Designed by:	KAB	A3	1:250
Drawn by:	KAB		
Checked by:	-		
Approved by:	-		DO NOT SCALE
Job Ref:	D19091	Sheet No:	Revision No:
		1 of 1	A
			Date Created:
			15/02/2024

APPENDIX B

HAIL ASSESSMENT REPORT



19 March 2024

City Planning
Dunedin City Council
PO Box 5045
Dunedin 9054

Attn: The Senior Planner

HAIL ASSESSMENT REPORT

11 Hugh St, Sawyers Bay, Dunedin

1 INTRODUCTION

This report is provided in support of the attached resource consent application, which seeks consent to subdivide the land at 11 Hugh St ('the site'). The purpose of the report is to provide an initial assessment of the proposal against the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).

The NES-CS applies when a person wants to do an activity described in reg 5(2)–(6) on a piece of land described in reg 5(7) or 5(8), unless the requirements of reg 5(9) are met.

- A piece of land described in reg 5(7) is one on which an activity or industry described in the Hazardous Activities and Industries List (HAIL) is being, has been or is more likely than not to have been undertaken.
- Reg 5(8) describes when the NES-CS applies to a piece of land that is production land.
- Reg 5(9) states that the NES-CS does not apply if a Detailed Site Investigation (DSI) shows that any contaminants in or on a piece of land are at, or below, background concentrations.

The site is a 1626 m² property located in Sawyers Bay. Under the Second Generation Dunedin District Plan it is in a residential zone (Township & Settlement) and it is currently used for residential activity; there is an existing standalone dwelling at the northeastern end of the site. In the northern corner of the site is a garage and its remaining area is a garden associated with the existing dwelling, which contains several sheds. As the resource consent application discusses, the applicant is proposing to subdivide the site into two residential lots: Lot 1 (876 m²) will contain the existing dwelling and Lot 2 (750 m²) will be vacant. A future dwelling will be located at the rear of Lot 2, as Sawyers Bay Stream and a proposed 140 m² esplanade strip will occupy most of the front of this site. Minor earthworks will be required to lay services and construct a driveway on Lot 2. Accordingly, if the site contains a piece of land described in reg 5(7), the proposal may involve the activities described in regs 5(4) and 5(5) (disturbing the soil of and subdividing a piece of land).

In accordance with reg 6 of the NES-CS, this report is based on the most up-to-date information about the site held by the Dunedin City Council (DCC)—we lodged a HAIL search request with the DCC on 14 March 2024 (HAIL-2024-31). We also searched for the site in the Otago Regional Council (ORC) Listed Land Use Register.

2 ASSESSMENT

The site is not recorded as a HAIL site in the ORC Listed Land Use Register and the summary of HAIL search report HAIL-2024-31 advises that there is no explicit evidence of HAIL activity being undertaken on the site. However, the summary also notes the following:

- The Ministry of Health has determined that the original paintwork on pre-1945 dwellings is almost certain to contain high lead concentrations. Additionally, the DCC's consultant environmental scientists at Stantec New Zealand Limited have stated that it is 'most likely' that the soil immediately surrounding a painted dwelling erected before 1945 will have lead contamination that exceeds the NES-CS Soil Contaminant Standards. The DCC records do not confirm when the existing dwelling was erected, and if it was erected before 1945, HAIL Category I (Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment) may apply.
- Historically, building products containing asbestos were widely used in New Zealand. If there are and/or were any buildings on the site containing asbestos products in a deteriorated condition, HAIL Category E1 (asbestos products manufacture or disposal including sites with buildings containing asbestos products known to be in a deteriorated condition) may apply.
- Google Streetview images of the site from 2012 and 2023 show various drums and containers stored along the site's northeastern border. If these were used for storing fuel, chemicals or liquid waste then HAIL Category A17 (storage tanks or drums for fuel, chemicals or liquid waste) may apply.

2.1 Land use history

This section describes the land use history of the site with respect to soil contamination. Amongst other records, the HAIL search report contains an excerpt of W T Neill's Military Topographical Maps dated 1901 and aerial photos of the site from the following years: 1952, 1958, 1967, 1972, 1982, 1990, 2000, 2007, 2009, 2013 and 2018/19.

The 1901 map excerpt indicates that before the existing dwelling on the site was erected, the site was vacant. It also shows a waterway (Sawyers Bay Stream) crossing the site's southern corner (Figure 1). There is uncertainty around exactly when the existing dwelling was erected, as the DCC records hold relatively little information about the site. Its consent record contains only three building permits: one relating to the existing garage, and two relating to drainage. However, the existing dwelling is visible in all aerial photos of the site, and in an email dated 13 March 2024, the DCC archivist advised that the dwelling has been on the site since at least 1947. The shed closest to the dwelling appears to have been on the site since at least 1952, since it is also visible in all the aerial photos of the site (Figure 2). Sawyers Bay Creek is visible in all the aerial photos of the site, and its alignment seems to be fairly unchanged over this period.

The galvanised iron garage on the site was erected under building permit H-1988-270700 and is first visible in the 1990 aerial photo of the site. The historical aerial photos show that various small sheds have been established on the site since the 1950s, and some have been removed. In addition to the main shed, there are four sheds remaining on the western end of the site.

Overall, the information in HAIL-2024-31 suggests that the site has changed little since the erection of the existing dwelling—it has been used for residential activity, and most of its area has been the dwelling's garden. However, the HAIL-2024-31 did note that Google Streetview photos of the site dated 2012 and 2023 show various drums or containers along the site's northeastern border, by the garage (Figure 4 and Figure 5 in Appendix A). Some of these are DCC recycling bins, and the others

are buckets of various sizes. In the 2012 photo, what appear to be leftover pieces of timber and corrugated iron are also visible. The applicant cannot confirm the past use of these materials, having only recently purchased the site. However, the area along the site's northeastern boundary is most likely a typical residential storage area for rubbish and recycling bins and domestic activities such as gardening and house maintenance. This is also consistent with the large size of the garden.



Figure 1. Excerpt of W. T. Neill's Military Topographical Map dated 1901, with the approximate location of the subject site marked in blue.



Figure 2. Aerial photo of the site dated 1952.

SUMMARY

The site has been used for residential activity since at least 1947, when the existing dwelling was erected. Before 1947, the site was vacant.

3 NES-CS ASSESSMENT

There is no evidence that any of the buildings or structures erected on the site contain or have contained asbestos. It is also reasonable to conclude that the existing dwelling on the site was erected after 1945, when lead-based paint was less commonly used. The materials stored along the site's northeastern boundary are highly unlikely to have been used for storing fuels, chemicals or liquid waste.

Even if contamination was present on the northeastern side of the site, the proposal would not pose a risk to human health. A future dwelling and all works required for the proposed subdivision (e.g. driveway construction) will be undertaken on Lot 2, which comprises the southwestern end of the site (Figure 3).

Overall, the information discussed above does not provide absolute evidence that no HAIL activity has been undertaken on the site, but it does suggest that it is more likely than not that no HAIL activity has been undertaken. Moreover, if HAIL Categories A17 and I did apply to the site, they would only apply within Lot 1 and the proposed subdivision would not increase the risk to human health from soil contamination.



Figure 3. Excerpt of the scheme plan for the proposed subdivision.

4 CONCLUSION

The proposal involves subdividing residential land and minor earthworks. However, it is more likely than not that no HAIL activity has been undertaken on the site, and therefore the NES-CS does not apply. If we discover evidence to the contrary during our involvement with the proposed subdivision we will bring this to the attention of the applicant and the DCC so that appropriate mitigation measures can be undertaken.

For any further information or discussion in respect of this matter, please do not hesitate to contact the author below.

Yours faithfully,
PATERSON PITTS GROUP

Vyvienne Evans
Planner

M: 021-198-0716
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APPENDIX A

GOOGLE STREETVIEW SITE PHOTOS



Figure 4. Google Streetview image of the site from Hugh St dated 2012.



Figure 5. Google Streetview image of the site from Hugh St dated 2023.

APPENDIX C

RECORD OF TITLE



RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy




 R.W. Muir
 Registrar-General
 of Land

Identifier **OT7B/834**
Land Registration District **Otago**
Date Issued 27 January 1978

Prior References
 OTB1/275

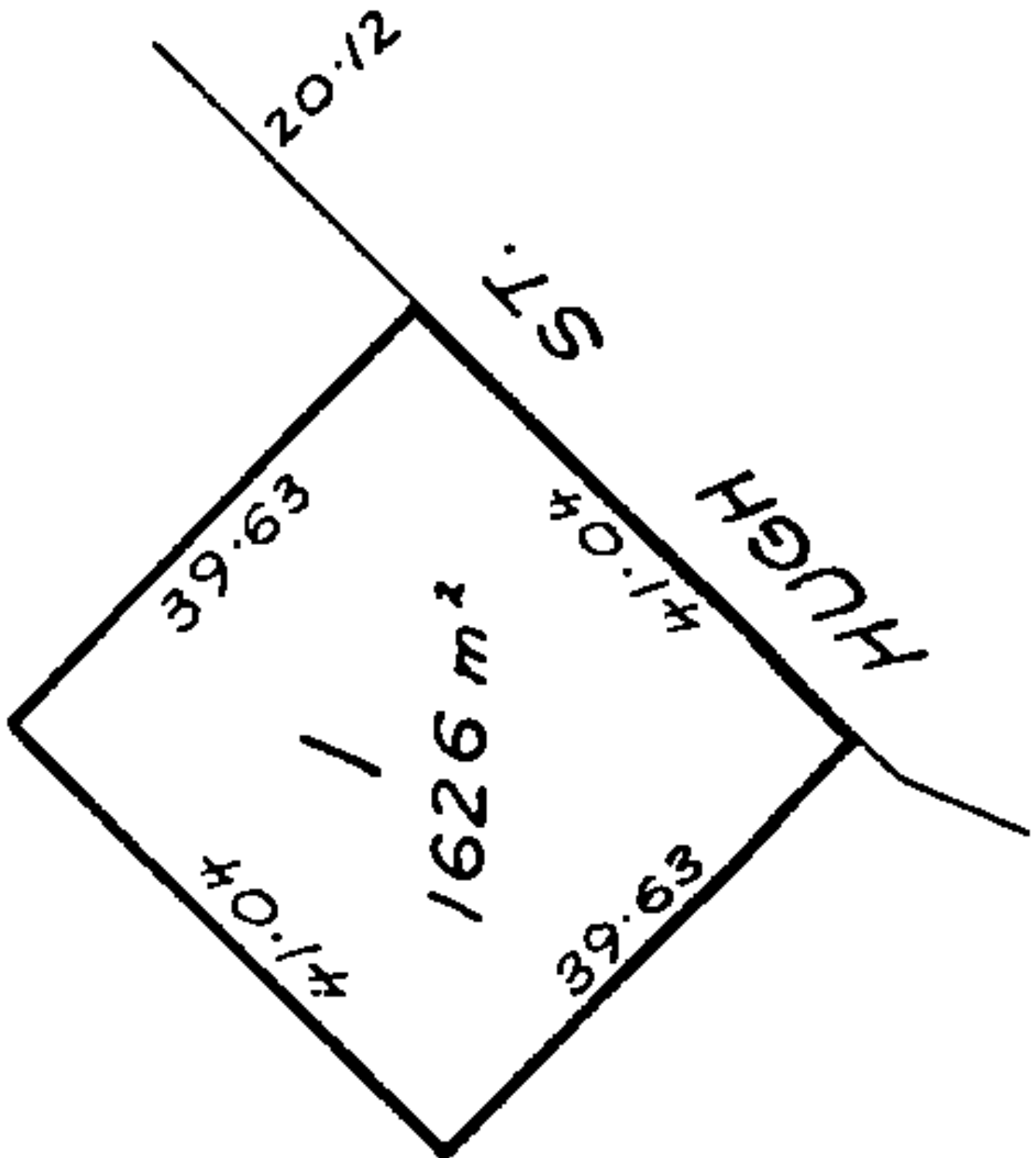
Estate Fee Simple
Area 1626 square metres more or less
Legal Description Lot 1 Deposited Plan 10193

Registered Owners

Claire Millicent Townsend as to a 7/50 share
 Maureen Bernadette Townsend as to a 43/50 share

Interests

12901888.2 Mortgage to Westpac New Zealand Limited - 2.2.2024 at 11:58 am





Memorandum

TO: Ian McCabe

FROM: Elizabeth Schonwald, Parks and Recreation

DATE: 15 May 2024

SUBJECT: **11 HUGH STREET, SAWYERS BAY – 2 LOT SUBDIVISION WITH REDUCED ESPLANADE STRIP - UPDATED**

Kia ora Ian,

Thank you for the opportunity to comment on the above subdivision consent application. The proposed application seeks to subdivide the subject site into two residential lots with a 9m wide esplanade strip adjacent to Sawyers Bay Stream.

The conservation value identified for Sawyers Bay Stream in Appendix 10C of the Dunedin City Council's Second Generation District Plan (2GP) "*Important as a refuge for native fish in significant lifestyle stages.*"

Dunedin City Council (DCC) Parks and Recreation Services (PARS) have an interest in the resource consent application for the property as there is a statutory requirement for the provision of a 20m wide esplanade strip along Sawyers Bay Stream.

Ensuring our parks, natural landscapes, flora and fauna are treasured by the community is also a key objective of the Dunedin City Council Parks and Recreation Strategy (2017).

The matters of discretion relevant to an application not providing the full 20m width esplanade strip adjacent to Sawyers Bay Stream as identified in the 2GP are:

10.5.3.2.a *Effects on biodiversity values and natural character values of riparian margins and the coast;*

10.5.3.2.b *Effects on public access*

The guidance provided when assessing 10.5.3.2.a for the reduction of the required esplanade strip is to consider the effects on the conservation values of the water body which have been identified above, the effects on the natural functioning of the water body, effects on other biodiversity values, natural character values and any other measures proposed to enhance the biodiversity of the riparian margin and associated water body.

The guidance provided when assessing 10.5.3.2.b is to ensure that public access to the natural environment is enhanced. This includes considering the effects of the reduced esplanade strip on public recreation and access values and the potential effect of sea level rise on the width of the reserve via the mean high-water springs.

The protection of the margins of the waterways helps conserve environmental values and provides opportunities for public access and recreational use, as provided for in Section 6(a) and (d) of the Resource Management Act 1991 (RMA).

The purpose of an esplanade reserve or strip is identified in Section 229 of the RMA is to provide one or more of the following:

to contribute to the protection of conservation values by, in particular, -

- (i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
- (ii) maintaining or enhancing water quality; or*
- (iii) maintaining or enhancing aquatic habitats; or*
- (iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or*
- (v) mitigating natural hazards; or*

to enable public access to or along any sea, river, or lake; or

to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

The focus for this proposed esplanade strip is contributing to the protection of the conservation values of Sawyers Bay Stream. The protection, maintenance and enhancement of this waterway will be supported by the instrument for the esplanade strip as identified in Schedule 10 of the RMA.

The recent National Policy Statement of Freshwater Management 2020 recognises how important New Zealand's freshwater resources are and provides direction to local authorities around the management of these resources.

As identified above the 2GP recognises the value that Sawyers Bay Stream has in providing a suitable habitat for native fish, this includes *Galaxias fasciatus*. A couple of studies were completed on the observation of the native New Zealand galaxiid fish, *Galaxias fasciatus* in Sawyers Bay Stream.

The land alongside the stream is predominantly low-intensive farming or residential. The outlet for the stream is into the Otago Harbourⁱ. The Sawyers Bay Stream has an average width and depth of 1.5m and 0.2m, respectivelyⁱⁱ.

The applicant had pre-application discussions with PARS before making the application this was without prejudice and involved a suggestion given the residential zoning that the applicant make the esplanade strip as wide as possible without impacting the adjacent existing tree at the front of the site. We also advised the applicant's consultant that as the strip proposed was likely to be less than 20m there would be an expectation on the property owner to plant and maintain the esplanade strip. This expectation is based on ecological advice PARS received for previous esplanade reductions. Ideally an esplanade reserve/strip

is to be closer to 20m in width, to support the self-management of the space anything less will require regular management and maintenance to support the establishment and restoration of vegetation.

PARS preference would be for the property owner to plant appropriate plant species local to the site and suitable for riparian margins, please refer to the schedule in the link below or search for it in Otago Regional Council's Otago Native Planting Guide and maps, [Otago Native Planting Guide \(arcgis.com\)](https://arcgis.com).

[orc-native-plant-guide_MF3_Matai-totara-kahikatea-broadleaved-forest.pdf](#)

The application indicates that the applicant has already arranged plants for the esplanade strip, we note these species are not local to the site or region. We suggest that the owner utilise the plants they have purchased but if any additional plants are required these be from the schedule above.

It should also be noted that there is a DCC wastewater pipe located within the proposed esplanade strip. It is therefore suggested that only shallow-rooted species should be planted in the easement area over this pipe. Please refer to the map below for the approximate location of the pipe.



PARS suggest the following conditions to be included in the consent decision.

1. *All cost associated with the preparation and lodgement of the esplanade instrument will be covered by the applicant (including DCC legal costs).*
2. *All survey costs will be covered by the applicant unless agreed otherwise.*
3. *The plants selected for the esplanade strip shall be trees and shrubs set out in one of the Otago Regional Council's "Otago Native Planting Guides" appropriate to site. [Otago Native Planting Guide \(arcgis.com\)](https://arcgis.com)*
4. *Plants will be sourced from a nursery that provides ecologically sourced plants suitable to the ecological district of the site.*

5. *Plants will be adequately spaced to ensure they fill out the area within a couple of growing seasons. Spacing is dependent on the type of plant, grasses/reeds maximum spacing of 40cm, shrubs/flaxes maximum spacing of 1.5m and trees maximum spacing of 5m.*
6. *Plants will be healthy and of good size (container size PB5 or larger).*
7. *Planting of the esplanade strip will take place within a growing season.*
8. *Plants will be regularly watered and protected from all pests.*
9. *Plants shall be monitored to support their survival and any plants that fail should be replaced immediately with ecologically appropriate species.*
10. *The property owner must not do, or allow others to do, any of the following activities on or within the area of the Esplanade Strip:*
 - a) *Fell, remove, burn, take, or damage any plant species native to the Dunedin Ecological District. If the plant species are likely to cause damage to any person or building on the Esplanade Strip, the property owner may fell or remove the plant with written consent from Dunedin City Council Parks and Recreation Services, which shall not be unreasonably withheld;*
 - b) *Plant any tree, shrub, or plant, or scatter or sow any tree, shrub or plant other than species native to the Dunedin Ecological District;*
 - c) *Introduce substance noxious or otherwise injurious to any plant species native to the Dunedin Ecological District; or*
 - d) *Any activity which might harm any plant species native to the Dunedin Ecological District.*

The provision for public access is to safeguard public access for the future, no matter the ownership of the land therefore ensuring the possibility for a continuous walkway along the stream. An esplanade strip also provides the opportunity to support the biodiversity of the stream and enable biodiversity monitoring and water quality testing.

Enhancement of the waterways through the removal of pest plants, and planting of natives would improve the waterway's quality and potential for biodiversity to thrive.

Given the proposed residential activity of the site and the above conditions around the management of the esplanade strip, PARS do not require the esplanade strip to be fenced.

Please do not hesitate to contact us if you wish to discuss the above further.

Regards,
Elizabeth Schonwald

ⁱ Akbaripasand, A. et al. *Microhabitat use of a native New Zealand galaxiid fish, Galaxias fasciatus*

ⁱⁱ Akbaripasand, A. et al. *Microhabitat use of a native New Zealand galaxiid fish, Galaxias fasciatus*