

HEARINGS COMMITTEE AGENDA

FRIDAY, 16 FEBRUARY 2024, 9.30 AM
Council Chamber, Dunedin Public Art Gallery,
30 The Octagon, Dunedin

MEMBERSHIP: Commissioner Megan Justice (Chairperson), Councillors Sophie Barker and Andrew Whiley

IN ATTENDANCE: Campbell Thomson (Senior Planner/Committee Advisor), Lianne Darby (Associate Senior Planner), Luke McKinlay (Landscape Architect), Zoe Lunniss (Biodiversity Officer), Daniel Fitzpatrick (Graduate Engineer/Planner, Transport) and Wendy Collard (Governance Support Officer)

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

1 RESOURCE CONSENT APPLICATION – LUC-2022-215 and SUB-2022-80, 30 TUI STREET, DUNEDIN

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Report from Lianne Darby

Refer to pages 1 - 28

The Applicant's Presentation

Application

Refer to pages 29 - 117

Council Officer's Evidence

- Email from MWH Hazards Team
Refer to page 118 - 120
- Email from Subdivision Support Officer, 3 Waters
Refer to page 121
- Memorandum from Building Services Processing Officer
Refer to page 122
- Memorandum from Graduate Planner, Transport
Refer to pages 123 – 125

- Memorandum from Landscape Architect
Refer to pages 126 – 131
- Memorandum from Biodiversity Officer
Refer to pages 132 – 135

Section 95 Report

Refer to pages 136 – 142

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 – 30 Tui Street, St Leonards	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

TO: Hearing Commissioner

FROM: Lianne Darby, Associate Senior Planner

DATE: 23 January 2024

SUBJECT: **RESOURCE CONSENT APPLICATION**
SUB-2022-80 & LUC-2022-215
30 TUI STREET
ST LEONARDS

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 23 January 2024. The purpose of the report is to provide a framework for the Commissioner's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

SUMMARY OF RECOMMENDATION

- [2] For the reasons set out in paragraphs [39] to [106] below, I consider that the proposal will have adverse effects on the environment which are less than minor. The proposal is consistent with the majority of the objectives and policies of the Proposed District Plan but inconsistent in respect of an objective and some policies for development in rural residential zones. After consideration of the evidence, I have concluded that the proposal should be granted.

DESCRIPTION OF PROPOSAL

- [3] Resource consent is sought for the subdivision of the land at 30 Tui Street, St Leonards, and for establishment of existing and future residential activity on new undersized sites. The subject site is legally described as Lot 3, 7 Deposited Plan 318930, held in Record of Title 74129, and has an area of 2.5334ha.
- [4] The subject site is a steeply-sloping, rural residential property situated at the top end of Tui Street. It is contained in two land parcels separated by the legal road corridor of the unformed section of Tui Street. The formed access deviates from the legal road corridor at the southeast (lower) end of the subject site and loops through Lot 3 DP 318930 of the property, crosses the Tui Street legal road corridor further up the hill, and into 34 Tui Street. The access is subject to rights of way as necessary to ensure 30, 34 and 70 Tui Street all have legal access.
- [5] Lot 7 DP 318930, to the north of the legal road, contains the existing house on a parcel of 6780m². The house is situated near the high point of the property and obtains access to the right of way in 34 Tui Street before following the shared access downhill to the formed section of Tui Street.
- [6] Lot 3 DP 318930 is an irregular shaped parcel of 1.8554ha to the south of the legal road corridor of Tui Street. It is undeveloped except for 160m of the shared access which passes through the middle of the parcel and is formed to a width of approximately 3.0m. There is a flattish area within

the parcel situated immediately adjacent to the access on its downhill side. The rest of the land is steeply sloping. To the uphill side of the access, the land is in pasture, whereas on the downhill side, it is covered in vegetation. The application is submitted with an Ecological Assessment of Indigenous Vegetation prepared by Wildlands.

- [7] The proposed subdivision will create three lots, with an amalgamation condition resulting into two new sites. Proposed Lot 1 will be a parcel of 1.56ha comprised of all land to the downhill side of, and including, the shared access where passing through Lot 3 DP 318930. It will contain the bulk of the existing vegetation on-site, and the flattish land next to the access. The application plan shows a landscape building platform proposed for the flattish area. The landscape building platform will have dimensions of 18m by 20m (360m²) and is shown as abutting the right of way over the access at one point.
- [8] Proposed Lot 2 will be the remainder of the land to the south of the legal road corridor, and will have an area of 2900m². This is the steeply sloping land in pasture. It is currently vacant land, and will remain as vacant land.
- [9] Proposed Lot 3 will be the present Lot 7 DP 318930, and will have an area of 6780m². It will contain the existing house. Proposed Lots 2 and 3 are to be amalgamated so as to form a new site of approximately 9680m². New rights of way will be created over the access through proposed Lot 1 in order to legalise the continued use of the existing access.
- [10] Conditions promoted by the applicant for development on the landscape building platform include:
 - All residential buildings including tanks and wastewater secondary treatment plant to be confined to the landscape building platform.
 - A maximum height of 5m for the residential unit.
 - Screening of tanks and a light reflectivity rating (LVR) of 35% or less.
 - Only indigenous plantings on the landscape building platform.
 - The use of visually recessive colours and materials for the buildings.
- [11] The applicant seeks to apply an Area of Significant Biodiversity Value (ASBV) overlay to the vegetation of Lot 1 except for that within the proposed landscape building platform. As ASBVs are overlays created by the Proposed Plan, this will require a Plan Change which is outside the scope of this application. The most suitable mechanism to protect this vegetation through the subdivision process is either a consent notice or private covenant with Council as a signatory.
- [12] A copy of the application, including plans of the proposed subdivision, the ecology report, and a landscape report, is contained in Appendix 1 of this report.

ACTIVITY STATUS

- [13] Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the "Operative District Plan", and the Proposed Second Generation Dunedin City District Plan (the "Proposed Plan"). Until the Proposed Plan is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
- [14] The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

- [15] The Proposed Plan was notified on 26 September 2015, and some Proposed Plan rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.
- [16] In this case, the application was lodged on 30 May 2022 when the Proposed Plan rules were already in effect. The relevant zone and rules of the Proposed Plan are mostly beyond challenge. The relevant rules of the Operative District Plan are considered to have been superseded.
- [17] Variation 2 of the Proposed Plan was notified on 4 February 2021, and decisions on Variation 2 were released on 31 May 2022. The application was lodged prior to the release of decisions for Variation 2, and as such, the revised rules were not in effect at the time of lodgement. They had no implications for the determination of the activity status of the proposal. Variation 2 does, however, apply when assessing the application.

Dunedin City District Plan

- [18] The relevant rules of the Proposed Plan for this zone and site were not appealed at the time of lodgement and the majority of the rules of the Operative Plan had been superseded. In accordance with Section 86F of the Resource Management Act 1991 the rules of the Operative Plan applying to this development were deemed inoperative at that time. They do not need to be considered as part of this subdivision and land use application.

Proposed Second Generation Dunedin City District Plan (Proposed Plan)

- [19] The subject site is zoned **Rural Residential 1**. Both parcels are situated within the **Flagstaff- Mt Cargill Landscape Overlay Zone (SNL)**.

Subdivision

- [20] Rule 17.3.5.2.c lists general subdivision in the Rural Residential 1 zone (SNL) as being a restricted discretionary + activity, subject to compliance with the performance standards. The proposal will fail to comply with the following:

- Rule 17.7.1 requires subdivision to comply with Rule 6.8.1 which requires each resultant site to have legal access, and where on-site parking is to be provided, it must be in the form of a driveway. Access must comply with the standards for driveways, Rule 6.6.3.
- Rule 6.6.3.9 specifies that residential activities in the rural residential zones serving four or more residential units must have a legal width of 6.0m and a formed width of 5.0m. The existing driveway will serve four units once Lot 1 is developed. The right of way will have a legal width of 6.0m, but the formed width is approximately 3.0m and is approximately 2.0m under width.

Activities which contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 6.6.3.9.b.

[21]

- Rule 17.7.5.1 specifies a minimum site size of 2.0ha for the Rural Residential 1 zone. Neither new site will comply with minimum site size.

Activities which contravene this rule are considered to be a **non-complying** activity pursuant to Rule 17.7.5.3.

[22]

- Rule 17.7.6.2 specifies that each resultant site that is to be development must have a slope of 12° or less. Council's Data map indicates that the slope of the proposed landscape building platform is greater than 12°, although the applicant states that it is not.

Activities which contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 17.7.6.5.

[23]

- Rule 17.7.3.4 requires subdivision to comply with Rule 9.3.3. Rule 9.3.3.1 requires resultant sites of subdivision to have fire-fighting water supplies. Based on the information currently available, neither new site will have compliant fire-fighting provision.
 - The house of Lot 2/3 will have existing use rights, and consent is not being granted for this new site so that any change in scale or intensity of residential activity on this site will need to have compliant fire-fighting provision at that time.
 - Consent is being granted for Lot 1 to contravene the fire-fighting provision at the time of subdivision only. Future development of this lot will be required to comply with the requirements for fire fighting water supply.

Activities which contravene this rule are considered to be **restricted discretionary** activities pursuant to Rule 9.3.3.3.

Land Use

- [24] The proposal falls under the definition of *standard residential activity* and *new buildings or structures*. Under the Proposed Plan, activities have both a land-use activity and a development activity component. In addition to management zone rules for these components there are also citywide rules that apply.

Land Use

- [25] Rule 17.3.3.12 of the Proposed Plan states that standard residential activity within a SNL is a permitted activity provided that it complies with the relevant performance standards. The existing and proposed residential activity will fail to comply with the following:

- Rule 17.5.2.1.a lists a minimum site size of 2.0ha for standard residential unit. Neither the existing house on Lots 2/3 nor the proposed residential activity of Lot 1 will comply with density.

- [26] Activities which contravene this rule are considered to be **non-complying** activities pursuant to Rule 17.5.2.2.

Development

- [27] Rule 17.3.4.5.c lists new development in a SNL as being a permitted activity subject to compliance with the performance standards. The new house will fail to comply with the following:

- Rule 17.6.X requires new buildings in a SNL to comply with Rule 10.3.5.
- Rule 10.3.5.X.a specifies that a new building greater than 60m² on a landscape building platform in a SNL is a controlled activity.

The future residential development of the landscape building platform will be a controlled activity. Consent is not being granted for this purpose on the basis that no building proposal has been promoted as part of the application. Further consent will be required.

[28]

- Rule 17.6.10.2 requires indigenous vegetation clearance – small scale to comply with Rule 10.3.2.1.
- Rule 10.3.2.1.c.ix specifies a maximum vegetation clearance of 250m² over a period of three years within the Rural Residential 1 zone. The proposed landscape building platform will have an area of approximately 360m², potentially allowing 110m² of site clearance more than permitted.

Activities which contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 10.3.2.1.e.ii.

[29]

- Rule 17.6.9.1.a.i.2 specifies a minimum setback of 10m from side and rear boundaries. The proposed landscape building platform, and potentially future development, will be within 6.0m of the boundary shared with Lot 2.

Activities which contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 17.6.9.1.b.

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("the NES")

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

[31] The applicant had a search of the Dunedin City Council's records undertaken (HAIL-2023-137) and has checked the Otago Regional Council's Hazards Database. The HAIL search did not identify any HAIL activities having been undertaken on this site. The ORC HAIL database does not identify the site as a HAIL site. The applicant's agent has commented in an email dated 20 November 2023:

"The Dunedin City Council Property Hail Search report for 30 Tui Street found no evidence within Council records of any HAIL activities being conducted on the site. Included in the Council HAIL report for the site was the application for the subdivision that created the site in 2001 (see RMA-2001-364849). The application states at page 3, paragraph 3.3 that at that time the then owners of the larger property being subdivided had owned it since 1989, had used it for rural residential use including pastoral grazing of 34 ewes and that the topography of the larger property was considered generally too steep for use of 'wheeled farm implements' e.g. tractors. The aerial photographs included in Council's HAIL report for the site, do not appear to raise any concerns in relation to the proposed location of the landscape building platform. The application included information from Otago Regional Council showing that the site was not listed on the Otago Regional Council HAIL register."

- [32] On the basis of this evidence, it is accepted that it is more likely than not that the site does not have a history of HAIL activity. Accordingly, the proposed subdivision does not require under the NES Soils. There are no other National Environmental Standards relevant to this application.

Overall Status

- [33] Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.
- [34] In this case, the proposal is for separate, unlinked activities that do not overlap. As a result, each component has its own activity status, and must be considered separately in terms of the notification decision and also in terms of the substantive decision on whether consent should be granted.
- [35] The activity status of the proposed subdivision is determined by the Proposed Plan and is considered to be a **non-complying** activity. The land use component of the proposal is determined by the Proposed Plan and is a **non-complying** activity.

NOTIFICATION AND SUBMISSIONS

- [36] No written approvals were submitted with the application.
- [37] The proposal will introduce an additional residential unit within on land where the neighbours could reasonably expect no development to occur. However, the subject site is at the top of the road with only three residential units (including the existing house on the subject site) located beyond the proposed house site. The use of the private access by an additional residential unit is not expected to create significant additional use and will be comparable to a fully permitted family flat activity. The access is already hard surfaced, limiting the need for on-going maintenance. Given that there is little visibility of the proposed landscape building platform from neighbouring properties, and little opportunity for interaction between properties, no adjoining property owners are considered to be affected by the proposal.
- [38] On a more general note, while the proposed landscape building platform will be visible from some locations (including across the harbour), any development on this platform will not result in the highest house on the hillside, nor will it have dissimilar effects to any other residential unit within the area. The issue in this case is a more general determination about the consequences of the proposal in relation to the provisions of the Proposed Plan for the rural residential zone. No persons are considered to be adversely affected by this particular proposal. Furthermore, it was not considered that there were any special circumstances that warranted public notification.

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

- [39] Section 104(1)(a) of the Act requires that the Council have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in Section 3 of the Act as including-
- a) Any positive or adverse effect; and*
 - b) Any temporary or permanent effect; and*
 - c) Any past, present, or future effect; and*
 - d) Any cumulative effect which arises over time or in combination with other effects—regardless of the scale, intensity, duration or frequency of the effect, and also includes –*
 - e) Any potential effect of high probability; and*
 - f) Any potential effect of low probability which has a high potential impact.*

Permitted Baseline

- [40] An important consideration for the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. The purpose of the permitted baseline assessment is to identify the non-fanciful effects of permitted activities and those effects authorised by resource consent in order to quantify the degree of effect of the proposed activity. Effects within the permitted baseline can be disregarded in the effects assessment of the activity.
- [41] This is the permitted baseline. Neither the District Plan nor the Proposed Plan allows any subdivision to occur as of right. All subdivisions are either restricted discretionary activities where the proposal meets all District Plan requirements, or restricted discretionary or non-complying activities where the proposal does not. Council rarely declines consent for proposals that create new sites meeting the minimum lot size, access, servicing and other requirements of the District Plan. In such cases, the subdivision consent is a means of ensuring to Council's satisfaction that all necessary subdivision matters, e.g. infrastructure, are adequately addressed, and is not an indication that the proposal is deficient in some way.
- [42] Residential activity is permitted on this land at a density of one residential activity per 2.0ha but allows for a single residential activity per site in certain circumstances, none of which apply to this situation.
- [43] Buildings smaller than 60m² are a permitted development in a SNL.
- [44] Farming is a permitted activity for this land.
- [45] In this case, no subdivision nor additional residential activity is permitted on this subject site. The effects of those activities that are permitted are not relevant or comparable to the effects of the proposed activity. It is therefore considered that the permitted baseline does little to assist the consideration of this proposal and can be disregarded.

Assessment of Effects

(Dunedin City Proposed District Plan)

- [46] Consideration is required of the relevant assessment rules in the Proposed Plan, along with the matters in any relevant national environmental standard. This assessment is limited to the matters to which the Council's discretion has been restricted. No regard has been given to any trade competition or any effects of trade competition.
- [47] This section of the report assesses the following environmental effects in terms of the relevant assessment matters of the Proposed Plan:
- Minimum Site Size
 - Easements;
 - Infrastructure;
 - Transportation;
 - Hazards;
 - Setback;
 - Density;
 - Reverse Sensitivity;
 - Amenity Values and Character;
 - Cumulative Effects;

Minimum Site Size (Proposed Plan 17.12.6.5)

- [48] The proposed subdivision will create three new lots, with an amalgamation condition holding Lots 2 and 3 together so as to result in two new sites i.e. Lot 1 and Lot 2/3. Proposed Lot 1 will have an area of 1.56ha, while Lots 2 and 3 will result in a site of 9680m². Minimum site size for the Rural Residential 1 zone is 2.0ha, so the new lots will be approximately 78% and 48% of minimum site size. While the Proposed Plan anticipates some flexibility in lot sizing for the Rural Residential 1 zone, there is insufficient land overall within the subject site for the exceptions to the rule to apply.
- [49] The assessment by the applicant of proposed lot sizing and the context of the proposed sites is found within the Landscape and Visual Effects Assessment prepared by Site Environmental Consultants. In section 3.8 of that report, the size and elevations of surrounding properties are listed. In total, there are 14 properties plus the subject site, all zoned at least in part Rural Residential 1 and ranging in size from 0.1129ha to 12.3683ha. All but one has an established residential unit. Not listed, but also present within the nearby neighbourhood are two lots over 5ha with no houses (36 Weka Street and 40 Ruru Street), a site of 4.6ha with a house (22A Weka Street), and a few more sites smaller than 1.5ha with existing houses. These are all low on the hillside, near the residential zoning.
- [50] The majority of Rural Residential 1 sites in the area are smaller than 2.0ha, and are therefore undersized. Most of them are lower on the hillside than the proposed building site of Lot 1 and are in close proximity to the residential development of the Township and Settlement zone located downhill of the Rural Residential 1 zone. Several have mixed zoning with the residential dwelling being situated on the residential zoning rather than the rural residential zoning.
- [51] The lower boundary of 30 Tui Street is approximately 100m from the upper edge of the Township and Settlement zone and the subject site abuts the Rural – Hill Slopes zone on its upper boundary, indicating that the Rural Residential 1 zone in this location is confined to a relatively narrow area of land between the residential and rural zoning. Any undersized Rural Residential 1 sites within this area were developed with residential dwellings prior to 2005 (with most being much earlier than this date) under different planning provisions. Most, if not all, would have been compliant with density at the time of construction. Interestingly, consent was needed to establish the existing house of 30 Tui Street on the basis that the site was zoned Rural at the time it was created in 2004.
- [52] The creation of the undersized rural residential lots is unlikely to have adverse effects on the environment which are minor or more than minor. The subdivision will result in one additional house site in an area which is steep, largely bush covered, and has little in the way of farming activity. In this respect, Lot 1 will resemble many of the other nearby rural residential properties. Proposed Lot 2/3 will hold the grazing land of 30 Tui Street in one site along with the existing house. Any farming use of this land will therefore continue as at present, with the reduction in site area for 30 Tui Street having no real implications for the way the property functions.
- [53] In summary, the proposed subdivision will result in two sites which are of practical size and shape for residential activity while having few negative implications on the continued rural land use of the land. The new sites will also be comparable in size to many existing sites in the locality. The matter for consideration is more of a policy matter as to the acceptability of creating undersized sites within the Rural Residential 1 zone. An assessment of the proposal next to the objectives and policies of the Proposed Plan will be undertaken below.

Easements

- [54] Record of Title 74129 for 30 Tui Street lists a number of easements relating to the subject site. Deed of Easement **43662** is a historic document reserving rights of way over all the streets and roads shown on Deeds Plan 109 which are not public, in favour of parts of the subject site to the

south of the unformed Tui Street (i.e. most of proposed Lot 1, and Lot 2). As legal access is available by legal roads, these historical rights of way are no longer necessary; however, while they remain on the title, the residents of the proposed residential dwelling of Lot 1 will have rights of way over a number of unformed roads uphill from Weka, Tui, and Ruru Streets and Robin Lane.

- [55] Conveyance **128512** created a right of way in 1922 over part of the former Lot 115 DP 3208 which is now within Part Section 6 Cleghorn Street. The right of way appears to link the land within 27 Ruru Street to land within 70 Tui Street. It does not appear to have any relevance to the present 30 Tui Street, being neither adjacent to the property nor formed, but it will carry down onto both new titles following subdivision unless specifically cancelled.

- [56] More recent easements were created in 2003 by Easement Instrument 5588423.3. These were created as part of the subdivision DP 318930 which created the subject site. A right of way and right to convey telecommunications was created over Lot 3 DP 318930 (the access through the subject site) in favour of 34 and 70 Tui Street. This will carry down automatically onto the title of proposed Lot 1. The easement instrument also gave the subject site the same rights over 70 Tui Street (corresponding with the access where it passes to the west of the house on 30 Tui Street) and 34 Tui Street (to the northwest of the house). There is also an easement for electricity through the subject site, passing through proposed Lots 1 and 2 immediately adjacent to the southern edge of the legal road, and through proposed Lot 3 near its western end. These will carry down onto the new lots as applicable and will have no implications for the future development of Lot 1.

- [57] Also registered on the title of the subject site, but relating only to Lot 7 DP 318930 (to the north of the legal road), is a consent notice regarding effluent disposal systems, the building platform for Lot 7, fire fighting provisions, and the retention of native bush where shown on the attached plan. The plan attached to the consent notice does not show any bush at all, and in fact, there is very little bush in Lot 7 (or Lots 2 and 8 DP 318930, also subject to the consent notice). Reading of the application, reports and decision for the subdivision of DP 318930 does not help clarify the intent of the consent notice except to note that discussion within the s42A report on bush retention is in respect to Lot 4 DP 318930 (within 70 Tui Street).

- [58] I suspect that the bush retention clause of the consent notice is misappropriated and has no relevance to Lot 7. The predominant area of bush on the site of 30 Tui Street is located on Lot 3 DP 318930. It makes little sense to protect bush on a lot with no bush while the bush that does exist on another lot is ignored. As most of the clauses of the consent notice are relevant to the existing house, the consent notice can remain registered on the title of proposed Lot 2/3 with no adverse implications, and the bush retention clause will continue to serve no real purpose. Lot 1 is not affected by the consent notice.

- [59] Only one easement is shown on the application plan, this being a right of way through proposed Lot 1 in favour of Lot 2/3. This is a 6.0m right of way following the alignment of the existing access, and will allow the existing house to continue to utilise the access. Not shown on the survey plan but also requiring updating will be the easements for electricity. A new easement through Lot 1 in favour of Lot 2/3 will be required for the existing electricity supply.

- [60] The applicant has proposed making the bush of Lot 1 (excepting the building platform) an Area of Significant Biodiversity Value (ASBV). Regardless of the merits of this proposal, the resource consent process is not the mechanism to achieve such an overlay. If the bush of Lot 1 is to be protected as part of this subdivision proposal, it will need to be via a new consent notice or covenant with Council. An alternative option is a QE II covenant which will not involve Council. I recommend a consent notice as the easiest means of achieving protection. This will serve to protect any interests Council has in the vegetation, at least until a Plan Change can create an ASBV.

Infrastructure (Proposed Plan 17.10.4.1.g)

- [61] The Proposed Plan does not anticipate reticulated servicing for development on rural residential-zoned land, and accordingly, there is no assessment matter guidance provided which is directly relevant to this situation. Council's Subdivision Support Officer, 3 Waters, has reviewed the proposal. He advises that 3 Waters has no comments to make on the proposal as the new Lot 1 will need to be self-serviced.

- [62] The Senior Building Consent Processing Officer, Building Services Processing, has considered the need for drainage. Any development on Lot 1 will need to discharge to its own on-site effluent disposal system, which will be addressed at the time of building consent. The existing house can continue to use its present effluent system. Regarding stormwater, the stormwater from development on Lot 1 will need to be collected and, if discharged, directed to an appropriate outfall. It is possible that stormwater will be used for water supply. The existing stormwater drainage from the house on Lot 3 shall continue to discharge to an appropriate outfall. If concentrated surface water crosses lot boundaries, an easement to discharge will be required.

- [63] Regarding the provision of fire fighting water supply, the application advises that the existing house has a hard stand area and water supply. It is unclear if this is fully compliant with the requirements of the SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies. Any non-compliance will, however, have existing use rights as no changes to the existing residential activity on proposed Lot 2/3 is changing with this proposed subdivision.

- [64] There is no reticulated water supply to proposed Lot 1, and until there is a building on-site, no means of feeding a water tank except by bore which is unlikely to be practical in this situation. Lot 1 will be non-compliant for fire-fighting water supply at the time of subdivision, but it will be a requirement at the time of development for the residential unit to be compliant. This consent, if granted, will authorise a temporary situation relating to the subdivision of the land only. It is noted that the house site of Lot 1 will be within 270m of a fire hydrant.

Effects on the safety and efficiency of the transport network (Proposed Plan 17.10.4.1.h)

- [65] Council's Graduate Planner – Transport has considered the application. He notes that Tui Street is a Local Road in the Proposed Plan roading hierarchy.

Access

- [66] The Graduate Planner – Transport advises that the site is accessed via a hard surfaced vehicle crossing located at the end of the formed section of Tui Street. This leads onto a long concrete driveway which winds south of the unformed section of Tui Street, before circling north and crossing over the paper road. This then continues north, into an existing right of way section of the driveway owned by 70 Tui Street, before forking off and giving access to the existing dwelling located on the northern section of the property. It is noted that there are three existing users of the southern section of driveway. 34 and 70 Tui Street both have legal access on the driveway via a pre-existing right of way agreement.

- [67] The applicant proposes to divide the property into three lots. Lot 2/3 will maintain its present access arrangements. The applicant does not explicitly state the access provisions for Lot 1; however, it is assumed that they will be fully compliant with all Rules listed in section 6.6.3 of the Proposed Plan except formed width as discussed below.

- [68] Rule 6.6.3.2.b.i requires the provision of minimum sight distances from a new vehicle entrance. In this instance, the minimum sight distance required for a vehicle crossing is 69.0m in both directions. It is noted that the access from Lot 1 will be onto the existing private access which extends off the end of Tui Street. This existing access has a compliant sight distance along Tui

Street to the southeast only. There is no road formation to the northwest and no requirement for sight distances. The provision of sightlines in only a south-eastern direction is considered acceptable to Transport.

- [69] Rule 6.6.3.9 requires that, for a residential activity within a Rural Residential zone, the driveway must have a legal width of 4.0m and a formed width of 3.5m when it serves one to three residential units. In the instance of four or more residential units, the Proposed Plan requires a legal width of 6.0m and a formed width of 5.0m.
- [70] Currently, the shared driveway has a formed width of approximately 3.5m and provides access to three dwellings which is acceptable. However, the applicant proposes to construct a new dwelling on proposed Lot 1, bringing the total number of users to four. This will require the driveway to have a minimum formed width of 5.0m. The widening of the driveway is not proposed by the applicant and is therefore a breach of the aforementioned rule. The Graduate Planner – Transport considers that the effects of this breach can be considered less than minor, given that this is a pre-existing situation which would only create one additional user. It is noted that in the event of future development, this may be re-assessed and the driveway may be required to be re-formed.

Parking and Manoeuvring

- [71] The existing house on Lot 2/3 has compliant on-site parking and manoeuvring in the form of a large concrete parking bay. No details are given regarding future parking on Lot 1. On-site parking and manoeuvring will be possible within the landscape building platform. Any non-compliance with the rules will be assessed at the time of building consent or resource consent for a new dwelling on the platform, and further resource consent might be required.

Summary

- [72] In summary, the existing access provisions are considered acceptable to Transport, subject to the advice notes regarding shared driveways.

Hazards (Proposed Plan 17.10.4.1.i)

- [73] Section 6(h) of the Resource Management Act 1991 requires the Council to recognise and provide for the management of significant risks from natural hazards, as a matter of national importance. In addition, under Section 106 of the Resource Management Act 1991, the Council may decline a subdivision consent, or it may grant the subdivision consent subject to conditions, if there is a significant risk from natural hazards.
- [74] The assessment of the risk from natural hazards requires a combined assessment of:
- (a) *the likelihood of natural hazards occurring (whether individually or in combination); and*
 - (b) *the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and*
 - (c) *any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).*
- [75] Council's Consulting Engineer, Stantec, has reviewed the application in relation to the Hazards Register, street files, and available aerial photography. There are no known hazards identified for this land in the Hazards Register. No site-specific geotechnical assessment has been provided with the application.
- [76] The underlying geology consists of second main eruptive phase volcanics and is steeply sloping by up to 26°. The Consulting Engineer comments:

'The application is effectively a boundary adjustment at this stage between the existing dwelling and the remaining land. There is a proposed building platform location on slopes of approximately 20 degrees.

'A site-specific engineering assessment and design will need to be undertaken for any new dwelling on slopes over 15 degrees.'

- [77] Overall, there are no general potential instabilities of concern, and Stantec does not consider that the proposal will create or exacerbate instabilities on this or adjacent properties. Stantec recommends that the application not be declined on the ground of known natural hazards, subject to general earthworks conditions.

Earthworks (Proposed Plan 8A)

- [78] The proposed subdivision will not involve any significant earthworks as there will be little or no installation of access or services as part of this application. This consent does not address future earthworks undertaken when developing proposed Lot 1. Should future earthworks within the 1 contravene the performance standards of Rule 8A of the Proposed Plan, further consent will be required. Land use consent will also be required for any structures, such as retaining walls supporting fill or surcharge, near to boundaries.

Boundary Setbacks (Proposed Plan 17.9.4.1)

- [79] The proposed landscape building platform for Lot 1 is shown as being as close as 6.0m to the new boundary shared with Lot 2, therefore contravening the boundary setback requirement by up to 4.0m. It is possible that a new dwelling constructed within the landscape building platform will be fully compliant with a 10.0m setback requirement, but the authorising of the proposed building platform will allow a setback contravention of up to 4.0m. There is also a Proposed Plan requirement for buildings to be setback at least 1.0m from a formed driveway serving more than two residential units. It is expected that the future development of Lot 1 will comply with this requirement on the basis that the legal right of way is wider than the existing formation and there appears to be at least 1.0m separation between the edge of the existing driveway and the right of way boundary.

Effects on the amenity of surrounding properties.

- [80] In respect of the potential 4.0m setback contravention, the subject boundary is shared with proposed Lot 2. Not only is this lot part of this subdivision but it is a parcel which is not expected to be developed. The existing house of proposed Lot 2/3 is some distance from this boundary and at a much greater height by 12m or more. As such, any setback contravention will have adverse effects on this neighbouring house which are less than minor.

Reverse sensitivity effects

- [81] The land of proposed Lot 2 is currently pasture. It is likely used for grazing but is too steep for cultivation. For these reasons, the establishment of a residential unit on proposed Lot 1 close to the boundary is unlikely to give rise to the potential for unacceptable reverse sensitivity.

Effects on rural residential character and visual amenity.

- [82] While the effects on character and amenity of the proposed subdivision and development of Lot 1 will follow below, this assessment matter is specifically in regard to the possible setback contravention. As there is no development on proposed Lot 2, the development of Lot 1 will not result in two residential units on Lots 1 and 2 which are closer than expected and risk altering the rural residential character and visual amenity. The visual effects of a new house on Lot 1 built 6.0m

from the new boundary between Lots 1 and 2 will be no different to a house which is 4.0m further from the boundary when viewed from any distance. Accordingly, the proposed setback contravention is considered to be acceptable.

Density (Proposed Plan 17.12.6.1)

- [83] Density for the Rural Residential 1 zone is set at one residential unit per 2ha. The subject site has an area of 2.5334ha which is large enough for one residential unit only. The existing house on-site was established by land use consent LUC-2001-364849 at a time when the land was zoned Rural under the Dunedin District Plan 1995. The only condition of consent was the use of non-reflective cladding.
- [84] The proposal will result in an existing house (on the present 2.5ha title) remaining on a new site of 9680m², and a new house on a new site of 1.56ha. While a house on an existing site of 1.5ha or greater is anticipated within the Rural Residential 1 zone, this is acceptable only where the overall density of development is compliant which does not apply in this case. However, it could be argued that the proposed dwelling on Lot 1 will not be outside of the expectations of the Proposed Plan in that there are 1.5ha sites within the Rural Residential 1 zone with houses established as permitted activities. It is the containment of the existing house on a site smaller than 1.0ha which is inconsistent with the zone rules.
- [85] In this case, the subject site has two distinct areas defined by vegetation cover. The land of proposed Lot 1 is fully covered by mature vegetation although the cover within the proposed building platform has been cleared previously and is not considered to be quality vegetation. If this were an existing site, the proposed house could be established as a permitted activity (subject to compliance with the performance standards). Lot 2/3 has very little vegetation cover, being predominantly pasture. The existing shared access through the property, and the topography of the land, provides a clear distinction between the two types of land cover.
- [86] The Proposed Plan seeks to have rural residential properties which are lifestyle blocks and hobby farms. Proposed Lot 2/3 will contain all of the currently available farmland within one title, so the proposed subdivision will not reduce the ability of the existing occupier to manage the property as a hobby farm. The establishment of a second dwelling or family flat on-site in the position proposed by the landscape building platform will not change the farming potential of the property. The effects of the second house on this land will therefore be largely visual and related to the landscape.
- [87] There are no implications for the efficiency and affordability of infrastructure as the residential units will be self-serviced.

Landscape (Proposed Plan 10.5.3.7, 10.5.3. Z and 17.10.5.2)

- [88] The Proposed Plan directs Council to consider the effects on landscape values resulting from subdivision of a site in a SNL, and the number, location and area of buildings and structures. The application has been submitted with an Assessment of Landscape and Visual Effects prepared by Site Environmental Consultants ("Site").
- [89] Site's Landscape Architect has considered the proposal within the context of the existing environment, noting that the residential area is of generally low density of development, and the rural residential sites are of a similar size to the residential sites. He states, '*A consistent tree cover provides a transition from residential to rural that almost unnoticeable and easily absorbs present residential development in both areas.*' The application for subdivision and development of Lot 1 is submitted with a range of conditions intended to mitigate landscape effects. The Landscape Architect supports these conditions, and the preservation and enhancement of the vegetation on Lot 1.

- [90] Site considers the short-term landscape and visual effects of the development of the landscape building platform when viewed from the coastal edge and St Leonards residential area as being low over one to five years, and very low after five years. These assessments reflect the location of the platform, the implementation works required, the scale of the proposal, and the character and key values of the wider landscape framework. The location of the proposed landscape building platform and the application of height and colour controls on building will reduce the visibility of the future dwelling and help it recede into its surroundings rather than be a highlight.
- [91] Likewise, the short-term landscape and visual effects of the development of the landscape building platform when viewed from the rural residential area are assessed as being low over one to five years, and very low after five years. Reasons given are the low impact of a future residential dwelling on the existing landform, the small scale of the proposed building intervention, and the large area of indigenous vegetation that is attached to the site relative to adjacent rural residential properties. Overall, Site comments:

*'The potential short term and long-term landscape effects that may result from the establishment of the proposed landscape building platform and dwelling on new Lot 1 at 30 Tui Stret are assessed as **very low** for both landscape and visual effects. This assessment draws on the capacity that the present environment as for absorbing further built form, the low level of intervention required to establish the proposed development, and consistency with the surrounding pattern of development. Conditions are proposed for its implementation, colour, height and form that meet the guidelines of Appendix 11 and further include the proposed zoning of approximate 1.524ha ASBV, being proposed Lot 1, minus the landscape building platform.'*

- [92] Site assesses the subdivision and building platform to have landscape and visual effects which are less than minor on the technical planning scale, taking into account the subject site, surrounding landscape and residents, and the off-set provisions of an area of ASBV that will adjoin an existing area of ASBV associated with the Stevenson Bush Scenic Reserve. Maintenance to the existing vegetation on Lot 1 and enrichment planting of canopy tree species will increase the biodiversity and resilience of this vegetation and add to the landscape values of this part of St Leonards from a local and off-shore perspective.
- [93] The proposed subdivision and development of proposed Lot 1 has been assessed by Council's Landscape Architect. He reviewed the report by Site which follows a methodology consistent with the NZILA Landscape Assessment Guidelines *Te Tangi a Te Manu*, July 2022, and considered the proposed conditions intended to mitigate landscape effects. He comments:

'In general, it is agreed that the proposed mitigation measures are appropriate and would be required to ensure effects are kept to a low level. It is recommended, however, that in this location, the max LRV for the roof of the building should be no more than 15%. In a bush clad setting, such as this, a darker roof will help to reduce the contrast between the relatively dark colours of the bush and the roof of a dwelling, which will enhance visual integration.'

- [94] Council's Landscape Architect agrees that views towards the site are generally limited from surrounding West Harbour locations. Steep topography and vegetation cover obscures clear views of the site from locations near the harbour edge. The mitigation measures proposed, and the diminishing effects of distance, will reduce any potential adverse visual effects from peninsula locations to low levels. The Landscape Architect comments:

'In general, it is agreed with the findings of the LAR that potential adverse landscape and visual effects on the values of the surrounding environment and the Flagstaff/Mt Cargill Significant Natural Landscape area can be kept to low levels.'

- [95] Based on the reports by the Landscape Architects, the effects of the proposed subdivision and development on the landscape building platform will be less than minor. I accept this conclusion.

Biodiversity (Proposed Plan 17.10.4.1.d)

- [96] The applicant proposes making Lot 1, except for the landscape building platform, an ABSV. As discussed above, this is not possible through the resource consent process, and any protection on the vegetation through the subdivision process will have to be via a consent notice or covenant registered on the title. It will still be possible to create a ABSV as part of a Plan Change, provided the various departments of Council support such a proposal, but this will be a much longer process. Currently, there is no protection over the vegetation on proposed Lot 1, and there is no contravention of a rule occurring.

- [97] The applicant has provided an Ecological Assessment of Indigenous Vegetation report prepared by Wildland Consultants Ltd., dated November 2021. The report identifies the vegetation of proposed Lot 1 as being largely regenerating indigenous species, with indigenous dominance increasing closer to the gully floor and the Stevenson Bush Scenic Reserve. The report goes into detail as to the indigenous species present. Vegetation close to the access road contains a higher proportion of exotic species such as gorse, blackberry and broom. The proposed building site is largely devoid of indigenous vegetation, with grass and weeds present. The report concludes:

'The property contains an ecologically significant area of indigenous forest which would be appropriate for rezoning in the Dunedin City Council (DCC) Area of Significant Biodiversity Value (ASBV) overlay zone and if protected by such zoning would provide a valuable extension to Stevens Bush Scenic Reserve. The potential adverse ecological effects of the proposed subdivision will be relatively minor considering there is no indigenous vegetation on the proposed building platform, and modified vegetation around it. In addition to rezoning and protection, indigenous vegetation could also be enhanced by planting eco-sourced (local) podocarp species such as rimu and lowland totara, due to the compact size of the area 10-20 plants would be enough to provide future benefit.'

- [98] Council's Biodiversity Advisor has considered the proposal. She notes that the site includes a sizable area of indigenous vegetation on Lot 1 and a smaller area of vegetation on Lot 3. The Indigenous vegetation is contiguous with Stevenson Bush Reserve, scheduled as ABSV C124. The Biodiversity Advisor considers the vegetation of Lot 3 to be protected by the existing consent notice although this is not necessarily correct, given the lack of any area of protection shown on the consent notice plan.
- [99] The Biodiversity Advisor concurs with the conclusions and advice provided by Wildland Consultants Ltd. She recommends:
1. Protecting the existing indigenous vegetation on Lot 1 by scheduling as an ASBV in the next appropriate Plan Change.
 2. Protecting indigenous vegetation through consent conditions to ensure retention before formal recognition as an ASBV in the Proposed Plan including:
 - a) Retaining all indigenous vegetation
 - b) Supplementary planting of ecological appropriate species only.
 - c) Ensuring stock exclusion from the area.

3. Enhancing indigenous vegetation in Lot 1 by planting at least 20 ecologically appropriate podocarp species, such as rimu and low land totara (as proposed).

Reverse sensitivity

- [100] The proposed subdivision and residential development is not expected to create a risk of reverse sensitivity effects. The proposed house will be close to the boundary of proposed Lot 2/3, but this land is part of the subdivision proposal and is currently used as grazing land. It is unlikely that the grazing will have adverse effects on the residential dwelling which are unacceptable. It is also noted that residential activity is anticipated for the rural residential zone, and the proposed house will not be out of place.
- [101] The proposed building platform is in close proximity to the existing shared access, contravening setback in terms of the legal right of way and possibly the formation. The use of the access has the potential to disturb the residents of the proposed residential unit. However, there is limited use of this access, with there being only three residential units beyond the proposed building site. Furthermore, the residents of the proposed residential unit will be aware of the position of the access, and presumably will take this access use into account at the time of development. Given the topography of proposed Lot 1, there is limited opportunity to build elsewhere on-site.

Cumulative Effects

- [102] The concept of cumulative effects, as defined in *Dye v Auckland Regional Council & Rodney District Council* [2001] NZRMA 513, is:

"... one of a gradual build up of consequences. The concept of combination with other effects is one of effect A combining with effects B and C to create an overall composite effect D. All of these are effects which are going to happen as a result of the activity which is under consideration."

- [103] Similarly, some effects may not presently seem an issue, but after having continued over time those effects may have significant impact on the environment. In both of these scenarios, the effects can be considered to be 'cumulative'.
- [104] The subdivision of the Rural Residential 1 zoned land into sites smaller than 2.0ha has the potential to change the nature of the rural residential zone if it happens often enough to result in cumulative effects. In this case, the Rural Residential 1 zone is relatively narrow, situated between the Township and Settlement zone and the Rural – Hill Slopes zone. There is a progressive change in residential density over the hillside which the applicants' Landscape Architect describes as an '*... almost unnoticeable ...*' transition from residential to rural. This subject site is approximately midway in this transition.
- [105] It is also noted that many of the existing rural residential sites are smaller than minimum site size. One more in this location, particularly when visibility of the additional house is limited, is not expected to have cumulative effects which are minor or more than minor. The area will retain its rural residential character and amenity.

Effects Assessment Conclusion

- [106] After considering the likely effects of this proposal above, overall, I consider the effects of the proposed subdivision and establishment of residential activity on two new undersized sites will have adverse effects which are less than minor.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

- [107] Section 104(1)(ab) of the Resource Management Act 1991 requires that the Council have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.
- [108] In this case, no offsetting or compensation measures have been proposed or agreed to by the applicant.

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of Objectives and Policies of the District Plan (Section 104(1)(b)(vi))

- [109] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Dunedin City District Plan and the Proposed Plan were taken into account in assessing the application.

Dunedin City District Plan

- [110] The Proposed Plan is now at an advanced stage. The zoning and rules of relevance to this application are operative, and the objectives and policies are not subject to appeal. Therefore, while regard has been had to the objectives and policies of the Operative District Plan, these are not discussed further in this report because no weight has been given to them, and full weight has been given to the objectives and policies of the Proposed Plan. The relevant objectives and policies of the Proposed Plan are discussed below.

Proposed Plan

- [111] The objectives and policies of the Proposed Plan must be considered alongside the objectives and policies of the Operative District Plan. The following Proposed Plan objectives and policies are considered to be relevant to this application:

Transport

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 6.2.3 Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods and its affordability to the public.	The proposed subdivision will utilise the existing shared access from the end of Tui Street. There is no new access onto the road required, and the volume of additional traffic generated is not expected to have adverse effects on the operation of Tui Street. The proposal is considered to be consistent with this objective and policies.
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 possible, adequately mitigate adverse effects on the safety and efficiency of the transport network.	
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.	
Policy 6.2.3.12	The proposed subdivision will not have any implications for the existing roading network. Access to the new

Only allow subdivision activities where roads, private ways and pedestrian and cycling connections are appropriate to the scale and location of the subdivision and are designed to: a) provide for the safe and efficient movement of vehicles, pedestrians and cyclists within the subdivision; b) provide connections to surrounding areas and the wider transport network, particularly for buses, pedestrians, and cyclists, in a way that maximises opportunities for active mode and public transport connections to existing or planned: (i) centres, public open spaces, schools, cycleways, walkways, public transport stops, and community facilities in the surrounding environment; and (ii) neighbouring urban land, including by providing appropriate connections to undeveloped land, whether zoned for future urban use or not, unless that land is inappropriate for urban development, based on the presence of overlay zones or mapped areas protecting significant values or indicating significant site constraints such as natural hazards; and c) use materials that provide good urban design outcomes and, where infrastructure is to be vested in Council, provide good value with respect to on-going costs to ratepayers for maintenance.	residential unit will be via the existing shared private way which has three existing users in this location. One additional user is not expected to have any adverse effect on the operation of this access. There is no opportunity to provide connections to other roads within the area. The proposal does not involve any new roading or new accessways. The proposal is considered to be consistent with this policy.
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Public Health and Safety

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 9.2.1 Land use, development and subdivision activities maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure.	The proposed subdivision will be outside of the water supply and serviced areas, and for this reason will create no pressure on the reticulated services of St Leonards through the residential zone.
Policy 9.2.1.1 Only allow land use or subdivision activities that may result in land use or development activities outside the wastewater serviced area, where: a) NA; b) it will not lead to future pressure for unplanned expansion of wastewater public infrastructure; or X) an unplanned extension (and any necessary upgrade) to the public wastewater network to provide for the activities can be implemented prior to development with agreement from the DCC.	3 Waters had no comment to make on the application. Wastewater from the existing and future houses are to discharge to on-site effluent systems. The proposal is considered to be consistent with this objective and policy.
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; AA) in the commercial and mixed use zones and Recreation Zone, have access to piped stormwater public infrastructure, where	The existing and future houses will have access to power and telecommunications via existing easements. There are no other reticulated services within the area. The proposal is considered to be consistent with this policy.

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 9.2.1.4A Only allow land use or subdivision activities that may result in land use or development activities in an area without public water supply where: a) it will not lead to future pressure for unplanned expansion of public water supply infrastructure; or b) an unplanned extension (and any necessary upgrade) to the public water supply network to provide for the activities can be implemented prior to development with agreement from the DCC.	No upgrading of the infrastructure is anticipated should this subdivision proceed. The existing and future houses will be self-serviced for water supply. The proposal is considered to be consistent with this policy.
Objective 9.2.2 Land use, development and subdivision activities maintain or enhance people's health and safety.	The proposed residential activity of Lot 1, being the only physical change to the subject land is unlikely to have any adverse noise effects on other residential activity in the area. The proposal is considered to be consistent with this objective and policy. The provision of firefighting water supply will be non-compliant at the time of subdivision but will have existing use rights in respect of the existing house, and the new house will need to be compliant at the time of development. The proposal is considered to be inconsistent with this policy.
Policy 9.2.2.1 Require activities to be designed and operated to avoid adverse effects from noise on the health of people or, where avoidance is not practicable, ensure any adverse effects would be insignificant.	
Policy 9.2.2.9 Require all new residential buildings, or subdivision activities that may result in new residential buildings, to have access to suitable water supply for firefighting purposes.	

Natural Environment

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
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.	The indigenous vegetation of proposed Lot 1 is not currently protected in anyway. The applicant proposes protecting the vegetation of Lot 1 in all locations except the landscape building platform, suggesting making it an ASBV. While this is not possible through the consent process, protection can be given by consent conditions, or the registering of a consent notice or covenant on the title of Lot 1. A Plan Change to make it an ASBV can follow independently of the subdivision. Council's Biodiversity Advisor supports the proposal subject to conditions set to maintain and enhance the existing indigenous vegetation cover. The proposal is considered to be consistent with this objective and policies.
Policy 10.2.1.1 Only allow land use, development and city-wide activities where biodiversity values are maintained or enhanced.	
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 10.2.5 Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development; and their values, as identified in Appendix A3, are maintained or enhanced.	The future development of Lot 1, being the only physical change proposed to the land, is considered to be appropriate development subject to conditions in that the landscape effects have been assessed as less than minor. The proposal is considered to be consistent with this objective.

Policy 10.2.5.10 Only allow subdivision activities in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), and Significant Natural Landscape (SNL) overlay zones where the subdivision is designed to ensure that any future land use or development will maintain or enhance the landscape values identified in Appendix A3 and will be in accordance with policies 10.2.5.1, 10.2.5.2, 10.2.5.3, 10.2.5.4, 10.2.5.6, 10.2.5.7, 10.2.5.8 and 10.2.5.9.	The proposed subdivision will create one additional site and landscape building platform intended for residential development. The future development of the platform is expected to maintain the landscape values of this particular rural residential area. Residential unit is an expected component of the rural residential zones, and many of the other rural residential sites in the area are undersized. The proposal is considered to be consistent with this policy.
Policy 10.2.5.11 Require large buildings on landscape building platforms in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to be of a size, design and appearance that ensures that adverse effects on the landscape values identified in Appendix A3 are avoided or, if avoidance is not practicable, adequately mitigated.	The future development on the landscape building platform of Lot 1 will be required to meet design criteria including maximum height and colours of cladding intended to minimise the impact of a residential unit on the SNL values. The proposal is considered to be consistent with this policy.
Policy 10.2.5.12 Require buildings and structures in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to have exterior colours and materials that avoid or minimise, as far as practicable, adverse visual effects caused by reflectivity.	It will be a condition of consent, and a consent notice condition, that the future development of Lot 1, should consent be granted, have visually recessive colours, natural claddings and restricted LVR. The proposal is considered to be consistent with this policy.

Natural Hazards

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
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.	The subject site is not within a recognised hazard overlay mapped area. There are no known hazards for this land which are expected to compromise the development of this land. Stantec recommends that there be specific engineering design for any development on land steeper than 15°. The proposal is considered to be consistent with this objective and policy.
Policy 11.2.1.12 In all hazard overlay zones, the swale mapped area, the dune system mapped area, or in any other area that the DCC has information to suspect there may be 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.	

Rural Residential

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 17.2.1 The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities.	The proposal will result in two undersized rural residential lots which will be used for residential activity. Any farming activity will be confined to Lot 2/3. Lot 1 will be larger but maintained in indigenous vegetation outside of the building platform. The proposed residential development will result in two small lifestyle blocks but not at the density anticipated by the Proposed Plan. Accordingly, the proposal is considered to be inconsistent with this objective and policy.
Policy 17.2.1.2 Require residential activity in the rural residential zones to be at a density that enables lifestyle blocks and hobby farms.	

Objective 17.2.2 The potential for conflict between activities within the rural residential zones, and between activities within the rural residential zones and adjoining residential zones, is minimised through measures that ensure: a) the potential for reverse sensitivity is minimised; and b) a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces.	No conflict between the proposed residential development of Lot 1 and other properties, including those of the Township and Settlement zone to the south, is anticipated. Residential activity is an expected component of both the rural residential and residential zones. The proposed development will be some distance from all neighbouring properties. The proposal is considered to be consistent with this objective.
Policy 17.2.2.1 Require residential buildings to minimise, as far as practicable, the potential for reverse sensitivity by being set back an adequate distance from: a) site boundaries; and b) forestry, intensive farming, domestic animal boarding and breeding (including dogs), mining, landfills and wind generators - large scale.	The proposed residential activity of Lot 1 will be within the boundary setback in respect of Lot 2/3. Both sites are part of the subdivision and are, or will be, used primarily for residential use. The land immediately adjacent to the building platform of Lot 1 is currently used for grazing which is considered to be an activity compatible with residential activity. The proposed house of Lot 1 will have very little interaction with other residential units within the wider area, due to the location, topography and surrounding bush area within this lot. The proposal is considered to be consistent with these policies.
Policy 17.2.2.3 Require all new buildings to be located an adequate distance from site boundaries to ensure a good level of amenity for residential activities on adjoining sites.	
Policy 17.2.2.8 Require subdivisions to deliver resultant sites that will achieve a high quality of on-site amenity through being large enough and of a shape that is capable of supporting rural residential development.	Proposed Lot 1 will be larger than Lot 2/3 but will require the future residential development to be sited close to the boundary and shared access because of the topography. Amenity for Lot 1 may be compromised by the use of the access, although there is no actual rule contravention occurring. The proposal is considered to be inconsistent with this policy.
Objective 17.2.3 The character and amenity of the rural residential zones are maintained, elements of which include: a) a high presence of natural features such as trees, bush, gully systems and water bodies; b) a semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas; and c) land maintained and managed for farming, grazing, conservation and rural residential activities..	The proposed subdivision and development of the subject site will retain the natural features of merit by preserving the vegetation of Lot 1. The density of development will be greater than that anticipated for the Rural Residential 1 zone, but the existing and proposed residential development will be consistent with other rural residential properties in the area. The limited area of grazing land on the subject site will be retained. The proposal is considered to be consistent with this objective.
Policy 17.2.3.1 Require buildings and structures to be set back from site boundaries and of a height that maintains the character and visual amenity of the rural residential zones.	The future development of Lot 1 will potentially be within the boundary setback in respect of Lot 2/3 only. Controls will be placed on the development of Lot 1 to maintain rural residential character and visual amenity of the area. The proposal is considered to be consistent to this policy.
Policy 17.2.3.5 Only allow general subdivision where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the character and amenity of the rural residential zones.	The proposed subdivision is considered to maintain the general rural residential character of the zone and area. The proposal is considered to be consistent with this policy.

Assessment of Regional Policy Statements (Section 104(1)(b)(v))

[115] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements or national policy statement. The Regional Policy Statement for Otago was made partially operative in 2019. Identify relevant chapters e.g. Chapter 5: Land is relevant in that it seeks to promote sustainable management of Otago's land resources.

[116] The proposal is considered to be consistent with the relevant objectives and policies of the following chapters of the Regional Policy Statement for Otago: 4: Manawhenua, 5: Land, 9: Built Environment, and 11: Natural Hazards. It is also considered to be consistent with the following relevant objectives and policies of the Partially Operative Regional Policy Statement:

- Objective 1.1: Otago's resources are used sustainably to promote economic, social and cultural wellbeing for its people and communities.
- Policy 1.1.2: Economic wellbeing.
- Policy 1.1.3 Social and cultural wellbeing and health and safety.
- Objective 3.1: The values of ecosystems and natural resources are recognised and maintained or enhanced where degraded.
- Policy 3.1.9: Ecosystems and indigenous biological diversity.
- Policy 3.1.13: Environmental enhancement.
- Objective 3.2: Otago's significant and highly-valued natural resources are identified, and protected or enhanced where degraded.
- Policy 3.2.1: Identifying significant indigenous vegetation and habitats.
- Policy 3.2.2: Managing significant indigenous vegetation and habitats.
- Policy 3.2.3 Identifying outstanding natural features, landscapes and seascapes
- Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes.
- Objective 4.3: Infrastructure is managed and developed in a sustainable way.
- Policy 4.3.1: Managing infrastructure activities.

National Policy Statement on Urban Development 2020

[117] The NPS – UD seeks to have sufficient development capacity for housing provided for by the relevant District Plan. Dunedin is considered to be a 'tier 2' urban environment within this document. The Council is instructed to provide sufficient development capacity in its district to meet the expected demand for housing in existing and new urban areas. In order to be 'sufficient' to meet expected demand for housing, the development capacity must be:

- Plan-enabled; and
- Infrastructure -ready; and
- Feasible and reasonably expected to be realised; and
- For tier 1 and 2 local authorities, meet the expected demand plus the appropriate competitiveness margin.

[118] The NPS – UD is specific to 'plan-enabled' land which is land zoned for housing in an operative district plan or proposed plan, or is on land identified by the local authority for future urban use or urban intensification. In this case, the rural residential-zoned land of 30 Tui Street is not listed for consideration by Variation 3. It is my view that the NPS – UD is not relevant to the proposal, as it would only apply if the land were to be rezoned residential.

Assessment of the NPS Highly Productive Land

[119] The National Policy Statement for Highly Productive Land (NPS-HPL) was released recently and came into effect on 17 October 2022, following the lodgement of this application. This NPS is about ensuring the availability of New Zealand's most favourable soils for food and fibre production, now and for future generations. The objectives, policies and implementation clauses have immediate legal effect, and thus Council must take relevant provisions into account when considering consent applications and plan changes. The NPS contains direction around urban and rural lifestyle rezoning and subdivision, use and development of highly productive land.

[120] Highly Productive Land (HPL) is defined in cl 1.3 of the NPS-HL as:

‘.. land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land).’

- [121] Clause 3.5(7) is currently relevant. In Dunedin, land currently treated as HPL as per cl 3.5(7) of the NPS is identified here: <https://www.dunedin.govt.nz/council/district-plan/monitoring-and-research/highly-productive-land-map>
- [122] While the NPS – HPL was not in effect at the time of the application’s lodgement, it came into effect on 17 October 2022 and therefore is part of an assessment for subdivision. However, the subject site is not shown on the mapping as being subject to the NPS HPL and accordingly, the NPS HPL does not need to be considered as part of this application.

Overall Objectives and Policies Assessment

- [123] Having regard at the relevant objectives and policies individually, and considering these in an overall way, the above assessment of the Proposed District Plan indicates that the application is consistent with the majority of the objectives and policies to do with Transport, Natural Environment, Natural Hazards and Rural Residential zones. It is inconsistent with those policies to do with fire-fighting (but will be consistent at the time Lot 1 is developed) and rural residential density. The proposal is considered to be consistent with the objectives and policies of the Partially Operative Regional Policy Statement. Overall, the proposal is considered to be consistent with the relevant objectives and policies.

DECISION MAKING FRAMEWORK

Part 2 Matters

- [124] It is considered that there is no invalidity, incomplete coverage or uncertainty within either the operative Dunedin City District Plan or the Proposed Plan. As a result, there is no need for an assessment in terms of Part 2 of the Resource Management Act 1991.

Section 104D

- [125] Section 104D of the Act specifies that a resource consent for a non-complying activity must not be granted unless the proposal can meet one of two limbs. The limbs of Section 104D require either that the adverse effects on the environment will be no more than minor, or that the application is for an activity which will not be contrary to the objectives and policies of either the relevant plan or the relevant proposed plan.
- [126] As discussed above in the assessment of effects, it is considered that the effects of the proposal are less than minor in regards to rural residential character, landscape effects, natural hazards, and biodiversity. The proposal is considered overall to be consistent with the relevant objectives and policies except where inconsistent in respect of fire fighting and density.
- [127] Only one of the two tests outlined by Section 104D needs be met in order for Council to be able to assess the application under Section 104 of the Act. In order for a proposal to fail the second test of Section 104D, it needs to be contrary to the objectives and policies of both the Dunedin City District Plan and the Proposed Plan. In order to be deemed contrary, an application needs to be repugnant to the intent of the District Plan and abhorrent to the values of the zone in which the activity was to be established. It is noted that in this instance, the proposal is assessed as being consistent or inconsistent with the relevant objectives and policies of the Proposed Plans. The

proposed development is therefore considered to meet the second 'gateway' test outlined by Section 104D.

- [128] In summary, I consider that the application passes both of the threshold tests in Section 104D of the Act and therefore, in my opinion, it is appropriate for the Commissioner to undertake a full assessment of the application in accordance with Section 104 of the Act. In turn, consideration can therefore be given to the granting of the consent.

Section 104

- [129] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall be less than minor.
- [130] Section 104(1)(ab) requires the Council to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects. The applicant proposes protecting the indigenous vegetation on proposed Lot 1 which may be considered compensation for the additional residential unit.
- [131] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be consistent or inconsistent with the key objectives and policies relating to the Proposed Plan.
- [132] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it was concluded that the application is consistent with the relevant objectives and policies of the Partially Operative Regional Policy Statement for Otago.

Other Matters

- [133] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [134] Early case law from the Planning Tribunal reinforces the relevance of considering District Plan integrity and maintaining public confidence in the document. In *Batchelor v Tauranga District Council* [1992] 2 NZLR 84, (1992) 1A ELRNZ 100, (1992) 1 NZRMA 266 the then Planning Tribunal made the following comments:

"...a precedent effect could arise if consent were granted to a non-complying activity which lacks an evident unusual quality, so that allowing the activity could affect public confidence in consistent administration of the plan, or could affect the coherence of the plan."

- [135] In *Gardner v Tasman District Council* [1994] NZRMA 513, the Planning Tribunal accepted that challenges to the integrity of a district plan could be considered as an 'other matter' (under what was then section 104(1)(i) and what is now section 104(1)(c) of the Resource Management Act 1991), rather than as an effect on the environment. The Planning Tribunal in that case also said:

"If the granting of one consent was likely to cause a proliferation of like consents and if the ultimate result would be destructive of the physical resources and of people and communities by reason of causing unnecessary loadings on services or perhaps by reason of causing under-utilisation of areas where services etc. have been provided to accommodate such activities, then the Council may well be able to refuse an application having regard to that potential cumulative effect."

- [136] These matters have been considered by the Environment Court when sitting in Dunedin. Case law starting with *A K Russell v DCC* (C92/2003) has demonstrated that when considering a non-complying activity as identified by the Dunedin City Council District Plan the Council will apply the 'true exception test'.
- [137] In paragraph 11 of the decision Judge Smith stated "... we have concluded that there must be something about the application which constitutes it as a true exception, taking it outside the generality of the provisions of the plan and the zone, although it need not be unique." This was added to in paragraph 20 where the Judge stated, "*... therefore, examining this application in accordance with general principles, we have concluded that the application must be shown to be a true exception to the requirements of the zone.*"
- [138] In this case, the subject site is a complying rural residential site but the subdivision and residential use of the new lots will result in undersized lots and an over-dense level of development. The subject site is an unusual shape with steep topography and approximately half of the site is covered in indigenous vegetation of some merit. No new infrastructure is required. Furthermore, the proposal will result in sites that are similar in nature to other rural residential properties in the area.
- [139] For the above reasons, I consider that approval of the proposal will not undermine the integrity of the Plan as the activity will produce only localised and minor effects, if any. I therefore do not consider that the Committee needs to be concerned about the potential for an undesirable precedent to be set in this regard.

CONCLUSION

- [140] Having regard to the above assessment, I recommend that the application be declined based primarily on the assessment of objectives and policies. Draft conditions for consent have been recommended below, should the Committee be of a mind to grant consent.

RECOMMENDATION

Subdivision SUB-2022-80

*Pursuant to Part 2 and sections 34A(1), 104, 104B and 104D of the Resource Management Act 1991, and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to **non-complying** activity being the subdivision of the land legally described as Lots 3 & 7 DP 318930 (RT 74129) at 30 Tui Street, St Leonards, into two rural residential sites.*

Land Use LUC-2022-215

*Pursuant to Part 2 and sections 34A(1), 104, 104B and 104D of the Resource Management Act 1991, and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to **non-complying** activity being the establishment of existing and future residential activity, with setback contraventions, on Lots 1 and 2/3 at 30 Tui Street, St Leonards.*

REASONS FOR RECOMMENDATION

- [141] The proposed subdivision will create new sites which are not significantly different to other rural residential properties within the area. The proposed boundary between Lots 1 and 2/3 is in a logical place, following the line between indigenous vegetation cover and grazing land. The proposed subdivision will not result in the loss of any grazing land or quality vegetation, and the existing and proposed dwellings will not be closely situated.
- [142] The subdivision will allow protection to be placed over the area of indigenous vegetation within proposed Lot 1. The applicant is agreeable to this area becoming an ASBV, to supplement that area

of Stevensons Bush Reserve immediately to the south of the subject site, although this cannot occur as part of the resource consent process. It is still possible to protect this vegetation through the resource consent, which is considered to be a positive outcome for this area of vegetation.

- [143] The proposal to build on the proposed landscape building platform of Lot 1 has been assessed by both the applicant's and Council's Landscape Architects as having adverse effects on the landscape which are less than minor, subject to controls placed on development including setting a maximum height and controls on colours and cladding materials. The future development of Lot 1 is expected to be consistent with other residential development in the area, and will maintain the gentle transition from residential land use to rural land use from bottom to top of the hillside.
- [144] The proposal will not result in any additional demand on reticulated services. Both sites will be self-serviced. This is acceptable to 3 Waters and Building and Development. No additional transportation infrastructure is required, and Transport has assessed the effects of the proposal on the transportation network as being less than minor.
- [145] The proposal is considered to be consistent with the majority of the key objectives and policies of the Proposed District Plan. It is inconsistent with those to do with the provision of fire-fighting water supply, but only until Lot 1 is developed, and the density of development for rural residential zones. In this case, the proposed subdivision will result in rural residential sites which area comparable to many of the rural residential sites in the surrounding area.
- [146] The proposal is considered to be consistent with many of the key objectives and policies of the Regional Policy Statement for Otago which are concerned with natural and physical resources, and indigenous vegetation.
- [147] As the proposal is considered likely to give rise to adverse effects that will be less than minor, and will be consistent or inconsistent with the relevant objectives and policies, the proposal can be considered to have passed both thresholds of the section 104D test for non-complying activities. The Committee is in a position to consider the granting of consent.
- [148] The proposal is considered to be a true exception because of the presence of the indigenous vegetation which is to be protected, the topography and shape of the subject site, and the nature of the surrounding environment. Few other rural residentially zoned sites are likely to be comparable.

Report prepared by:

Report checked by:


Lianne Darby
Associate Senior Planner

23.1.24
Date


Campbell Thomson
Senior Planner

23.1.24
Date

Appendix A: Draft recommended conditions for consent. [Subject to change including the addition of any further conditions considered necessary to address environmental effects].

SUB-2022-80

1. *The proposal shall be given effect to generally in accordance with the plan prepared by Cookson Land Surveying entitled, 'Lots 1-3 Being a Proposed Subdivision of Lots 3 & 7 DP 318930,' and the accompanying information submitted as part of SUB-2022-80 received by Council on 30 May 2022, except where modified by the following:*
2. *Prior to certification of the survey plan pursuant to section 223 of the Resource Management Act 1991, the applicant shall ensure the following:*
 - a) *If a requirement for any easements for services is incurred during the survey then those easements shall be granted or reserved and included in a Memorandum of Easements on the survey plan.*
 - b) *That a right of way over the existing access through Lot 1 must be duly created or reserved in favour of Lot 2/3 and must be shown on the survey plan in a Memorandum of Easements. The right of way must have a minimum legal width of 6.0m and the southern boundary must be at least 1.0m from the formation of the existing access.*
 - c) *That the following amalgamation condition must be endorsed on the survey plan:*

'That Lots 2 and 3 hereon be held in the same record of title (see CSN Request 1890249).'
3. *Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the applicant shall complete the following:*
 - a) *A plan showing the landscape building platform for Lot 1 must be prepared. The platform must be clearly dimensioned and its position fixed relative to the boundaries and other features so that it can be determined on the ground. The area of Lot 1 not subject to the landscape building platform or right of way must be clearly labelled Vegetation Protection Area. The plan must be attached to the consent notice of condition 2(c) below.*
 - b) *The consent holder must undertake planting of at least 20 ecologically appropriate podocarp species, such as rimu and low land totara, within the Vegetation Protection Area of Lot 1 in consultation with Council's Biodiversity Advisor so as to enhance the quantity and quality of indigenous vegetation in Lot 1.*
 - c) *A consent notice must be prepared for registration on the titles of new Lot 1 for the following on-going conditions:*

'All residential development including ancillary buildings, tanks, and the wastewater secondary treatment plant must be fully contained within the landscape building platform as shown on the attached plan.'

'Any residential dwelling constructed on land steeper than 15° will require a site-specific engineering assessment and foundation design prepared by a suitably qualified person. If required, the assessment must be submitted to the Council at the time of building consent application.'

'Buildings on the landscape building platform must have a maximum height of 5m measured from existing ground level prior to earthworks.'

'Any above ground tanks must be screened from view, and must have a light reflectivity rating (LVR) of 35% or less.'

'Vegetation planted within the landscape building platform must be indigenous species only.'

'To promote the visual integration of the residential buildings (including residential accessory buildings) into the surrounding landscape, exterior colours (including roofing materials) that are visually recessive and/or do not contrast with surrounding natural colours must be used. Non-painted, natural cladding materials (including, but not limited to, stone, bricks or timber) that are not likely to result in reflective glare, are acceptable. The use of highly reflective materials, such as unpainted metallic surfaces, mirrored glazing and metallic finishes (such as Silver Zincolume), must be avoided. Exterior painted surfaces must have an LVR of no more than 35% for exterior walls with roofs having a maximum LVR of 15%. All concrete paving is to be tinted to 50% LVR. Information and confirmation of compliance with these requirements must be submitted to the Council with any building consent application for development on this site.'

'No vegetation clearance except weed species must be undertaken within the area shown as the Vegetation Protection Area on the attached plan. All indigenous vegetation must be retained, with supplementary planting using ecologically appropriate species only. No grazing by stock is to occur within the Vegetation Protection Area.'

Land Use LUC-2022-215

1. The proposal shall be given effect to generally in accordance with the plan prepared by Cookson Land Surveying entitled, 'Lots 1-3 Being a Proposed Subdivision of Lots 3 & 7 DP 318930,' and the accompanying information submitted as part of LUC-2022-215 received by Council on 30 May 2022, except where modified by the following:
2. While the zoning of the land is Rural Residential 1, only one residential unit (with no ancillary unit) may be established on each site unless further resource consent is obtained.

APPENDIX 1: THE APPLICATION



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

Application details

I/We Serge Luke

(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:

Subdivide the site into two lots & establish residential activity on an identified landscape building platform.

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: 30 Tui Street, St Leonard

Legal description: lots 3 & 4 DP 318930

Certificate of Title: 74129

Contact details

Name: Emma Peters, Consultant, Sweep Consultancy Ltd

☐ applicant ☒ agent (tick one)

Address: P.O. Box 5724 Dunedin

Postcode: 9054

Phone (daytime): 0274822214

Email: emma@sweepconsultancy.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? 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): *Serge Luke*

Mailing Address of Deposit Payee (please provide PO Box number where available):

*L/o: Sweep Consultancy Ltd
P.O. Box 5724 Dunedin 9054*

Email Address of Deposit Payee: *L/o: emma@sweepconsultancy.co.nz*

Daytime contact phone number: *L/o: 0274822214*

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 developmentcontributions@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 attached AEE.

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 attached AEE.

(Attach separate sheets if necessary)

District plan zoning

What is the District Plan zoning of the site? *Rural Residential 1*

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.

Flagstaff - Mt Cargill Significant Natural Landscape Overlay

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.

See attached AEE

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:

N/A

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.

See attached AEE.

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.

See attached APE.

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):



Emma Peters, Consultant, Sweep Consultancy Ltd.

Date: 30/5/22

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:

Assessment of Environmental Effects



30 Tui Street, St Leonards

30 May 2022

Prepared by Emma Peters
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30 May 2022

Senior Planner – Non Notifieds
 Dunedin City Council
 P.O. Box 5045
 Dunedin 9054

Hi,

30 Tui Street, St Leonards – Subdivision and Land Use Consent

Site

Our client, Serge Luke, owns a property at 30 Tui Street, St Leonard legally described as Lots 3 & 7 DP 318930 contained in record of title 74129¹ (site). There is a consent notice² on the record of title for the site which is largely irrelevant to the present application as the dwelling on Lot 7 DP 318930 has already been built and the existing indigenous vegetation on Lot 7 has been fenced to avoid browsing by stock. The location of the site is shown in Figure 1 below.



Figure 1: Location of Site.

The site comprises of approximately 2.5 hectares of land and contains an existing dwelling. The site is of irregular shape and is bisected by Tui Street which is only partially formed within the legal road corridor. The site generally slopes from the north-west to the south-east as can be seen from the contours shown in Figure 1 above. The lower steeper parts of the site are covered in a mixture of indigenous bush and exotic weed species.

1 Copy of record of title is appended at Appendix 1a.

2 A copy of the consent notice on the record of title is appended at Appendix 1b.

Zoning

Currently there are two plans for land within the jurisdiction of the Dunedin City Council (**Council**). Pursuant to the Dunedin City District Plan (2006) (**2006 plan**) the site has a mixed zoning of *Rural* and *Rural Residential* zoning with no other planning features pertaining to the site³. The zoning of the site pursuant to the 2006 plan is shown in Figure 2a below.

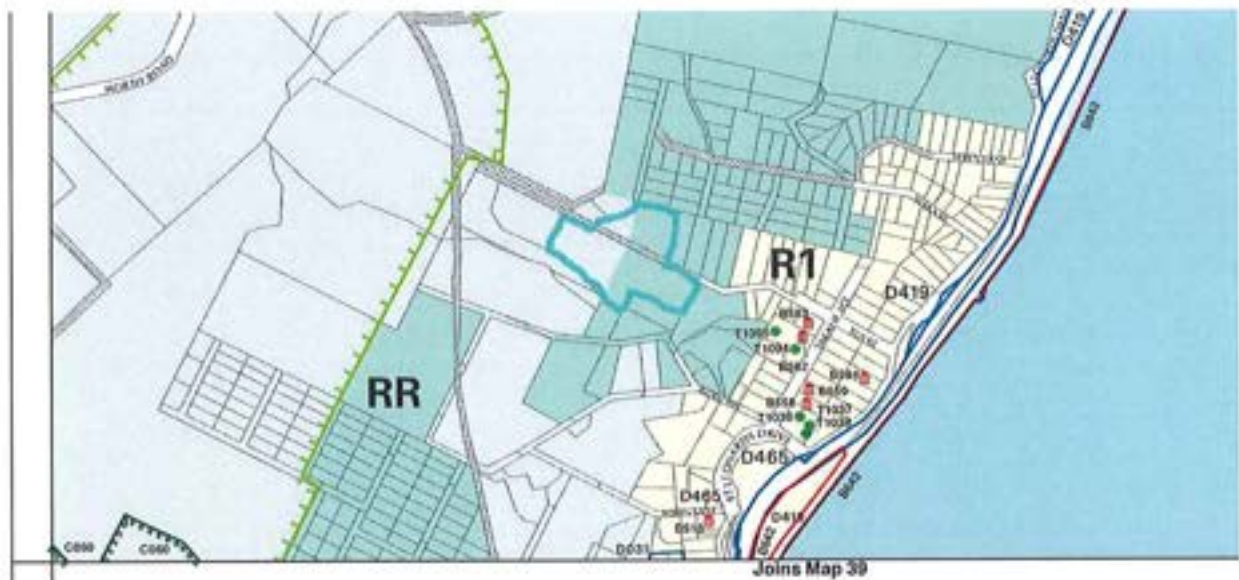


Figure 2a: Zoning pursuant to 2006 Plan.

Pursuant to the Second Generation District Plan Appeals Version (**2GP**) the site is zoned *Rural Residential 1* with part of the site falling within the *Flagstaff-Mt Cargill Significant Natural Landscape* overlay with no other planning features pertaining to the site. The zoning of the site pursuant to the 2GP is shown in Figure 2b below.

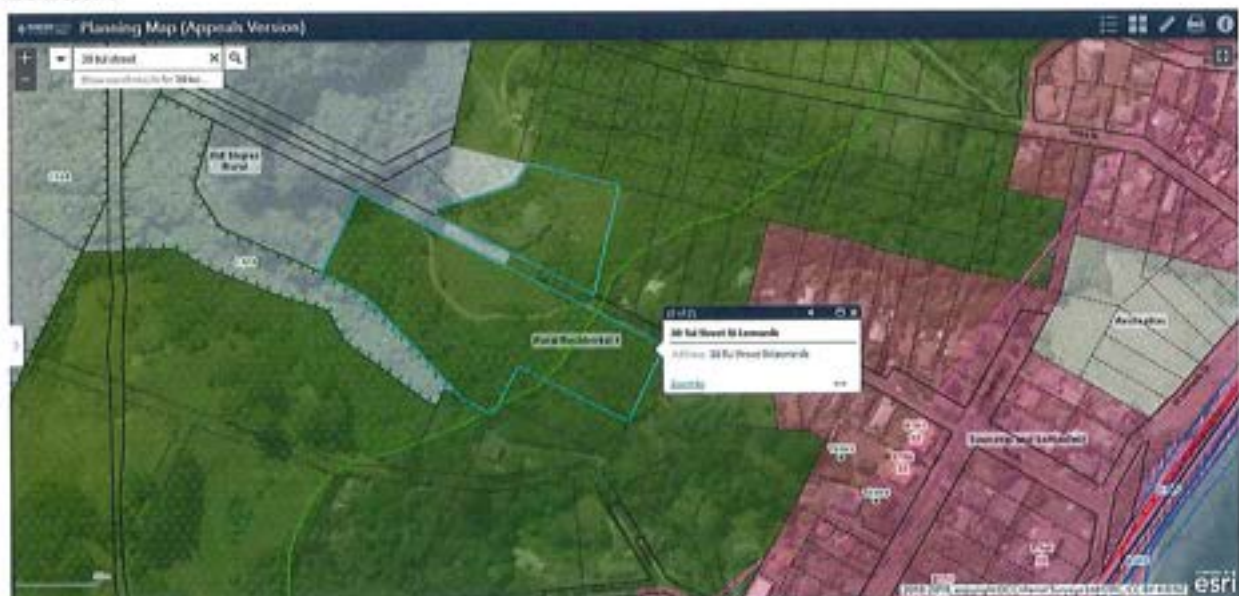


Figure 2b: Zoning Pursuant to 2GP⁴.

³ See 2006 plan zone map 20.

⁴ The SNL line was moved further down over the site as a result of a consent order resolving the PCT 2GP appeal.

There are no appeals relating to the zoning of the site and, therefore, the 2GP zoning of the site is deemed operative and the 2006 plan provisions are not considered any further in this assessment of effects.

Proposed Activity

Serge seeks to subdivide the existing dwelling from the part of the site containing the indigenous vegetation and to establish residential activity on the resulting vacant lot via an identified landscape building platform. A subdivision scheme plan showing the identified landscape building platform has been prepared and is appended at Appendix 2. Lots 2 and 3, which are bisected by the unformed part of Tui Street, will be held in the same record of title.

Serge seeks the application of an *Area of Significant Biodiversity Value* to all of Lot 1 excepting the identified building platform. An ecological assessment has been undertaken and the report is appended at Appendix 3. Condition of consent are proffered requiring underplanting of existing indigenous vegetation on Lot 1 with various podocarp species as directed in the ecological report and planting around the margins of the landscape building platform on Lot 1 with manuka/kanuka once all building on the landscape building platform is complete.

Serge's elderly parents are going to reside at the new residential unit to be built on Lot 1. Serge's parents require a single level dwelling on flat terrain. The identified landscape building platform on Lot 1 provides better topography with respect to level entry for the residential unit. The residential unit will be self-serviced with respect to potable water and wastewater.

The following conditions are proffered with respect to the residential activity on Lot 1:

- All residential ancillary buildings including tanks and the wastewater secondary treatment plant⁵, are to be located on the identified building platform;
- Residential unit will have a maximum height of 5m;
- The tanks must be screened from view and must have a light reflectivity rating (LVR) of 35% or less;
- Only indigenous vegetation can be planted on the landscape building platform; and
- To promote the visual integration of the residential buildings (including residential accessory buildings) into the surrounding landscape, exterior colours (including roofing materials) that are visually recessive and/or do not contrast with surrounding natural colours must be used. Non-painted, natural cladding materials (including, but not limited to, stone, bricks or timber) that are not likely to result in reflective glare, are acceptable. The use of highly reflective materials, such as unpainted metallic surfaces, mirrored glazing and metallic finishes (such as Silver Zinalume), must be avoided. Exterior painted surfaces must have an LVR of no more than 35% for exterior walls with roofs being coloured 5% below the LVR of the exterior walls. All concrete paving is to be

⁵ The dispersal field will be located on the margins of the landscape building platform rather than on it.

tinted to 50% LVR.

A landscape assessment report has been prepared and is appended at Appendix 4.

The applicant requests that Council processes this application on a non-notified basis. A completed application form precedes this AEE. The applicant will pay the application deposit fee upon receipt from Council of an invoice.

NES

The *National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health* (NES-CS) is not applicable to this site because the residential unit on Lot 3 is existing and the applicant informs that the land contained in Lot 1 has not been used for any purpose excepting the indigenous vegetation.

The site is not a registered HAIL site on the register administered by the Otago Regional Council – see Figure 3 below.

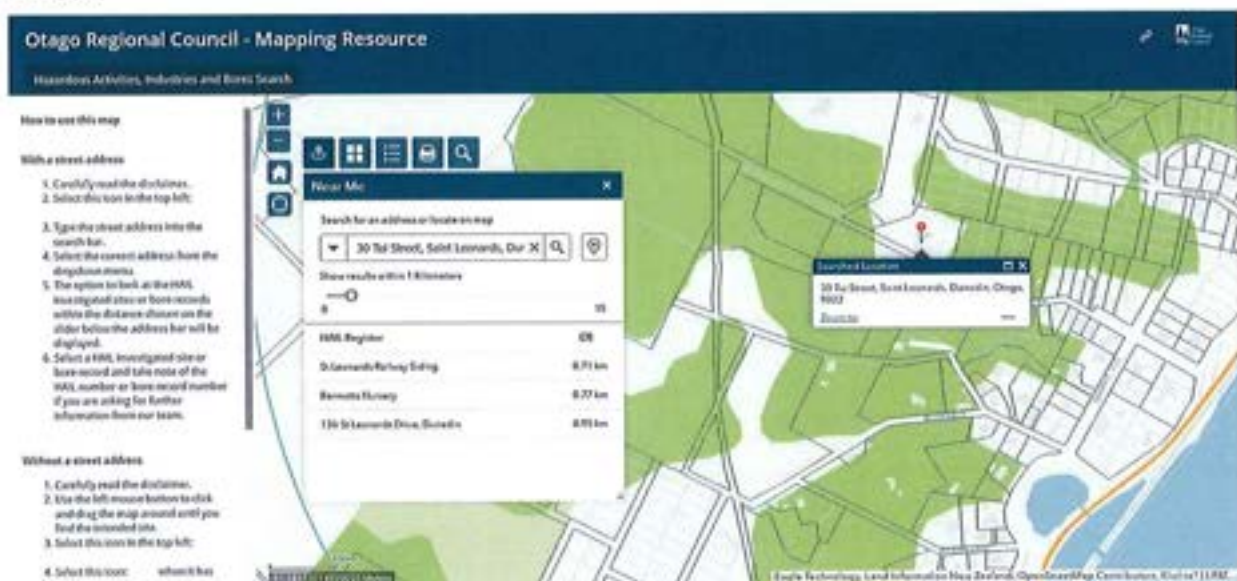


Figure 3: ORC HAIL Register Search Results for Site.

There are 3 HAIL sites within one kilometre of the site. These are: (a) the St Leonards Railway Siding (HAIL.01293.01), (b) Bennetts Nursery (HAIL.01288.01) and (c) 136 St Leonards Drive (HAIL.01992.01); all located over 700m from the site. There are no bores located within one kilometre of the site.

However, for the sake of completeness a HAIL property search application form precedes the resource consent application form at the front of this assessment of environmental effects.

Activity Status

Subdivision in the *Rural Residential 1* zone is a restricted discretionary activity⁶ provided that various performance standards as relevant to the site are met. An analysis of the performance standards relevant

⁶ 2GP Rule 15.3.5.2.

to the site is undertaken in Appendix 5a. That analysis shows that resource consent is required for contravention of the minimum site size performance standard which has an activity status of non-complying⁷.

Residential activity in the *Rural Residential 1* zone is permitted at a density of one residential unit per 2 hectares of site provided that various performance standards are met⁸. An analysis of the performance standard relevant to the site and/or application is undertaken in Appendix 5b. That analysis shows that resource consent is required for the contravention of the density performance standard which has an activity status of non-complying⁹.

Overall, the activity status of the proposed activity is **non-complying**.

S104D

Pursuant to section 104D of the Resource Management Act 1991 (**Act**), non-complying activities must first pass one of two limbs set out in s104D prior to being considered pursuant to s104 of the Act. Applications for non-complying activities must show either that: (i) *the adverse effects of the non-complying activity will be no more than minor*; or (ii) *the non-complying activity is not contrary to the policy framework of any relevant plan*. The proposed activity will have adverse effects no more than minor¹⁰ and, therefore, passes the first limb of s104D of the Act.

Notification

Section 95A of the act governs the process for determining if an application is to be publicly notified. The process contains four steps with criteria set out for each step. The four steps are:

Step 1: mandatory public notification in certain circumstances.

Step 2: public notification precluded in certain circumstances.

Step 3: public notification required in certain circumstances.

Step 4: public notification in special circumstances.

With respect to the criteria for step 1, as listed in subsection (3) of s95A, the applicant has not requested the application be notified; Council has all relevant information and the application does not include recreation reserve land. Therefore, there is no requirement for mandatory public notification.

With respect to criteria for step 2, the consent application is not for any activities for which a rule or national environmental standard precludes public notification of the proposed activity.

With respect to criteria for step 3, none of the criteria apply, that is, there is no rule or environmental

⁷ 2GP Rule 17.7.5.3.

⁸ 2GP Rule 17.3.3.12.c.

⁹ 2GP Rule 17.5.2.2.

¹⁰ See section of AEE entitled *Assessment of Environmental Effects*.

standard requiring notification of the proposed activity and the effects of the proposed activity are demonstrated in the assessment of effects to be no more than minor.

With respect to step 4, subsection 9 of s95A, requires a determination as to whether special circumstances exist in relation to the application that warrant the application being publicly notified – if yes, publicly notify the application; if no, determine whether to give limited notification under s95B.

Case law holds that what constitutes 'special circumstances' are circumstances which must be unusual or exceptional, but may be less than extraordinary or unique¹¹ – the circumstances must be out of the ordinary. Although, public opinion may be a contributing factor it is not determinative¹².

There are no 'unusual', 'exceptional' or 'out of the ordinary' circumstances relating to the application. The application is for subdivision of a rural residential zoned site into two lots to provide for an *Area of Significant Biodiversity Value* and a building platform on that lot. Excepting minimum site size and density the proposed activity complies with all relevant performance standards and provides a positive benefit with respect to: (a) biodiversity values; and (b) provision of a residential unit for Serge's elderly parents close to family. Any adverse effects associated with the proposed activity will be less than minor – see *Assessment of Environmental Effects* below for further detail.

Similarly, s95B sets out the steps for determining whether there is a need for limited notification of an application. Step 1 determines whether there are certain affected groups or affected persons that must be notified. No protected customary rights or marine title groups are affected by the application, nor will the application affect land the subject of a statutory acknowledgement made in accordance with an act specified in schedule 11 of the act. None of the circumstances set out in step 2 (s95B(6)) apply meaning Council is not precluded from limited notification of the application. Step 3 (s95B(8)) requires determination of any other affected party in accordance with s95E. There are no other affected parties because any adverse effects will be less than minor as demonstrated by the assessment of environmental effects below. Step 4 (s95B(10)) requires that the application be notified on a limited basis if special circumstances exist which warrant limited notification. No such special circumstances exist.

The application can be dealt with by Council on a **non-notified basis**.

Permitted Baseline and Receiving Environment

There are no permitted subdivision activities or residential activities (other than the existing residential activity on the site) meaning there is no permitted baseline against which to assess the proposed activity.

Assessment of Environmental Effects

The issues to be considered with respect to the proposed activity are:

¹¹ *Peninsula Watchdog Group Inc v Minister of Energy* [1996] 2 NZLR 529.

¹² *Murray v Whakatane District Council* [1997] NZRMA 433.

- Effects on biodiversity; and
- Effects on landscape character and amenity values; and
- Precedent and effects on the integrity of the district plan.

Each of these is dealt with in turn below.

Effects on Biodiversity

Applying an *Area of Significant Biodiversity Value Overlay Zone* and/or protecting the indigenous vegetation on Lot 1 via a consent notice will have a **positive effect** on the biodiversity values of the locale. The subdivision consent which created the site only provided for protection of indigenous vegetation on Lot 7 (now proposed Lot 3) and not on Lot 3 (now proposed Lots 1 and 2).

In his ecological report, Dr Kelvin Lloyd concludes¹³ that: *“The potential adverse ecological effects of the proposed subdivision will be relatively minor considering there is no indigenous vegetation on the proposed building platform, and modified vegetation around it.”*

With respect to the application of an ASBV, Dr Lloyd concludes¹⁴: *“The property contains an ecologically significant area of indigenous forest which would be appropriate for rezoning in the Dunedin City Council (DCC) Area of Significant Biodiversity Value (ASBV) overlay zone and if protected by such zoning would provide a valuable extension to Stevens Bush Scenic Reserve.”*

Any adverse effects on biodiversity is considered to be in the range **negligible to less than minor** with the proposed activity having a **positive effect** on biodiversity values.

Effects on Landscape and Character and Amenity Values

The landscape architect, Mr Hugh Forsyth, describes the landscape context in section 3 of his report, stating at paragraphs 3.9 and 3.10: *“The site impression of the residential area and in the present upper rural residential zone is of a generally low density of development. Some of the rural residential sites are of a similar size, or smaller, than those on the shoreline and the majority are below the size sought under the 2GP. A consistent tree cover provides a transition from residential to rural that almost unnoticeable and easily absorbs present residential development in both areas. The rising topography combines with this vegetation cover to screen almost all views of the upper slope areas from the shoreline areas and the reverse appears to apply. Both the extensive native and exotic vegetation cover from shore to upper ridge and the simple and consistent landform that underlies it provide the majority of the coherence and quality of this landscape from off shore view and where existing settlement helps defines the location of the settlement but does not dominate.”*

¹³ Ecological Report, page 10.

¹⁴ Ecological Report, page 10.

The landscape architect describes the landscape character and amenity values in section 5 of his report stating at paragraph 5.3: *"The St. Leonards coastal landscape is a combination of two main coastal ridges that run into the coastline from the north and north/west, creating a wide upper vegetated valley, and spread in shallow north/east or east facing coastal slopes across the shoreline. The upper coastal ridge provides a distinctive horizonline while the harbour gives strong definition to the settlement boundary. Present settlement does not dominant offshore views or detract from the values of the SNL area. Isolated areas of pasture and pine blocks reflect to previous pastoral use."*

The subdivision includes an identified landscape building platform. The landscape building platform is 18m x 20m and all residential buildings including tanks and the wastewater secondary treatment plant will be contained within that landscape building platform. The effluent dispersal field will be located on the margins of the landscape building platform.

The applicant proffers the following conditions relating to the landscape building platform:

- Residential unit will have a maximum height of 5m;
- The tanks and wastewater treatment plant must be screened from public view and must have a light reflectivity rating (LVR) of 35% or less;
- Only indigenous vegetation can be planted on the landscape building platform; and
- To promote the visual integration of the residential buildings (including residential accessory buildings) into the surrounding landscape, exterior colours (including roofing materials) that are visually recessive and/or do not contrast with surrounding natural colours must be used. Non-painted, natural cladding materials (including, but not limited to, stone, bricks or timber) that are not likely to result in reflective glare, are acceptable. The use of highly reflective materials, such as unpainted metallic surfaces, mirrored glazing and metallic finishes (such as Silver Zinalume), must be avoided. Exterior painted surfaces must have an LVR of no more than 35% for exterior walls with roofs being coloured 5% below the LVR of the exterior walls. All concrete paving is to be tinted to 50% LVR.

These controls on the built elements of the proposed activity mitigate the effects of the residential activity on the landscape character and amenity values in section 7 of his report concluding at paragraph 7.14: *"The potential short term and long-term landscape effects that may result from the establishment of the proposed landscape building platform and dwelling on a new Lot 1 at 30 Tui Street are assessed as very low for both landscape and visual effects. This assessment draws on the capacity that the present environment has for absorbing further built form, the low level of intervention required to establish the proposed development, and consistency with the surrounding pattern of development. Conditions are proposed for its implementation, colour, height, and form that meet the guidelines of Appendix 11 and further include the*

proposed zoning of approx. 1.524ha ASBV, being proposed Lot 1, minus the landscape building platform."

The landscape architect goes on to state at paragraphs 9.1 and 9.2 that: *"Taking into account the character and structure of the present settlement and adjoining rural residential area from an off shore and site perspective the potential long term adverse effects are assessed as **very low** on the NZILA 7 point scale...This rating equates an assessment of less than minor on a technical planning scale and takes into account the subject site, surrounding landscape and residents and the off-set provisions of an area of ASBV that will co-join an existing area of ASBV associated with Stevenson Bush Scenic Reserve. It is anticipated that maintenance to the existing indigenous vegetation on proposed Lot 1 and enrichment planting of canopy tree species will increase the biodiversity and resilience of this forest and add to the landscape values of this part of St. Leonards from a local and off-shore perspective."*

Precedent and Effects on Integrity of the District Plan

Concern about the effect which allowing the activity might have for consideration of subsequent applications for resource consent for the same or similar activities (in the sense of like cases being treated alike) is not an effect on the environment. However, potential precedent effects are likely to be considered as a relevant matter in determining an application and may weigh against the grant of consent¹⁵.

Zoning is the primary mechanism for governing activities within the jurisdiction of the 2GP. Central to zoning are the performance standards of minimum site size for subdivision and residential activity and these performance standards are considered integral to maintaining the integrity of the zones.

The proposal is a non-complying activity due to contravention of the minimum site size performance standards by Lot 1 for both subdivision and residential activity. The question is whether, in the circumstances, granting consent to this application represents a threat to the integrity of the 2GP because it would set an undesirable precedent that can be used for like applications for similar pieces of land in the future.

If it was to set a precedent at all, granting consent to the present application is considered to set a desirable precedent. This is because the application ensures:

- An area of significant indigenous vegetation is protected, preferably via application of an ASBV overlay;
- The applicant will complete underplanting within the area of significant indigenous vegetation; and
- The residential activity as mitigated by controls on building form has been assessed as having a less than minor adverse effect on the landscape including its character and amenity.

¹⁵ *Dye v Auckland Regional Council* [2002] 1 NZLR 337 (CA).

Policy Consideration

An analysis of relevant residential zone objectives and policies is undertaken in Appendix 6. That analysis shows that the proposed subdivision is consistent with relevant objectives and policies.

Conclusion

The proposed subdivision results in the protection, preferably by application of an ASBV overlay, of the area of significant biodiversity value contained within proposed Lot 1. This coupled with the siting of the landscape building platform on Lot 1 and associated controls on built form mean that the adverse effects on the landscape including character and amenity and visual effects is very low. The proposal is consistent with the applicable 2GP policy framework. Adverse cumulative effects are not likely as similar sites and/or applications will need to meet the criteria of: (a) ecological protection and enhancement; (b) landscape assessment of very low to low and (c) include proffered conditions similar to the current application. In this sense the current application is considered to be positive and granting consent to the proposed subdivision activity will not set a precedent which will threaten the integrity of the district plan.

Please make contact if you wish to discuss this matter further or require any further information.

Yours sincerely,



Emma Peters Consultant Sweep Consultancy Limited P.O. Box 5724 Dunedin 9054 Phone 0274822214
www.sweepconsultancy.co.nz

Appendix 1a: Record of Title



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**



R.W. Muir
Registrar-General
of Land

Identifier 74129
Land Registration District Otago
Date Issued 15 May 2003

Prior References
OT11B/1205

Estate	Fee Simple
Area	2.5334 hectares more or less
Legal Description	Lot 3, 7 Deposited Plan 318930

Registered Owners
Antonina Lukyanyuk, Yuri Lukas and Serge Luke

Interests

Appurtenant hereto is a right of way over part Lot 115 DP 3208 (CT OT216/161) created by Conveyance 128512 (216/272)

Fencing Agreement in Conveyance 128512 (216/272)

Fencing Agreement in Transfer 500055.3

Appurtenant to part Lot 3 formerly known as Lots 95, 96, 97, 109, 110 Deeds Plan 109 is a right of way over all way, streets and roads not made public shown on Deeds Plan 109 created by Deed of Easement 43662 (60/579) 5588423.1 Consent Notice pursuant to Section 221 Resource Management Act 1991 (affects Lot 7) - 15.5.2003 at 9:00 am

Subject to Section 241(2) Resource Management Act 1991 (affects DP 318930)

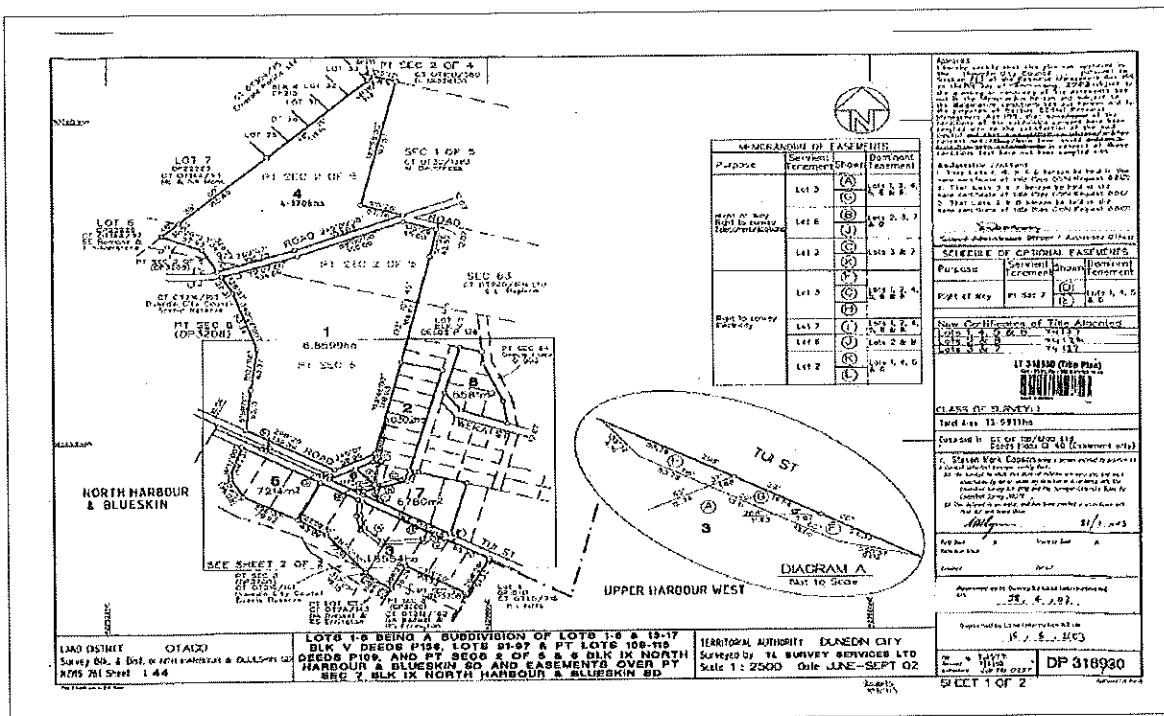
Subject to a right of way and right to convey telecommunication over part Lot 3 marked A and G, a right to convey electricity over part Lot 3 marked F, G and H and a right to convey electricity over part Lot 7 marked I on DP 318930 created by Easement Instrument 5588423.3 - 15.5.2003 at 9:00 am

Appurtenant hereto is a right of way and a right to convey telecommunication created by Easement Instrument 5588423.3 - 15.5.2003 at 9:00 am

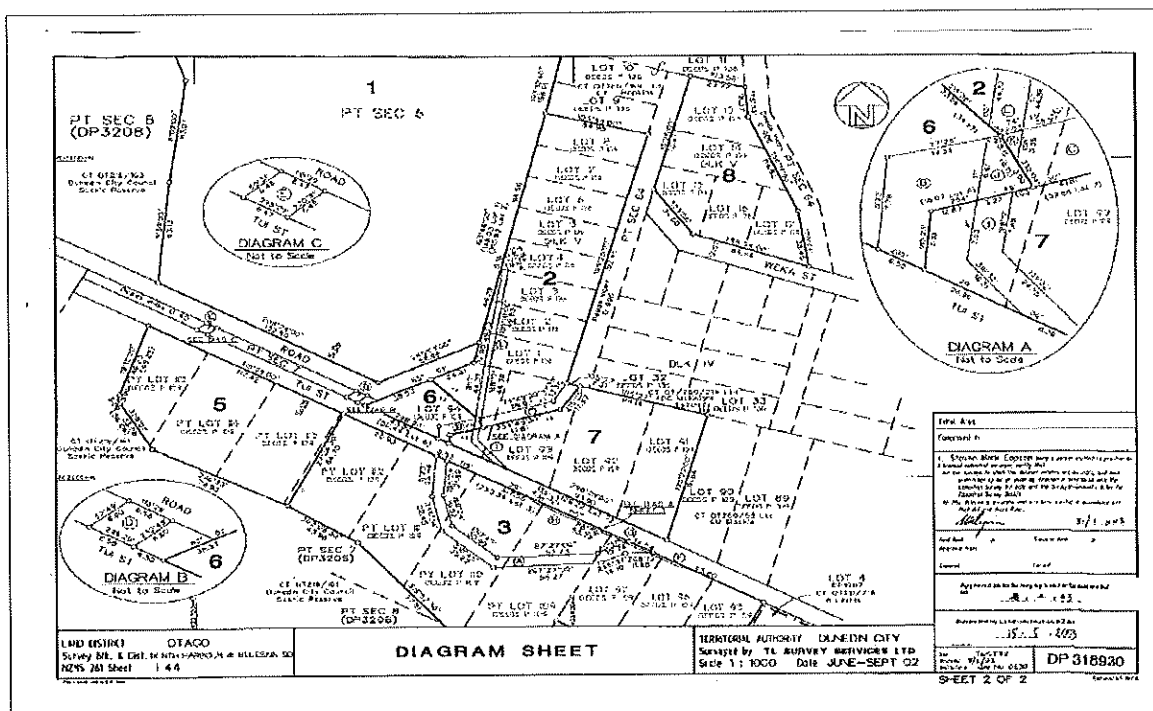
The easements created by Easement Instrument 5588423.3 are subject to Section 243 (a) Resource Management Act 1991

10561276.3 Mortgage to ANZ Bank New Zealand Limited - 23.9.2016 at 3:30 pm

Identifier 74129



Identifier 74129



Appendix 1b: Consent Notice.

IN THE MATTER of Section 221 of the Resource Management Act 1991

AND

IN THE MATTER of an Application for Subdivision Consents 2000195 and 20010343

CONSENT NOTICE

Whereas Council has granted Resource Consent to the proposed subdivision comprised in CT OT 11B/1205Ltd subject to the following conditions which are required to be complied with on a continuing basis by the owners and subsequent owners of the land or parts thereof being those conditions specified in the operative part of this notice.

Operative Part.

Condition relating to Lots 2, 7 & 8

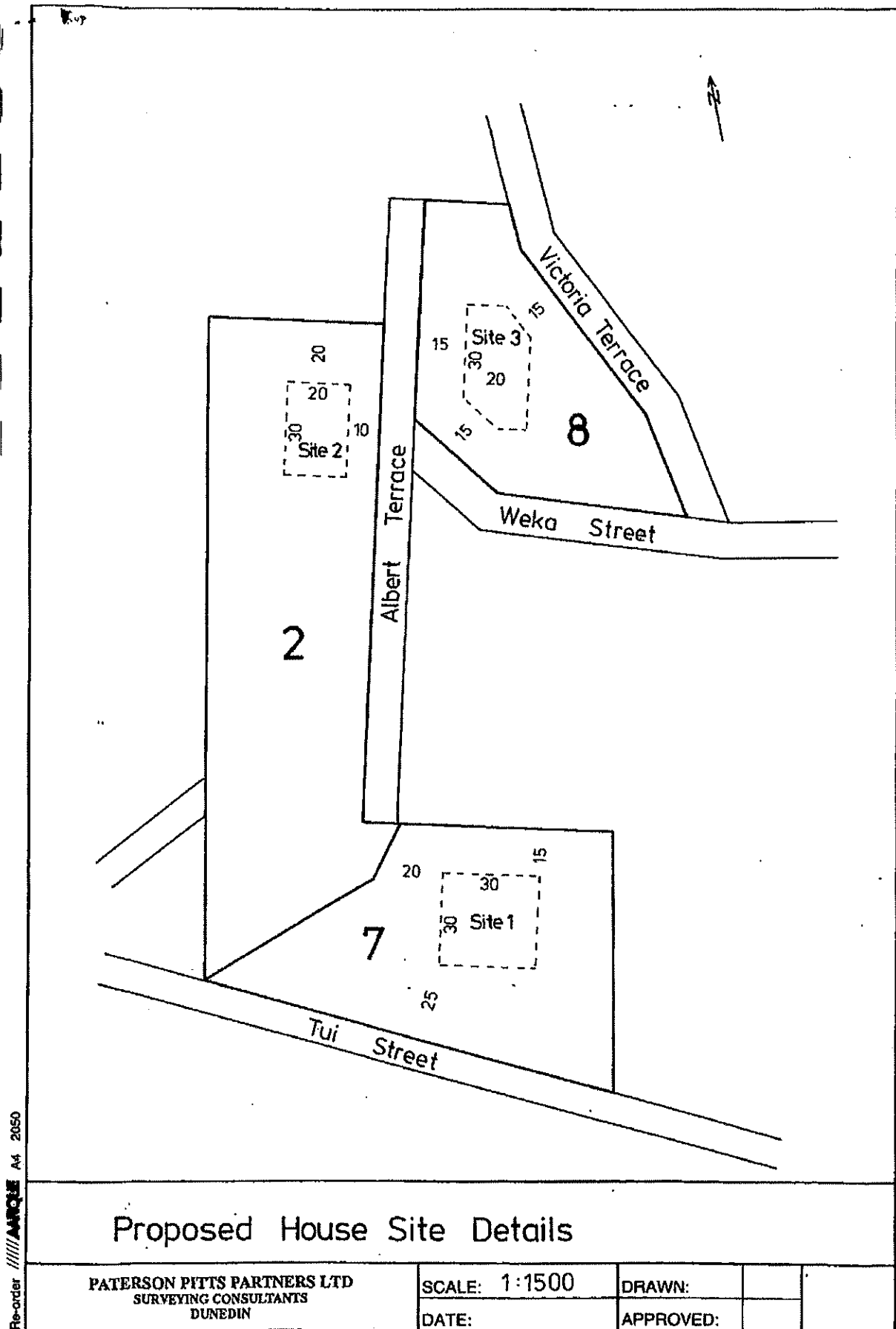
- a. *Specifically designed effluent disposal systems are required to Council standards*
- b. *The building platform and on-site effluent disposal field within Lot 7 be situated on land not exceeding 15° to the horizontal. In the event that alternative sites are proposed they shall be supported by a geotechnical report from a suitably qualified person.*
- c. *Provision of access, for a two axle fire appliance to 12,000 litres at all times for fire-fighting purposes. The 12,000 litres can be accommodated as part of the house supply, but must always be available in excess of the domestic water provisions.*
- d. *Dwellings erected on Lots 2 or 8 shall be comprised of non-reflective surfaces.*
- e. *The landowner shall retain the native bush in the areas defined in the annexed plan. The bush areas shall be maintained by control of noxious weeds and protection from grazing animals. It is acknowledged by Dunedin City Council that it may be impractical to fence steep slopes of the bush areas.*

DATED at Dunedin this 29th day January, 2003

Signed for and on behalf of the Dunedin City Council

.....
 Authorised Officer
 for the Dunedin City Council





Proposed House Site Details

PATERSON PITTS PARTNERS LTD
SURVEYING CONSULTANTS
DUNEDIN

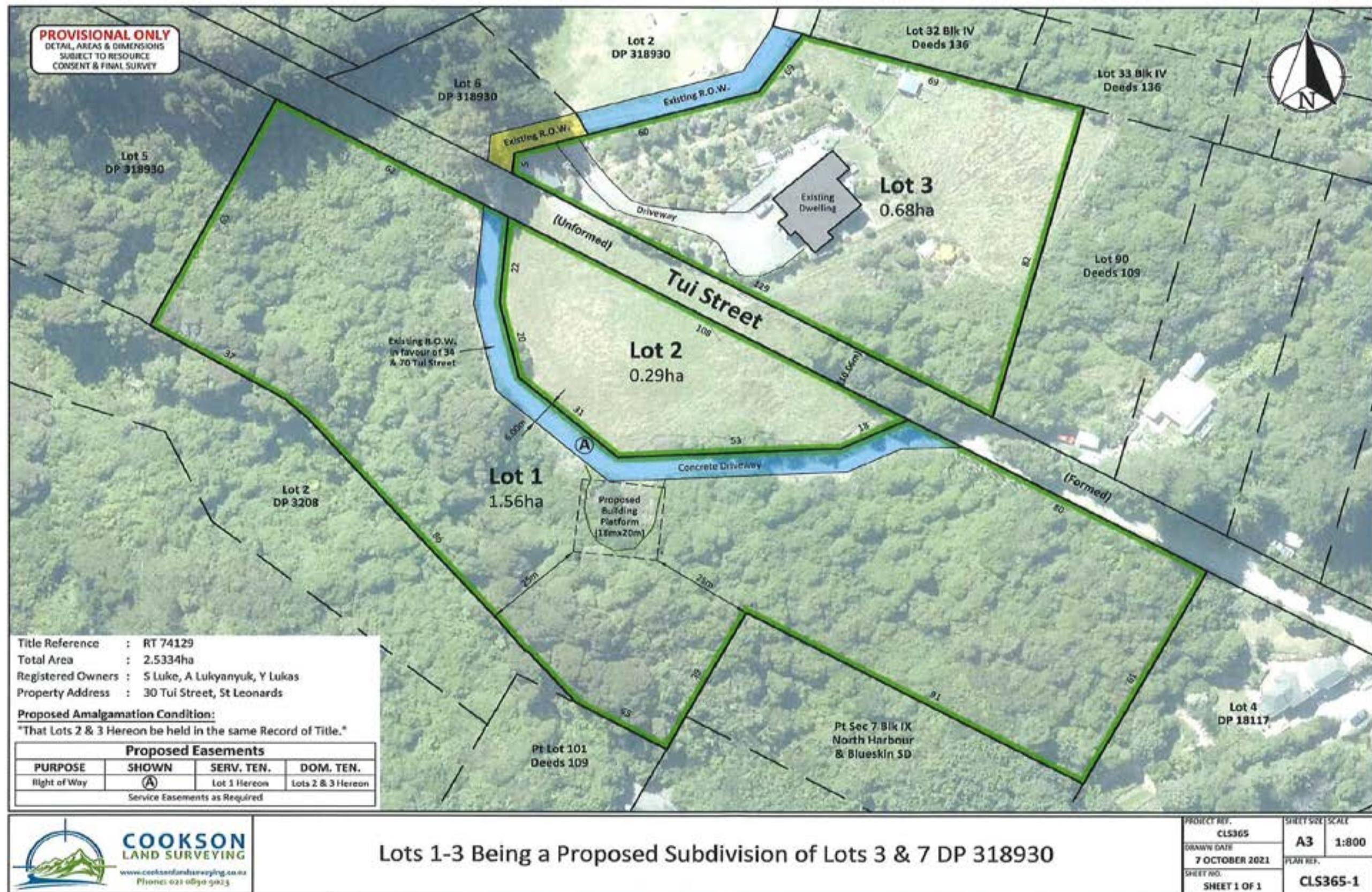
SCALE: 1:1500

DATE:

DRAWN:

APPROVED:

Appendix 2: Subdivision Scheme Plan



Appendix 3: Ecological Report.

**ECOLOGICAL ASSESSMENT OF INDIGENOUS
VEGETATION AT 30 TUI STREET,
ST LEONARDS, DUNEDIN**



providing
outstanding
ecological
services to
sustain
and improve our
environments

ECOLOGICAL ASSESSMENT OF INDIGENOUS VEGETATION AT 30 TUI STREET, ST LEONARDS, DUNEDIN



View of indigenous vegetation at 30 Tui Street.

Contract Report No. 6089

November 2021

Project Team:

Lydia Metcalfe- Report author

Kelvin Lloyd - Peer review

Prepared for:

Serge Luke
30 Tui Street
Dunedin

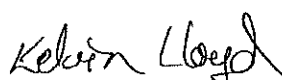
DUNEDIN OFFICE: 764 CUMBERLAND STREET, DUNEDIN 9016
Ph 03-477-2096, 03-477-2095

HEAD OFFICE: 99 SALA STREET, P.O. BOX 7137, TE NGAE, ROTORUA
Ph 07-343-9017; Fax 07-343-9018, email ecology@wildlands.co.nz, www.wildlands.co.nz

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Reviewed and approved for release by:



K.M. Lloyd
Principal Ecologist
Wildland Consultants Ltd

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1. INTRODUCTION

A three-lot subdivision has been proposed for a 2.4 hectare site in St Leonards, on the western side of the Dunedin Harbour. The client would like to establish a second residential property on a building platform and protect the 1.46 hectares of indigenous vegetation found on the property, through applying to rezone this area as a Dunedin City Council (DCC) Area of Significant Biodiversity Value (ASBV) overlay zone.

An ecological assessment of the indigenous vegetation on the site and an assessment of its ecological values was undertaken to assess its merits as a potential ASBV. This was based on the criteria for ecological significance outlined in the proposed Dunedin City District Plan (2GP). This report summarises the outcomes of these assessments.

2. METHODS

Desktop information was reviewed to provide context for the site. This included potential ecosystem mapping and prioritisation, and other ecological information on the site and its surroundings.

A site visit was undertaken on 23 October 2021 to assess vegetation and habitat types. Areas of indigenous vegetation were traversed on foot, covering all areas of the site. Vegetation and habitats were described, and photographs taken within different habitats within the site.

The weather was overcast but fine during the field visit. All vascular plant species encountered were recorded (Appendix 1). The presence of fauna was also recorded, including incidental observations of birds.

3. ECOLOGICAL CONTEXT

3.1 Site description

The site is located in the upper reaches of St Leonards, a suburb located on the western side of Dunedin Harbour. The property is predominantly located on a south eastern face with Tui Street running through its centre. The northern side of Tui Street is 0.97 hectares in size with open large lawn areas and a dwelling at a high point on a hill. Across the road to the south east the property drops down into a steep vegetated gully, this area is approximately 1.56 hectares in size. The vegetation in this area is described in greater detail in Section 4. The proposed building platform is located on a flat site cleared of woody vegetation on the southern edge of Tui Street, near a bend in the road (Figure 1).

3.2 Dunedin Ecological District

The property is located in the Dunedin Ecological District, which is characterised by a cool moist climate, hilly topography, and volcanic geology (McEwen 1987). Most of Dunedin Ecological District is within the coastal bioclimatic zone, with mild summers





and winters, average rainfall of 700-1,200 millimetres per year, and frequent fog above 400 metres above sea level. Remaining indigenous vegetation mainly comprise various associations of podocarp and hardwood species in varying stages of maturity, with lower coastal areas mainly comprising matai/tōtara-rimu/māhoe-lacebark vegetation associations with rimu/miro/māhoe-kāpuka forest being more extensive in mid elevations. Dunedin Ecological District is mostly farmed and includes the built-up areas which comprise Dunedin City.

3.3 Potential natural ecosystems

Potential natural ecosystem mapping shows that the potential ecosystem for the site would likely have been Kahikatea, tōtara, matai forest (Wildland Consultants 2020). In the South Island this ecosystem type occurred from western Southland to Otago and is associated with cool forests with 12.5-15 °C mean summer temperatures, in areas with low (<1,000 mm) annual rainfall (Singers and Rogers 2014). Intact areas of this forest type are considered very uncommon in the South Island (Singers and Rogers 2014). Other species which would have been common in this ecosystem include manatū/lowland ribbonwood (*Plagianthus regius*), kowhai (*Sophora microphylla*), tarata (*Pittosporum eugenioides*), māhoe (*Melicytus ramiflorus*) and narrow-leaved houhere (*Hoheria angustifolia*) beneath occasional emergent tōtara (*Podocarpus totara*) and matai (*Prumnopitys taxifolia*) (Singers and Rogers 2014).

3.4 Threatened environment classification

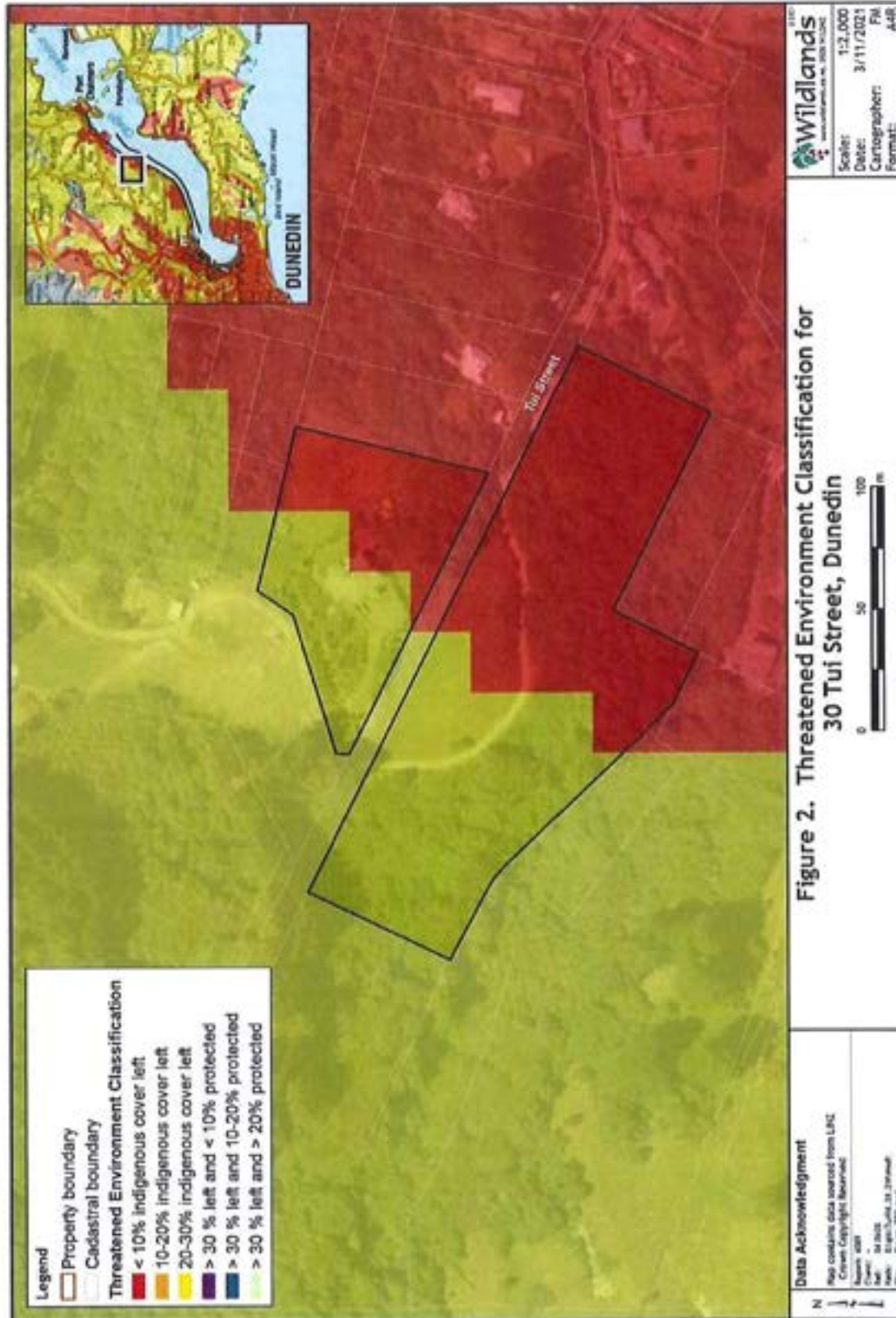
The Threatened Environment Classification characterises land into six categories taking into account the extent to which indigenous vegetation cover remains compared to its former extent, as well as the extent of legal protection of areas of indigenous vegetation (Cieraad *et al.* 2015). Half of the site (1.2 hectares) at 30 Tui Street is categorized as having less than 10% indigenous cover remaining, with the other half (1.3 hectares) classified as having 20-30% indigenous cover left (Figure 2).

3.5 Nearby protected areas

The property is directly adjacent to Stevens Bush Scenic Reserve, other nearby conservation areas include Burns Park Scenic Reserve which is located 800 metres to the south west (Figure 3).

4. VEGETATION AND HABITATS

Vegetation in the south east part of the property is largely comprised of regenerating indigenous species, with indigenous dominance increasing closer to the gully floor and Stevens Bush Scenic Reserve. Vegetation close to the edges of the road contains a higher proportion of exotic species such as gorse (*Ulex europaeus*) blackberry (*Rubus fruticosus*) and broom (*Cytisus scoparius*). Further away from the road indigenous cover increases, with māhoe (*Melicytus ramiflorus*), makomako (wineberry; *Aristotelia serrata*), patē (seven-finger; *Schefflera digitata*) tarata (*Pittosporum eugenioides*) and occasional kōtukutuku (fuchsia; *Fuchsia excorticata*) forming a canopy c.3-6 metres tall. Pōhuehue (*Muehlenbeckia australis*) covers a large area of the forest canopy, particularly where nearer the road where vegetation stature is lower.





Lower in the gully near the stream the understory is reasonably well established with a diverse range of ferns, including lance fern (*Blechnum chambersii*), kiwakiwa (*Blechnum fluviatile*), smooth shield fern (*Lastreopsis glabella*), heruheru (crepe fern; *Leptopteris hymenophylloides*) and hen and chicken's fern (*Asplenium bulbiferum*) (Plate 1). Closer to the reserve, tree ferns, including kātote (Smith's tree fern; *Cyathea smithii*) and ponga (silver fern; *Cyathea dealbata*) become common. Mature, emergent kāmuka (*Kimzea robusta*), c.7-8 metres tall are scattered throughout the area. The canopy cover in the adjacent Stevens Bush Scenic Reserve is dominated by kāmuka and tarata.



Plate 1: Low stature forest canopy with ferns in understory.

The proposed building site is flat and largely devoid of indigenous vegetation, with grass and weeds such as Yorkshire fog (*Holcus lanatus*), cocksfoot (*Dactylis glomerata*), creeping buttercup (*Ranunculus repens*), blackberry, broom and aluminium plant (*Lamium galeobdolon*). Woody vegetation around the edges is approximately 50% indigenous with gorse, broom, elder (*Sambucus nigra*), māhoe and kōtukutuku.

5. FLORA

Fifty vascular plant species were recorded at the site, of which 36 are indigenous and the remaining 15 exotic.

5.1 Threatened, At Risk, and locally uncommon species

Kānuka and white rata (*Metrosideros diffusa*) are classified as Threatened – Nationally Vulnerable (de Lange *et al.* 2018) due to their potential susceptibility to myrtle rust (*Austropuccinia psidii*), however, to date, myrtle rust has not been found this far south and kānuka and white rata has not been greatly affected where myrtle rust is present. Therefore little weight is placed on the current threat classifications for these species.

Ponga is relatively uncommon in the Dunedin area, present mainly on sunny aspects at lower elevation.

No mature important indigenous trees (2GP Appendix 10.A.3) were present.

5.2 Pest plants

A number of pest plants were identified on the site, particularly close to the road. Scotch broom, male fern, elder, aluminium plant, sycamore (*Acer pseudoplatanus*), gorse and blackberry are all listed as a pest plants in Appendix 10B of the 2GP.

6. FAUNA

Six birds were recorded during the site visit, four of which were indigenous and the other two exotic (Table 1). All three of the indigenous bird species are listed as not threatened (Robertson *et al.* 2017). No pest animal sign was observed on the site visit, however, introduced mammals such as possum (*Trichosurus vulpecula*), hedgehog (*Erinaceus europaeus*), mustelids (*Mustela* spp.), rats (*Rattus* spp.) and mice (*Mus muscula*) will be present on either a permanent or occasional basis. Due to the site's proximity to residential properties, domestic cats (*Felis catus*) are also likely to visit the area.

Table 1: Bird Species recorded during the site visit.

Species	Common Name	Status
<i>Chrysococcyx lucidus</i>	Pipitwhareroa, Shining cuckoo	Not Threatened
<i>Gerygone igata</i>	Riroriro, Grey warbler	Not Threatened
<i>Hemiphaga novaeseelandiae</i>	Kererū, New Zealand Pigeon	Not Threatened
<i>Turdus merula</i>	Blackbird	Introduced and naturalised
<i>Turdus philomelos</i>	Song thrush	Introduced and naturalised

7. ECOLOGICAL SIGNIFICANCE

An assessment of ecological significance has been undertaken based on the ecological significance criteria in Schedule A1.2 of the proposed Dunedin District Plan (2GP). The criteria are given in italics below with an assessment of the site values against each criterion in turn.

Protected Areas: Existing protected areas: habitat or indigenous vegetation that has been specially set aside by statute or covenant for protection and preservation of indigenous biodiversity.

The site does not include any existing protected areas; however, it is directly adjacent to Stevens Bush Scenic Reserve. This criterion is not met.

Recognised Sites: Areas within the Dunedin City boundaries that are listed in an operative Otago Regional Council Regional Plan as having significant indigenous biodiversity value.

The site is not listed in Otago Regional Council Regional Plan as having significant indigenous biodiversity value. This criterion is not met.

Rare species: the area provides habitat for indigenous species that are threatened, or at risk, or uncommon, nationally or within an ecological district, including those listed in Appendix 10A.1 and 10A.2. For mobile fauna and categories of At Risk other than 'Declining', the site must provide important habitat for the species, such as a site supporting large numbers of individuals, or providing refuge from predation, or key habitat for migration, feeding, breeding, or resting.

While two nationally Threatened species, kanuka and white rata, are present, little weight is placed on this classification for the reasons outlined in section 5.1. No other nationally Threatened or At Risk species are present. This criterion is not met.

Rare ecosystems and vegetation/habitats: the area contains indigenous vegetation and/or fauna habitat in an historically rare ecosystem.

No rare ecosystems are present on the property. This criterion is not met.

Rare vegetation and habitat types: the area contains indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent nationally, regionally, or within a relevant land environment, ecological district, or freshwater environment including wetlands.

The site contains indigenous vegetation on land environments that have less than 10% and 20-30% indigenous cover remaining, respectively. This criterion is met where indigenous vegetation is present on land environments retaining less than 10% of their original indigenous cover.

Distinctiveness: *The area supports or provides habitat for:*

- i. indigenous species at their distributional limit within Dunedin or nationally;*
- ii. Indigenous species that are endemic to the Otago region; or*
- iii. Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, or has developed as a result of an unusual environmental factor or combination of factors.*

No distinctive or unusual vegetation or species associations, species with distribution limits, or Otago endemic species were observed within the site. This criterion is not met.

Representativeness: *Areas that are examples of an indigenous vegetation type or habitat that is typical or characteristic of the natural diversity of the relevant ecological district. This can include degraded examples of their type, or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas.*

The natural diversity of the site is indicated by potential ecosystem mapping, which shows that a podocarp/broadleaved forest would comprise the natural vegetation and habitat on the site. Current vegetation types found within the area are successional stages. Large podocarp species such as mataī, rimu, and kahikatea are absent from the site. The site has low value for representativeness, and this criterion is not met.

Ecological context: *The area:*

- i. has important connectivity value allowing dispersal of indigenous vegetation and fauna between different areas;*
- ii. performs an important buffering function that helps to protect the values of an adjacent area of feature; or*
- iii. is important for indigenous fauna, on a regular or temporary basis, for breeding, refuge, feeding, or resting.*

Indigenous vegetation on the property is directly connected to Stevens Bush Scenic Reserve which is an important resource for forest birds in the area, and the 30 Tui Street site extends the amount of forest bird habitat available. It also provides a buffering function to the small stream that passes through the site, helping to maintain its freshwater habitat values and water quality. The site meets this criterion.

Diversity:

The area supports a high diversity of indigenous ecosystem types, indigenous taxa, or has changes in species composition reflecting the existence of diverse natural features or gradients.

A moderate number of indigenous vascular plants were found on site, with 36 indigenous plant species recorded, which is a reasonable number for the modified nature of the site and its size. The site does not meet this criterion.

Size: the site is a large example of as type of vegetation, habitat, or ecosystem, or supports a large population of indigenous fauna, within the relevant ecological district.

The area of indigenous vegetation assessed on the property is small at 1.36 hectares and therefore the criterion for size has not been met.

Significance Summary

Indigenous vegetation within the site is significant, primarily as an important extension and buffer for Stevens Bush Scenic Reserve, and provision of additional habitat for indigenous forest birds. Areas of indigenous vegetation on land environments with less than 10% of their original cover are also significant. The site has low to moderate value for diversity, size, and representativeness.

8. CONCLUSIONS

The property contains an ecologically significant area of indigenous forest which would be appropriate for rezoning in the Dunedin City Council (DCC) Area of Significant Biodiversity Value (ASBV) overlay zone and if protected by such zoning would provide a valuable extension to Stevens Bush Scenic Reserve. The potential adverse ecological effects of the proposed subdivision will be relatively minor considering there is no indigenous vegetation on the proposed building platform, and modified vegetation around it. In addition to rezoning and protection, indigenous vegetation could also be enhanced by planting eco-sourced (local) podocarp species such as rimu and lowland totara, due to the compact size of the area 10-20 plants would be enough to provide future benefit.

ACKNOWLEDGMENTS

Emma Peters of Sweep Consultancy Ltd is thanked for provision of information. The landowner, Serge Luke, is thanked for providing of advice on access to the site.

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PLANT SPECIES RECORDED AT THE SITE

* Asterisks denote exotic plant species.

Species	Common Name	Plant Type
<i>Acacia melanoxylon</i> *	Blackwood	Tree
<i>Acer pseudoplatanus</i> *	Sycamore	Tree
<i>Anthoxanthum odoratum</i> *	Sweet vernal	Grass
<i>Aristotelia serrata</i>	Wineberry, makomako	Tree
<i>Asplenium bulbiferum</i>	Hen & chicken's fern	Fern
<i>Blechnum chambersii</i>	Lance fern	Fern
<i>Blechnum colensoi</i>	Colenso's hard fern, peretao	Fern
<i>Blechnum discolor</i>	Crown fern, pluplu	Fern
<i>Blechnum fluviatile</i>	Kiwakiwa	Fern
<i>Brachyglottis repanda</i>	Rangiora, bushmans friend	Tree
<i>Buddleja davidii</i> *	Buddleia	Shrub
<i>Calystegia silvatica</i> *	Great bindweed	Vine
<i>Carpodetus serratus</i>	Marbleleaf, putaputawētā	Tree
<i>Coprosma areolata</i>	Mingimingi, mikimiki	Shrub
<i>Coprosma grandifolia</i>	Kanono	Tree
<i>Coprosma propinqua</i> × <i>robusta</i>		Shrub
<i>Coprosma repens</i>	Taupata	Shrub
<i>Coprosma rhamnoides</i>	Mingimingi, mikimiki	Shrub
<i>Coprosma rotundifolia</i>	Round-leaved coprosma	Shrub
<i>Cyathea dealbata</i>	Silver fern, ponga	Fern
<i>Cyathea smithii</i>	Smith's tree fern, kātote	Fern
<i>Cytisus scoparius</i> *	Scotch broom	Shrub
<i>Dactylis glomerata</i> *	Cocksfoot	Grass
<i>Digitalis purpurea</i> *	Foxglove	Dicot herb
<i>Dryopteris filix-mas</i> *	Male fern	Fern
<i>Echium pininana</i> *		Dicot herb
<i>Fuchsia excorticata</i>	Tree fuchsia, kōtukutuku	Tree
<i>Hebe stricta</i>	Koromiko	Shrub
<i>Histiopteris incisa</i>	Water fern, mātātā	Fern
<i>Hypolepis species</i>		Fern
<i>Kunzea robusta</i>	Kānuka, rawirinui, kopuka	Tree
<i>Lamium galeobdolon</i> *	Aluminium plant	Dicot herb
<i>Lastreopsis glabella</i>	Smooth shield fern	Fern
<i>Leptopteris hymenophylloides</i>	Crepe fern, heruheru	Fern
<i>Meliccytus ramiflorus</i>	Māhoe, whiteywood	Tree
<i>Metrosideros diffusa</i>	White climbing rātā	Vine
<i>Microsorium pustulatum</i>	Hounds tongue, kōwaowao	Fern
<i>Mimulus guttatus</i> *	Monkey musk	Dicot herb
<i>Muehlenbeckia australis</i>	Large-leaved pōhuehue	Vine
<i>Myrsine australis</i>	Red māpou, red matipo	Tree
<i>Parsonsia species</i>		Vine
<i>Pittosporum eugenoides</i>	Tarata	Tree
<i>Polystichum vestitum</i>	Prickly shield fern, pūniu	Fern
<i>Pseudowintera colorata</i>	Horopito, peppertree	Tree
<i>Ranunculus repens</i> *	Creeping buttercup	Dicot herb
<i>Ripogonum scandens</i>	Supplejack, kareao	Vine
<i>Sambucus nigra</i> *	Elderberry	Tree
<i>Schefflera digitata</i>	Patē, seven-finger	Tree
<i>Ulex europaeus</i> *	Gorse	Shrub
<i>Uncinia uncinata</i>	Hook grass	Sedge



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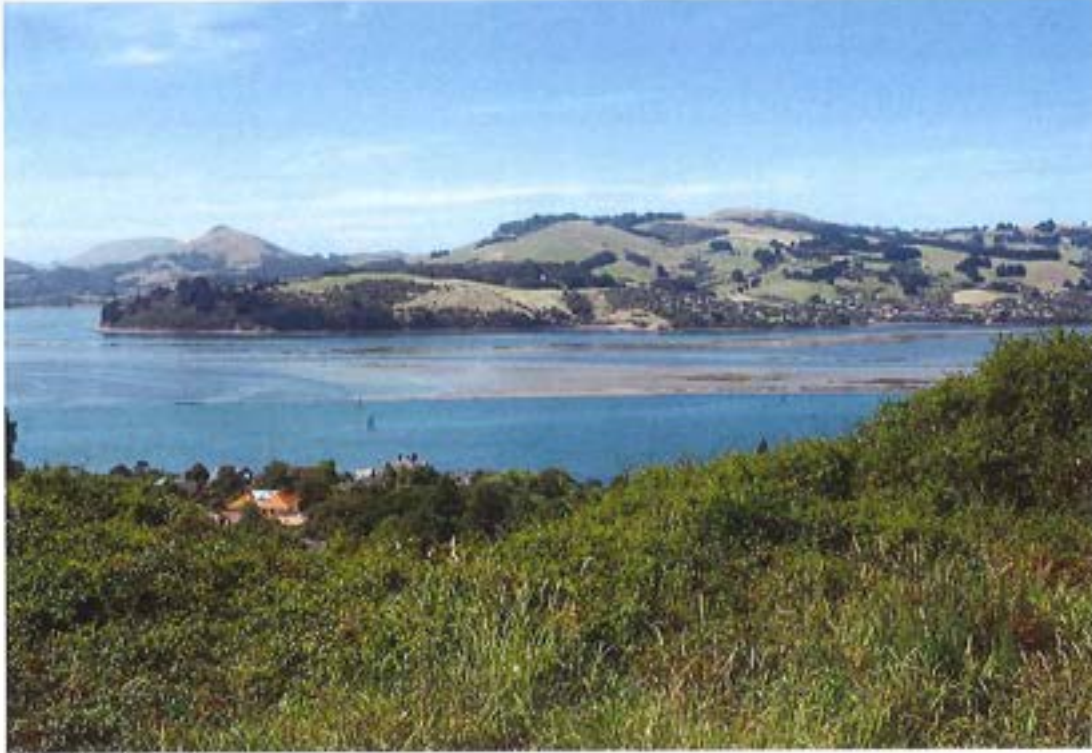
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Appendix 4: Landscape Assessment Report.



Proposed 3 Lot Subdivision
30 Tui Street, St. Leonards

ASSESSMENT OF LANDSCAPE AND VISUAL EFFECTS

March 2022



1. Introduction

- 1.1 This landscape assessment has been commissioned by Emma Peters, Sweep Consulting Ltd, on behalf of Mr. Serge Luke, applicant for a proposed 3 lot subdivision of 30 Tui Street, North/East St Leonards. The main objective of the subdivision is the location of a landscape building platform in the lower western part of the site. The key landscape issues include potential effects on an area of significant natural landscape and effects on local landscape and visual amenity values.
- 1.2 This report follows the approach outlined in the revised NZILA Te Pito Ora landscape assessment guidelines (March 2021) and includes the following sections ¹:
- Landscape context;
 - Statutory context;
 - Existing landscape and amenity values;
 - Proposal details;
 - Assessment of landscape and visual effects;
 - Assessment of statutory effects; and
 - Summary and conclusion.
- 1.3 Site visits were made to the eastern harbour coastline, the residential and rural residential areas of North/East St Leonards and the site itself. A further site visit was made to assess the condition of the indigenous site vegetation for the purpose of scoping an enhancement and maintenance programme with Matthew Thompson of 'Monowai Ecology'.
- 1.4 The site photographs referred to are included as A3 Attachment 1. Where a scale of effects is applied it refers to a seven-point scale of 'very low, low, low-moderate, moderate, moderate-high, high, very high'. The ratings of 'low' to 'low-moderate' are equivalent to the assessment of 'minor' on a technical planning scale ².

2. Landscape Character Definition

- 2.1 The 2010 NZILA Best Practice Guide defines 'landscape' as:
- ... the cumulative expression of natural and cultural features, patterns and processes in a geographical area, including human perceptions and associations*
- 'Biophysical, associative', and 'perceptual' factors are used within the 2010 NZILA guidelines and the present draft guidelines and are also incorporated into the 2GP.

3. Landscape Context

- 3.1 The proposed site is located approximately ('approx.') 0.5km inland from the St. Leonard shoreline and at an elevation of approx. 104m above sea level ('asl.'). This places the site above the main residential area and midway to the top of the coastal ridge that extends between St. Leonards and Signal Hill, to the west and forms the backdrop to St. Leonards. The ridgeline runs at an average height of approx. 300m asl and is located approx. 1.1km from the shoreline (Fig.1 and Fig.2).

¹ Te Tangi a te Māmā: Aotearoa New Zealand Landscape Assessment Guidelines, 5 May 2021, Section 6.36 (dropbox link: <https://www.dropbox.com/sh/dgn6ur9dmxbqub/AADZbAIVCaGzNMjZGNAWNSkma?dl=0>)

² Ibid, Section 6.37, pg. 68

- 3.2 The scope of this assessment considers the proposal within the wider pattern and values of this section of the western harbour coastline as well as those of the main residential area and the rural residential zone. The rural residential environment surrounding and including the site area is considered to be the most potentially affected by the proposal. The St. Leonards landscape is most easily visible and appreciated from the opposite shoreline of Otago Peninsula, in particular the section of coastal road before and within Company Bay (Fig.1 and Fig.4).
- 3.3 Coastal landscape and North/East St. Leonards Residential
Dunedin-Port Chalmers Road and the railway route provide a built shoreline boundary below St. Leonards with embankments and causeways. A short terrace runs out to this embankment and extends between Ruru Avenue and Tui Street. This is the location for some of the largest and most established dwellings in settlement. These are marked by groups of large trees from off shore view, with the orange tiled roof of the University of Otago lodge standing out among the vegetation.
- 3.4 Coastal slopes then gradually rise up within the base of a lower valley that contains further low density residential sites and many trees. The grade is shallow initially at first and then rises relatively steeply beyond the main residential area and through the rural residential zone. A spur ridge runs into upper St. Leonards from the north/west and provides the route of Ruru Avenue and the majority of present rural residential dwellings.
- 3.5 Extensive native vegetation is established in the small gully that is formed between this spur and the main eastern ridge and extends up until the land opens out into a wider valley form. This continues until the upper coastal ridge, its concave form marked by a broad swathe of vegetation. Much of the eastern section of this vegetation falls within the boundaries of Stevenson Bush Scenic Reserve³. The lower part of this reserve extends down to nearly meet the upper St. Leonards residential area and bounds the lower western site boundary (Fig.1 and Fig.2). Almost all of these mid to upper slope areas fall within the 'Mt Cargill / Flagstaff Significant Natural Area' ('SNL') overlay.
- 3.6 A higher density of residential dwellings follow the north/east side of Tui Street and are visible from offshore as they rise in a continuous strip. The majority of housing is screened by the tree canopy that extends across much of the lower middle slopes. This tree cover and the rising topography screens most views up hill from within the lower residential areas or down hill from the upper rural residential area (Fig. 5, Fig.6, Fig.7 and Fig.12). All houses that were observed look north/east or east and outwards to the harbour wherever possible.
- 3.7 Rural Residential Area
The 2GP rural residential zone extends from slightly above the formed part top of Tui Street and upwards from the lower extent of Ruru Avenue to the upper mid point of the coastal slopes. The upper boundary reaches 150m asl or more in part and appears to provide opportunity for future development with the precedent of similar sites being developed on Kakapo Street, 1.3km to the south/west (160m asl.). The zone area has increased slightly in the 2GP to include the residential area of 30 Tui Street and the land either side of the lower extent of Stevenson Scenic Reserve (Fig. 2).
- 3.8 Present rural residential housing is located around access to either Tui Street and Ruru Avenue. Tui Street rises due north/west from the shore and before branching further west in an unsealed section

³ Fig.3, Pg. 5, Ecological Assessment of Indigenous Vegetation at 30 Tui Street, St Leonards, Dunedin, Wildlands, Nov 21

before continuing as a private concrete ROW. Ruru Avenue also rises directly from the shoreline and then branches steeply due east and then south/west, at an average grade of approx.1:4.8 or 20%. The number, location, site size and elevation of the existing dwellings are set out in Table One.

Table One. Existing rural residential sites – 2GP zone area

	Address	Area (hectares)	Elevation (asl.)
1.	34 Tui Street	1.5883	134
2.	30 Tui Street	2.5334	106
3.	26 Tui Street	0.5153	78
4.	22 Tui Street	0.7739	64
5.	17 Tui Street	0.9081	52
6.	37 Ruru Avenue	12.3683	138
7.	35 Ruru Avenue	3.3837	112
	35a Ruru Avenue	0.4149	Not developed
8.	33 Ruru Avenue	0.4531	114
9.	30 Ruru Avenue	1.1674	92
s10.	27 Ruru Avenue	4.9136 (split site)	82
11.	26 Ruru Avenue	0.8615	52
12.	24 Ruru Avenue	0.2496	46
13.	14 Ruru Avenue	0.5610	40
14.	12 Ruru Avenue	0.1129	38
15.	10 Ruru Avenue	0.4736	32

3.9 Comment

The site impression of the residential area and in the present upper rural residential zone is of a generally low density of development. Some of the rural residential sites are of a similar size, or smaller, than those on the shoreline and the majority are below the size sought under the 2GP. A consistent tree cover provides a transition from residential to rural that almost unnoticeable and easily absorbs present residential development in both areas.

- 3.10 The rising topography combines with this vegetation cover to screen almost all views of the upper slope areas from the shoreline areas and the reverse appears to apply. Both the extensive native and exotic vegetation cover from shore to upper ridge and the simple and consistent landform that underlies it provide the majority of the coherence and quality of this landscape from off shore view and where existing settlement helps defines the location of the settlement but does not dominate.

4. Statutory Context

- 4.1 The current Dunedin City District Plan became fully operative in 2006 and remains in force until the Proposed Second Generation Dunedin City District Plan ('2GP') has completed the submissions,

hearings, and appeals process of full notification. Those parts of the 2GP that have not been appealed have immediate legal effect and include the rural residential zoning and overlay of Significant Natural Landscape that apply to the site.

- 4.2 The relevant 2GP sections include Section 2 Strategic Directions, Section 10 Natural Environment, and Section 17 Rural Residential. The provisions of these sections in turn reference landscape values and guidelines provided by Appendix A3.3.2 'Flagstaff-Mt Cargill Significant Natural Landscape' and Appendix A.11 'Design Guidelines'.
- 4.3 Strategic Direction Two, Environmental Sustainability and Resilience, Objective 2.2.3 seeks to protect, enhance, or restore indigenous biodiversity and reinforce or create connections between areas and improve resilience. A non-complying proposal can be considered where a biodiversity offset supports this objective. Whether or not the actions or mitigation provided will result in a better ecological outcome than if the activity and restoration not been undertaken and the long term benefits are also considered (Policy 2.2.3.6 and policy 2.2.3.7).
- 4.4 Section 10 Natural Environment, Section 10.1 Introduction identifies the management and maintenance of the district's natural environment in terms of ecosystem health and function (air, water, soil). These are considered to be important to social, cultural, and economic wellbeing. Land development is identified as potentially having adverse effect on these values due to activities that may lead to:
 - Modification and loss of biodiversity values and areas of indigenous vegetation; and
 - Reduction of the values attributable to natural features and landscapes
- 4.5 Biodiversity values are sought to be maintained or enhanced or protected within areas of indigenous flora or areas containing indigenous fauna (Objective 10.2.1 and policy 10.2.1.2). Where these objectives cannot be met within a development proposal offset measures are required to meet the objectives and criteria of policy 2.2.3.6 and policy 2.2.3.7 (see para. 4.5).
- 4.6 Landscape values are to be maintained in subdivision and development proposals (Policy 10.2.5.10). Design development and assessment should include location, building form and appearance (Policy 10.2.5.12). The perceived values for each SNL are appended and Section A.3.3.2 applies to the site. Appendix 11 Design Guidelines provides guidance for location, site response and materials and form in higher value landscape areas.
- 4.7 Rules: Natural Environment
 Rule 10.8.2 sets out the assessment of non-complying activities in the natural environment. Factors to be considered include where:
 - Biodiversity is protected, enhanced, or restored and connections and resilience improved (10.8.2.a);
 - The relationship between Manuwhenua and the natural environment is maintained (10.8.2.b);
 - Activities maintain or enhance biodiversity values 10.8.2.c.); and
 - Adverse effects on areas of significant indigenous vegetation and indigenous fauna habitat are to be avoided (10.8.2.d.).

- 4.8 Where subdivision creates new residential sites these are to be identified as landscape building platforms and subject to assessment that considers:
- Appendix A11 Design Guidelines (Rule 10.9.1.3a);
 - The visual prominence of the location of the platform (10.9.1.3.b);
 - Effects on landscape or natural character values of the maximum building envelope (10.9.1.3.c)
 - The context of the wider landscape or coastal setting (10.9.1.3.d);
 - Effects of driveways and vehicle tracks required by the proposal (10.9.1.3.e);
 - Whether clustering of buildings with existing structures will minimize potential landscape or natural character effects (10.9.1.3.f).
- 4.9 Section 17 Rural Residential Zones
- Section 17.1.1.1 Rural Residential 1 Zone seeks to provide rural living opportunities with some potential for rural activity, such as small scale livestock rearing. Some Rural 1 zone may be elevated and also provide a rural context for adjacent residential areas. Subdivision in this zone is expected to deliver sites that are large enough to support rural residential development with amenity values that may include the following (Policy 17.2.2.8 and Objective 17.2.3):
- Presence of natural features such as vegetation and gully systems;
 - A higher proportion of open space and lower density of buildings than in urban areas; and
 - Land maintained and managed for farming, grazing, and conservation.
- 4.10 Development standards (Rule 10.8.2).
- Subdivision must maintain or enhance the character and amenity of the site and its context (Policy 17.2.3.5). The present subdivision application is non-complying under Rule 17.7.5, which requires a minimum size of 2ha per site. If subdivision consent is granted a subsequent building consent under an SNL zone is a restricted-discretionary status (Rule 10.3.5.X.b).
- 4.11 Rule 10.8.2 sets out the criteria for assessment of all non-complying activities:
- All buildings and new structures must comply with Rule 10.3.5 (10.3.5x applies in this case);
 - Each building site within a landscape overlay area is required to have a specified landscape building platform (Rule 10.9.1);
 - The shape of the platform must be able to accommodate a building footprint of at least 8m x 15m and have a grade of 21% or less (17.7.6.1 and 17.7.6.2);
 - 12m minimum set back from road boundaries and 10m minimum setback from side boundaries;
 - A maximum height of 5m within a landscape overlay;
 - Reflectivity values of external surfaces that comply with Rule 10.3.6 and being 30% or below RV; and
 - Vegetation clearance must comply with Rule 10.3.2.1.0
- 4.12 Summary
- The directions of the 2GP include the protection, maintenance, and enhancement of biodiversity and landscape values and places a value on their preservation and enhancement. Areas considered to be

of higher value are identified through Areas of Significant Biodiversity Value ('ASBV') and landscape overlays. All overlay areas are included in the Natural Environment. Provision is made for the assessment of development proposals both within overlay areas and under the zone rules.

- 4.13 Development is not prohibited in an areas of higher landscape and biodiversity value but must meet the threshold of not reducing present values. This outcome is to be achieved by avoidance, remedy, or mitigation, framed by either design response and biodiversity offset. The proposal falls within the 'Mt Cargill/Flagstaff' SNL overlay and is non-complying.

5 Existing landscape and amenity values

- 5.1 The site falls within the 'Flagstaff/Mt Cargill Significant Natural Landscape Area' ('SNL'). This overlay applies to the slopes and peaks surrounding northern urban Dunedin and references the slopes above the coastal settlements along Dunedin-Port Chalmers Road. Appendix A3.3.2.2 sets out the values that may be representative of parts of the overlay area and, where observed, to be protected. These are listed in terms of 'biophysical, sensory', and 'associative' values. Those that appear to apply to the site area are listed below and include other site factors from site visit.

5.2 Biophysical, Sensory, and Perceptual Factors

- *Biophysical values:*
 - *i. The extent and integrity of natural landscape elements including wildlife (SNL);*
 - *Short coastal catchment that rises in a single coastal ridge;*
 - *A strong sense of place and enclosure to this section of coastline and St. Leonards;*
 - *clear urban boundaries and a low impact rural residential character in upper slope);*
 - *A small scale street pattern with narrow carriageways and intimate character;*
 - *An extensive urban tree canopy that contains many dwellings from outside view.*
- *Sensory values:*
 - *ii. Legibility of the natural landform and associated visual coherence of the landscape i.e. patterns of land use reflecting the topography (SNL);*
 - *vi. The extent and quality of views across the landscape from public roads and tracks (SNL);*
 - *xi. Native vegetation cover and vegetation patterns that reflect the natural topography and natural skylines (SNL);*
 - *Wide harbour and Peninsula views from all areas within St. Leonards;*
- *Associative values:*
 - *the coastal ridge marks the approach to the City (site);*
 - *cloud effects along the ridge top and views to Mt.Cargill;*
 - *the mix of earlier 'grand homes' and grounds*

5.3 Comment

The St. Leonards coastal landscape is a combination of two main coastal ridges that run into the coastline from the north and north/west, creating a wide upper vegetated valley, and spread in

shallow north/east or east facing coastal slopes across the shoreline. The upper coastal ridge provides a distinctive horizonline while the harbour gives strong definition to the settlement boundary. Present settlement does not dominant offshore views or detract from the values of the SNL area. Isolated areas of pasture and pine blocks reflect to previous pastoral use.

6 Proposal

- 6.1 The site contains approximately 2.5334 hectares ('ha'), described as Lots 3 and 7 DP 318930. It is proposed to subdivide Lot 1 into two parts, Lot 1 and Lot 2, and to retitle the present Lot 7 as Lot 3. The present site falls above and below the legal road boundaries of Tui Street and will retain this pattern but utilise the concrete accessway as the boundary between new Lots 1 and 2⁴.
- 6.2 As part of this subdivision a building platform is sought on the upper driveway boundary of new Lot 1. This platform will be 20m in an east to west direction, and running parallel to the driveway, and 18m deep in a south/west direction. The east to west fall is approx. 1 in 11 or 9%. Development is recommended in the band of land adjacent to driveway and with the long side orientation towards the north. This will provide a good sun aspect and assist in avoiding earth works and retaining (Fig.3).
- 6.3 The planning application includes a range of conditions proposed for development on this site. In addition to a maximum height of 5m and external wall and roof reflectivity values that meet plan requirements other sources of reflection are considered. These conditions are supported by this assessment.
- 6.4 The south/west slopes below and above the proposed landscape building platform contain a mix of regenerating scrub and emerging canopy indigenous vegetation as well as exotic and 'pest' species. This land area is contiguous with a wider area of valley indigenous regeneration that links to wider emerging forest areas in the upper coastal slopes (Fig. 2 and Fig.4).
- 6.5 It is proposed that Lot 1 should be zoned as an area of significant biodiversity value ('ASBV'), an area of approx. 1.524ha, excluding the landscape platform. Conditions for the maintenance and enhancement of this vegetation area, by an experienced commercial contractor, are attached in Appendix 1. These conditions are based on site inspection and the ecological report provided by Wildlands Ltd ⁵.

7 Assessment of Landscape and Visual Effects

- 7.1 The potential landscape and visual effects are considered in relationship to the coastal landscape included in the SNL and the rural residential slopes within it and below and the amenity values of the main residential area.
- 7.2 Coastal Landscape and St. Leonards Residential Area
The potential adverse landscape and visual effects on the SNL area and the main residential area that may arise from the development of a landscape building platform on proposed Lot 1 at 30 Tui Street are assessed as:

- | | |
|---|-----------------|
| ▪ Short term landscape effects – 1 – 5 years: | low |
| ▪ Longer term landscape effects – 5 – 15 years: | very low |

⁴ Refer survey plan 'Lots 1-3 Being a Proposed Subdivision of Lots 3 & 7 DP 318930', Cookson Land Surveying, Dwg. CLS365-1

⁵ Ecological Assessment of Indigenous Vegetation at 30 Tui Street, St Leonards, Dunedin, Wildlands, Nov 21

- **Short term** visual effects – 1 – 5 years: **low**
- **Longer term** visual effects – 10+ years: **very low**

7.3 Reasons

The main reasons for these assessments of landscape and visual effect reflect the location of the proposed platform, the implementation work required, the scale of the proposal, and the character and key values of the wider landscape framework. The present arrangement of rural residential sites has a pattern and relationship that the proposed site will conform to.

- 7.4 The proposed landscape building platform will be located adjacent to existing vegetation and below an adjacent area of hillside pasture. This location and the application of height and colour controls will reduce its visibility and help it recede into its surroundings rather being a highlight. The existing dwelling at 30 Tui Street achieves this to some degree through darker exterior colours and planting, despite its ridgetop location and two-level construction.
- 7.5 Given the relatively small building platform, the constraints of the site, and the requirement to off-set from the ROW the building will be set further into the vegetation that is already above the coastal face of the proposed site. This vegetation is protected as a condition and the creeper that is currently established will be removed.
- 7.6 It is expected that the dwelling will still enjoy coastal views but that the lower part of its structure will be screened from coastal view. Site visit could only find one location with a potential direct street view to the site, from Takahe Avenue (Fig. 6). It is unlikely that the proposed dwelling will be visible from any other street location apart from the top of Ruru Avenue. Only three residences access this part of the road and only for brief periods on a downhill route.
- 7.7 The wider landscape of the settlement and SNL zone comprises of several simple elements that include the linear and changing form of the harbour, the extensive vegetation across most slopes, and the steady and emphatic fall of the coastal slopes from the horizon line to the sea. This is a strong framework that has easily absorbed the present rural residential and residential development, albeit with 12 out of 15 developed rural residential sites having an average size of approx. 6733m² (Refer Table One).
- 7.8 **Rural Residential Landscape**
- The potential adverse landscape and visual effects on the present rural residential zone and development that may arise from the development of a landscape building platform on proposed Lot 1 at 30 Tui Street are assessed as:

- **Short term** landscape effects – 1 – 5 years: **low**
- **Longer term** landscape effects – 5 - 15 years: **very low**
- **Short term** visual effects – 1 – 5 years: **low**
- **Longer term** visual effects – 10+ years: **very low**

7.9 Reasons

The main reasons for this assessment of landscape and visual effect on the present rural residential landscape framework and values are the low impact that a future residential dwelling is considered likely to have on the existing landform, the small scale of the proposed building intervention, and the

large area of indigenous vegetation that is attached to the site relative to adjacent rural residential sites.

- 7.10 The elevation and pattern of the proposed landscape building platform is similar to adjacent rural residential development. The offset distance between the present 30 Tui Street dwelling and the future dwelling is approx. 83m and a change in elevation of approx. 14m. As comparison, the front face of 37 Ruru Avenue is offset from the rear south/west corner of 33 Ruru Avenue by approx. 72m and an elevation difference of approx. 22m. The closest adjacent dwelling is 30 Ruru Avenue which will be approx. 140m from upper centre north wall to the western wall of the proposed dwelling and with an elevation difference of approx. 6m.
- 7.11 The proposed structure will be located at the base of a pasture area below an existing residence on an existing platform that has direct ROW access and will not require vegetation removal. The controls appropriate to the SNL overlay will apply including height restriction and recessive external colours. The dwelling will be smaller than most other structures in the area and located against landform when viewed from above and to the south/west, from the top of Ruru Avenue (Fig. 9).
- 7.12 The majority of the surrounding residences do not have a view to the proposed site and will either not view it when built or will have brief and distant views. The exception is the potential views from 30 Ruru Avenue. This potential effect is recognised in the provision of planting of kanuka along the western boundary to provide filtered screening to the future dwelling. This planting is expected to achieve 3 – 5m growth, or more, in 10 years.
- 7.13 In contrast the present areas of unwanted creeper and other weed tree species will be removed from the indigenous vegetation below the site and the area enhanced with canopy species for future diversity and resilience. The lower western boundary of the building platform will be infilled with kanuka that is expected to increase the canopy height and filter views to the future dwelling from the west.
- 7.14 **Summary**
The potential short term and long-term landscape effects that may result from the establishment of the proposed landscape building platform and dwelling on a new Lot 1 at 30 Tui Street are assessed as **very low** for both landscape and visual effects. This assessment draws on the capacity that the present environment has for absorbing further built form, the low level of intervention required to establish the proposed development, and consistency with the surrounding pattern of development. Conditions are proposed for its implementation, colour, height, and form that meet the guidelines of Appendix 11 and further include the proposed zoning of approx. 1.524ha ASBV, being proposed Lot 1, minus the landscape building platform.

8 Assessment of Statutory Effects

- 8.1 Strategic Directions Section 2 sets out the primary objectives relating to biodiversity and landscape values within the district and Section 10 Natural Environment provides assessment criteria for non-complying activities in the natural environment. Zone rules for assessment of biodiversity and landscape values are included in Section 17. Assessment is informed by Appendix A.3 and A.11.
- 8.2 The site area falls under the rural residential 1 zone and the Mt Cargill / Flagstaff SNL overlay. There is an adjacent ASBV overlay but it does not meet the site boundaries. The proposal is non-complying

on the basis of Rule 17.7.5 Minimum Site Size and the proposed dwelling is subject to a restricted discretionary activity assessment if the subdivision consent is granted (Rule 10.3.5.x.b).

8.3 Rule 10.8.2 - Assessment of all non-complying activities (Natural Environment)

10.8.2.1.a *The activity does not detract from, or preferably contributes to, the strategic directions objectives, including, but not limited to:*

- i. *Dunedin's significant indigenous biodiversity is protected or enhanced, and restored; and other indigenous biodiversity is maintained or enhanced, and restored; with all indigenous biodiversity having improved connections and improved resilience (Objective 2.2.3);*

Response *The proposal will provide an additional ASBV area of approx. 1.524ha that will be contiguous with the lower boundaries of Stevenson Bush Scenic Reserve and result in an increase of approx. 26.62% over the present 5.723ha reserve boundaries. This addition will also increase connectivity between the reserve and the lower settlement at the point where its present boundaries are narrow.*

10.8.2.1.b *The relationship between Manawhenua and the natural environment is maintained, including the cultural values and traditions associated with:*

- i. *wāhi tūpuna; and*
- ii. *the customary use of mahika kai (Objective 14.2.1).*

Response *No areas of archaeological significance are recorded on the site or adjacent areas. A protocol of accidental discovery will be followed during construction but the potential for finding archaeological items is low as the site is located above the valley and has been previously modified.*

10.8.2.1.d *The Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided . . .*

Response *No areas of indigenous vegetation will be removed by the proposal.*

General assessment guidance:

- f. *In assessing the significance of the effects, consideration will be given to:*
 - i. *both short and long term effects, including effects in combination with other activities; and*
 - ii. *the potential for cumulative adverse effects arising from similar activities occurring as a result of a precedent being set by the granting of a resource consent.*

Response *The short and long-term landscape and visual effects are assessed as very low (refer previous report section 7). The potential for cumulative effects is also considered to be very low as there are few other similar sites with existing access, a level site, and no existing vegetation. Where these exist a similar level of adverse effect can be anticipated.*

10.8.2.1.g *In assessing whether an activity meets Policy 10.2.1.2, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.2.*

Response *The ecological assessment of the site found that the area proposed for set aside as an ASBV meets the criteria of policy 2.2.3.2.e⁶:*

"Ecological Context: areas important for their ecological context, including areas that:

- i. have important connectivity value allowing dispersal of indigenous vegetation and fauna between different areas;*
- ii. perform an important buffering function that helps to protect the values of an adjacent area or feature; or*
- iii. are important for indigenous fauna, on a regular or temporary basis, for breeding, refuge, feeding or resting"*

8.4 Summary – Natural Environment

An assessment against Rule 10.8.2 indicates that the proposal meets the standards sought for subdivision and residential development within an overlay of significant natural landscape in the rural residential zone 1 under the 2GP for biodiversity and landscape values. Adverse cumulative effects are not assessed as being likely as potential future sites will be required to meet similar criteria and to be established as assessed appropriate.

8.5 Rule 17.6 Development Performance Standards (Rural Residential 1 Zone)

17.6.5 *Maximum Height:*

b. All other buildings and structures – ii. Landscape and coastal character overlay zones: 5m:

Complies

17.6.10 *Vegetation Clearance Standards:*

No clearance of indigenous vegetation within the wider Lot 1 area is anticipated or any vegetation clearance on the proposed building platform other than exotic garden species under 1m in height is anticipated.

Complies

8.6 Rule 17.9 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions)

17.9.2 *Assessment of all performance standard contraventions*

17.9.2.1 *Potential circumstances that may support a consent application include:*

- c. The nature of activities on surrounding sites, topography of the site and/or surrounding sites, or other site specific factors make the standard irrelevant as the adverse effects that the standard is trying to manage will not occur.*
- d. In any landscape overlay zone, the development incorporates key design elements as set out in Appendix 3.*

The assessment of potential effects on the rural residential zone concluded that the effects of the potential development on the surrounding rural residential 1 zone

⁶ Ecological Assessment of Indigenous Vegetation at 30 Tui Street, St Leonards, Dunedin, Wildlands, Nov 21

were **very low**. This was in part based on the similarity the site and proposal had with existing and potential sites in this zone (refer report section 7.14).

The planning application sets out the conditions that apply to the proposed dwelling. These include height and external colour restrictions and restrictions on the application of outdoor lighting. Further to these the proposed site is considered to meet the objectives of A3.3.2 in the following ways:

- A low level of development will be retained in the mid to upper rural residential part of St. Leonards;
- A high degree of open space;
- A low level of potential visual effect;
- A minimal change of land use that will not reduce rural activities; and
- Landscape and biodiversity enhancement through maintenance, infill planting, and an Area of Significant Biodiversity zoning offered for the balance of Lot 1.

8.7 Appendix 11 Design Guidelines

- 17.10.5 1. Where possible, locate a new building or structure in association with a stronger natural feature e.g. a group of trees. Ensure that it has a backdrop of land or vegetation rather than sky as seen from main viewpoints. Seek to avoid prominent ridgelines, spurs and hilltops.

Complies

2. Consider planting vegetation to integrate buildings and structures with their landscape or coastal setting.

Landform containing mature native vegetation rises behind from off shore view.

3. In siting, take care to minimise the need for any earthworks and align the buildings with the direction of the landform.

Minimal earthworks required.

4. Locate at a distance from adjacent roads where appropriate to retain the spaciousness of the rural landscape. Take care not to block or detract from any significant views.

No significant views affected. Site on private ROW used by 3 other dwellings.

5. Where other buildings already exist, locate the new buildings or structures to visually relate to the group rather than be seen as an isolated element.

Refer report section 7.10

6. Aim to relate the building or structure to the land by keeping it as low as possible. The proportions should be wider rather than higher. Relate floor levels to the ground level and avoid high foundations.

The proposed platform has a minimal cross fall and the house will maintain a maximum height of 5m above this.

7. Traditional, simple, non-fussy designs are likely to integrate most readily into the rural setting. Where practicable, relate roof shapes to the lie of the land and break

up large wall and roof planes. Provide for eaves and the shadow line they create which helps to tie the building or structure visually with the land.

To be confirmed at building consent.

8. Use materials which occur naturally in the area e.g. local stone or timber, or materials that have traditionally been used in rural buildings e.g. appropriately coloured corrugated iron. Materials with a rough, coarse texture will help to minimise reflectivity of light. Do not use a great variety of different materials. Keep the effect simple.

To be confirmed at building consent.

9. Minimise the visual impact of buildings by using colours which blend with, or provide subtle contrast with, the background landscape.

A 30% maximum reflectivity for external surfaces has been adopted in the proposed planning conditions.

10. Glazing should be designed (placement and glazing type) to minimise the potential for glare effects.

There is limited potential for other local affected parties to view future glazing.

11. Lighting should be kept to a minimum and designed to minimise effects on landscape and natural character values, including impacts on indigenous fauna.

See proposed planning conditions.

9 Summary and Conclusion

- 9.1 The proposal to subdivide 30 Tui Street and create 3 lots with Lot 1 containing a new landscape building platform has been assessed for potential adverse landscape and visual effects on the values and rules of the rural residential 1 zone and the landscape overlay of significant natural landscape. Taking into account the character and structure of the present settlement and adjoining rural residential area from an off shore and site perspective the potential long term adverse effects are assessed as **very low** on the NZILA 7 point scale of 'very low, low, low-moderate, moderate, moderate-high, high, very high'.
- 9.2 This rating equates an assessment of **less than minor** on a technical planning scale and takes into account the subject site, surrounding landscape and residents and the off-set provisions of an area of ASBV that will co-join an existing area of ASBV associated with Stevenson Bush Scenic Reserve. It is anticipated that maintenance to the existing indigenous vegetation on proposed Lot 1 and enrichment planting of canopy tree species will increase the biodiversity and resilience of this forest and add to the landscape values of this part of St. Leonards from a local and off-shore perspective.
- 9.3 It is recommended the application be approved subject to recommended planning conditions and the maintenance provisions included in Appendix 1 of this assessment.

Hugh Forsyth
Registered Landscape Architect

Appendix 1

Maintenance and enhancement of proposed ASBV

Proposed Lot 1

30 Tui Street



Ecological
Restoration,
Conservation
& Biodiversity
Enhancement
Projects

Matt Thomson
matt@monowai-ecological.nz
021 392 983

To whom it may concern;

I have been asked to assess an area of native vegetation located at 30 Tui Street, St. Leonards for the purposes of removing existing exotic and listed invasive species and providing a programme of follow up maintenance for two years. The infill planting of 100 canopy species was included in the Brief

I met on site with Hugh Forsyth, landscape architect on Friday afternoon, 11th March 2022 and reviewed potential house site and boundary area and made a site inspection into part of the lower site slopes within the native vegetation canopy. I observed a good canopy cover and a relatively low level of exotic weed species. Those observed included rangiora (not native to area), hawthorn, cotoneaster, banana passionfruit, chilean flame creeper, and blackberry. The Chilean flame creeper and banana passionfruit are of particular concern and are classified as pest species by the ORC.

<https://www.orc.govt.nz/managing-our-environment/pest-lmb/plants/chilean-flame-creeper>

<https://www.orc.govt.nz/managing-our-environment/pest-lmb/plants/banana-passionfruit>

There did not appear to be any emergent or juvenile podocarp species present based on our relatively brief observations.

My estimate for the initial works is 2 days for a team of 3 staff at approximately and I recommend two visits per year as a follow up for the next two years which I anticipate will be approx. 1 day in duration for a team of 3.

Sincerely,

Matt Thomson.

Director, Monowai Ecological Ltd.

www.monowai-ecological.nz



Legend

-  Viewpoints
2 - 10
-  Proposed landscape
building platform
- SNL** Significant Natural
Landscape boundary
- A** Site legal property
boundaries
- B** Significant Biodiversity Area
boundary
- C** 30 Tui Street residence
- D** 30 Ruru Avenue
- E** 33 Ruru Avenue
- F** 37 Ruru Avenue
- G** 15 Takehe Avenue
- H** 50 St. Leonards Drive

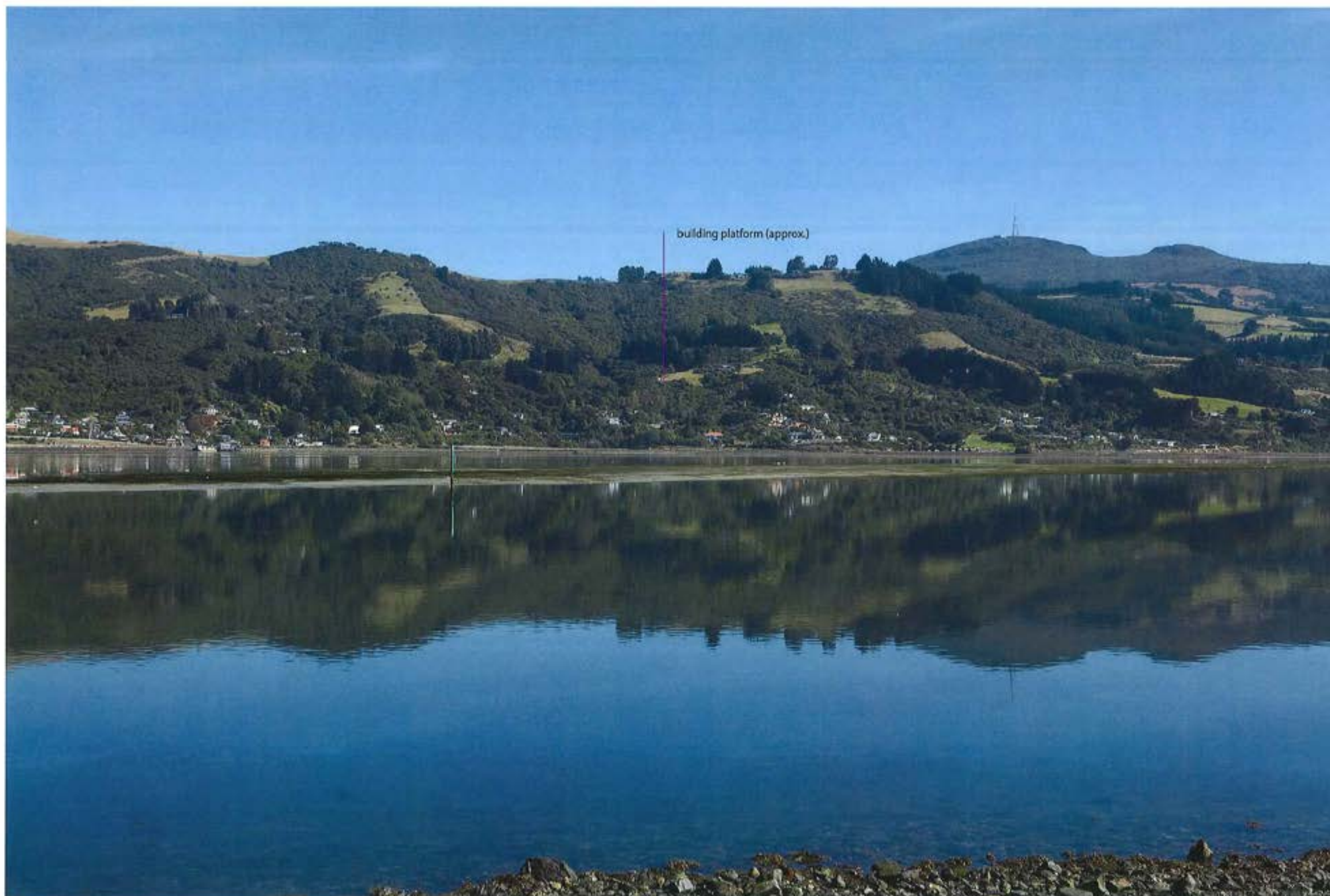




a. proposed building platform - 18m x 20m

b. recommended building area - 15m x 10m

0 30m



View north/east from Portobello Road, adjacent to Mission Cove flow, approx. 2.6km from the proposed building platform. 30 Tui Street residence lies within vegetation at the top of the pasture adjacent - 11.06hr - 03 March 2022



View north/west, adjacent to 1 Tui Street, approx. 14m asl. No's 2 & 6 Clifton Street are visible on the ridgeline, approx. 280m asl. The proposed building platform is not visible @ approx. 88m asl and screened by vegetation - 12:10hr - 03 March 2022



View north/west, adjacent to 5 Takahe Terrace, approx. 13m asl. The proposed house site lies to the lower left of the pasture, mid distance - 12.04hr - 03 March 2022



View north/west to proposed building platform, adjacent to 24 Ruru Avenue @ approx. 46m asl and 215m to mid platform. The proposed house site lies behind existing vegetation - 12.01hr - 03 March 2022



View north/east to proposed building platform, adjacent to 27 Ruru Avenue - approx. 88m asl and 260m distance to proposed platform. 30 Ruru Avenue is visible mid field, to left of image - 11.501hr - 03 March 2022



View north/east to proposed building platform, opposite entrance to 35 Ruru Avenue @ approx. 120m asl and 375m distance to mid platform. 30 Ruru Avenue is visible in lower left foreground - 11.48hr - 03 March 2022



View south/east from 30 Tui Street to south Company Bay Headland @ approx. 102m asl and 2.55km to Mission Row (Viewpoint 1). 50 St Leonards Drive is visible on the near shoreline, approx. 380m to western building face - 12.20hr - 03 March 2022



View south-west to proposed building platform from 30 Tui Street, opposite road boundary. Viewpoint approx. 98m asl - 12.22hr - 03 March 2022



View southeast from road boundary of proposed building platform towards St Leonards shoreline residential. 15 Takahe Terrace is visible approx. 115m to western building face - 13.33hr - 06 March 2022



View south-west from road boundary of proposed building platform towards 30 Ruru Avenue, approx. 150m to northern building face - 12.26hr - 03 March 2022

Appendix 5a: Table 1: Analysis of Relevant Subdivision Performance Standards¹⁶

Performance Standard	Analysis of Proposed Activity
Access Rules 17.3.5.2.i & 17.7.1 & 6.8.1.1 <i>"Every resultant site must have a legal accessway, and where there is minimum car parking required by the Plan, this must be in the form of a driveway."</i>	Accessway is defined in the 2GP as meaning: <i>"Any driveway, walkway or other means of access (sealed or unsealed) to and/or from any part of a road."</i> Access will be via ROW A from Tui Street. Proposed activity complies with this performance standard.
Firefighting Rules 17.3.5.2.iii & 17.7.3 & 9.3.3.1 <i>"Subdivision activities must ensure resultant sites have access to sufficient water supplies for firefighting consistent with the SNZ/PAS:4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice..."</i>	The existing dwelling on Lot 3 has an existing hard stand area and water supply. The proposed residential unit will comply with this requirement. The proposed activity complies with this performance standard.
Minimum Site Size 2ha Rules 17.3.5.2.iv & 17.7.5.1	At 1.56 hectares (Lot 1) and 0.97 hectares (Lots 2 and 3) do not meet the minimum site size of 2 hectares. The proposed subdivision activity does not meet the exemption provided in Rule 17.7.5.3 and, therefore, does not comply with this performance standard.
Service Connections Rules 17.3.5.2.v & 17.7.4 & 9.3.7 <i>"Subdivision activities must provide all resultant sites with the following infrastructure, where available:</i> <i>a. telecommunication (including Ultra-Fast Broadband) and power supply, to the site boundary; and</i> <i>b. connections to public water supply, wastewater, and stormwater networks, which must be laid at least 600mm into each site."</i>	The existing house on Lot 2 is connected to services. Services will be provided to Lot 1 in accordance with this performance standard. Proposed activity complies with this performance standard.
Shape Rules 17.3.5.2.vi & 17.7.6.1 & 2 <i>"Each resultant site that is intended to be developed must be of a size and shape that is large enough to contain a building platform of at least 8m by 15m that meets the performance standards of this Plan including, but not limited to:...</i> <i>b. all setbacks from boundaries, water bodies and scheduled trees."</i> <i>"Building platforms must have a slope of 12° (1:4.7 or 21%) or less..."</i>	The proposed building platform is 18m x 20m which exceeds the minimum building platform dimensions specified in Rule 17.7.6.1. Residential buildings are required to be setback a minimum of 12m from the boundary with the road (R.17.6.9.1.a.i.1) and 10m from rear and side boundaries (R.17.6.9.1.a.i.2). The building platform exceeds these minimum setbacks. There is a stream in the bottom of the gully on the adjoining property. However, the building platform is setback more than the minimum distance from the both the boundary and the stream. There are no scheduled trees on the site. The building platform has a slope of 12° or less. There is sufficient room within the building platform for the residential building to be set back a minimum of 1m from the right of way in compliance with Rule 6.6.3.8.a. Proposed activity complies with this performance standard.

¹⁶ The performance standard relating to *Esplandade Reserves & Strips* (R.17.3.5.2.ii) is not relevant to the subject site.

Appendix 5b: Table 2: Analysis of Relevant Residential Activity Performance Standards¹⁷

Performance Standard	Analysis of Proposed Activity
Minimum Site Size Rules 17.3.3.12.c.i & 17.5.2.1.a <i>"In the Rural Residential 1 Zone, the minimum site size per residential activity is 2ha, except..."</i>	Lot 3 contains the existing dwelling and will be held with Lot 2 in the same record of title thereby comprising slightly under 1 hectare of land. Lot 1 containing the building platform on which a residential unit will be built for Serge's elderly parents, comprises approximately 1.56 hectares of land. None of the exceptions provided in the performance standard apply to the site and/or application. Proposed activity does not comply with this performance standard.

¹⁷ The performance standards relating to *Separation Distances* (R.17.3.3.12.c.ii) and *Family Flats* (R.17.3.3.12.c.iii) are not relevant to the subject site and/or application.

Appendix 6: Analysis of Proposed Activity Against Relevant Policy Framework

Rural Residential Objectives and Policies.

Objective 17.2.1

The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities.

Policy 17.2.1.1 Enable farming, grazing and conservation in the rural residential zones.

Policy 17.2.1.2 Require residential activity in the rural residential zones to be at a density that enables lifestyle blocks and hobby farms.

Commentary:

The proposed subdivision provides for the conservation of the indigenous vegetation on Lot 1 and its enhancement via underplanting of appropriate podocarp species. Both the ecological and landscape reports find that the proposed residential activity on Lot 1 is compatible activity despite not being at the required density. The existing pasture areas remain with the existing dwelling thereby maintaining the lifestyle block / hobby farm that exists in association with the existing dwelling. Lot 1 is not used for pastoral grazing activities. Proposed activity is **consistent** with this objective and these policies.

Objective 17.2.2

The potential for conflict between activities within the rural residential zones, and between activities within the rural residential zones and adjoining residential zones, is minimised through measures that ensure:

- a. the potential for reverse sensitivity is minimised; and
- b. a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces.

Policy 17.2.2.3 Require all new buildings to be located an adequate distance from site boundaries to ensure a good level of amenity for residential activities on adjoining sites.

Policy 17.2.2.8 Require subdivisions to deliver resultant sites that will achieve a high quality of on-site amenity through being large enough and of a shape that is capable of supporting rural residential development.

Commentary:

The proposed subdivision provides for a high level of amenity both off and on site. This is achieved via the controls on built form for the proposed residential activity on Lot 1 and the conservation and enhancement of indigenous vegetation on Lot 1.

In the landscape report, the landscape architect states¹⁸: *"The elevation and pattern of the proposed landscape building platform is similar to adjacent rural residential development. The offset distance between the present 30 Tui Street dwelling and the future dwelling is approx. 83m and a change in elevation of approx. 14m. As comparison, the front face of 37 Ruru Avenue is offset from the rear south/west corner of 33 Ruru Avenue by approx. 72m and an elevation difference of approx. 22m. The closest adjacent dwelling is 30 Ruru Avenue which will be approx. 140m from upper centre north wall to the western wall of the proposed dwelling and with an elevation difference of approx. 6m."*

Proposed activity is consistent with this objective and these policies.

¹⁸ Landscape report, paragraph 7.10.

Objective 17.2.3

The character and amenity of the rural residential zones are maintained, elements of which include:

- a. a high presence of natural features such as trees, bush, gully systems and water bodies;
- b. a semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas; and
- c. land maintained and managed for farming, grazing, conservation and rural residential activities.

Policy 17.2.3.1	Require buildings and structures to be set back from boundaries and of a height that maintains the character and visual amenity of the rural residential zones.
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Policy 17.2.3.5	Only allow general subdivision where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the character and amenity of the rural residential zones.
-----------------	--

Commentary:

The subdivision provides for the application of an ASBV overlay so as to protect in pertuity the existing indigenous vegetation on Lot 1. The indigenous vegetation will be further enhanced by the underplanting of appropriate podocarp species.

The controls on built form that apply to the landscape building platform for Lot 1 ensure that the character and visual amenity of the rural residential zone is maintained. These controls coupled with the protection of the indigenous vegetation, preferably by the application of an ASBV, mean that the proposal complies with Policy 17.2.3.5.

Proposed activity is **consistent** with this objective and these policies.

Objective 17.2.4

The productive potential of the rural residential zones for lifestyle blocks or hobby farms is maintained.

Policy 17.2.4.3	Only allow general subdivision where resultant sites are of a shape and size that will enable lifestyle blocks or hobby farms, including the keeping of livestock, and avoid use purely as large lot residential living.
-----------------	--

Commentary:

The only areas used for pastoral activities will be retained with the existing dwelling in Lots 2 and 3¹⁹ meaning the lifestyle block / hobby farm is maintained.

Proposed activity is **consistent** with this objective and this policy.

Natural Environment Objectives and Policies.**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 10.2.1.1	Only allow land use, development and city-wide activities where biodiversity values are maintained or enhanced.
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Policy 10.2.1.5	Encourage conservation activity in all zones.
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¹⁹ To be held in the same record of title by way of amalgamation condition.

Policy 10.2.1.11	Only allow subdivision activities where the subdivision is designed to ensure any future land use or development will: a. maintain or enhance, on an on-going basis, biodiversity values; b. protect areas of significant indigenous vegetation and the significant habitats of indigenous fauna; and c. be in accordance with policies 10.2.1.2, 10.2.1.3, 10.2.1.4 and 10.2.1.8.
------------------	--

Commentary:

The proposed subdivision provides for the protection of the existing indigenous vegetation within Lot 1 via, preferably, application of an ASBV overlay. This area of indigenous vegetation will be further enhanced by underplanting and control of weedy species particularly around the margins. The landscape building platform is sited on Lot 1 in an area that does not contain indigenous vegetation.

In his ecology report, Dr Kelvin Lloyd concludes: *"The property contains an ecologically significant area of indigenous forest which would be appropriate for rezoning in the Dunedin City Council (DCC) Area of Significant Biodiversity Value (ASBV) overlay zone and if protected by such zoning would provide a valuable extension to Stevens Bush Scenic Reserve. The potential adverse ecological effects of the proposed subdivision will be relatively minor considering there is no indigenous vegetation on the proposed building platform, and modified vegetation around it."*

Proposed activity is **consistent** with this objective and these policies.

Objective 10.2.5

Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development; and their values, as identified in [Appendix A3](#), are maintained or enhanced.

Policy 10.2.5.10	Only allow subdivision activities in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), and Significant Natural Landscape (SNL) overlay zones where the subdivision is designed to ensure that any future land use or development will maintain or enhance the landscape values identified in Appendix A3 and will be in accordance with policies 10.2.5.1, 10.2.5.2, 10.2.5.3, 10.2.5.4, 10.2.5.6, 10.2.5.7, 10.2.5.8 and 10.2.5.9.
Policy 10.2.5.12	Require buildings and structures in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to have exterior colours and materials that avoid or minimise, as far as practicable, adverse visual effects caused by reflectivity.

Commentary:

The proposal includes controls on built form including exterior colours and materials on the built form for the identified landscape building platform on Lot 1. The landscape architect states that: *"The potential short term and long-term landscape effects that may result from the establishment of the proposed landscape building platform and dwelling on a new Lot 1 at 30 Tui Street are assessed as **very low** for both landscape and visual effects. This assessment draws on the capacity that the present environment has for absorbing further built form, the low level of intervention required to establish the proposed development, and consistency with the surrounding pattern of development. Conditions are proposed for its implementation, colour, height, and form that meet the guidelines of Appendix 11 and further include the proposed zoning of approx. 1.524ha ASBV, being proposed Lot 1, minus the landscape building platform."*

Proposed activity is **consistent** with this objective and these policies.



Legend

-  Viewpoints
2 - 10
-  Proposed landscape
building platform
-  SNL Significant Natural
Landscape boundary
-  A Site legal property
boundaries
-  B Significant Biodiversity Area
boundary
-  C 30 Tui Street residence
-  D 30 Ruru Avenue
-  E 33 Ruru Avenue
-  F 37 Ruru Avenue
-  G 15 Takehe Avenue
-  H 50 St. Leonards Drive



0 150m

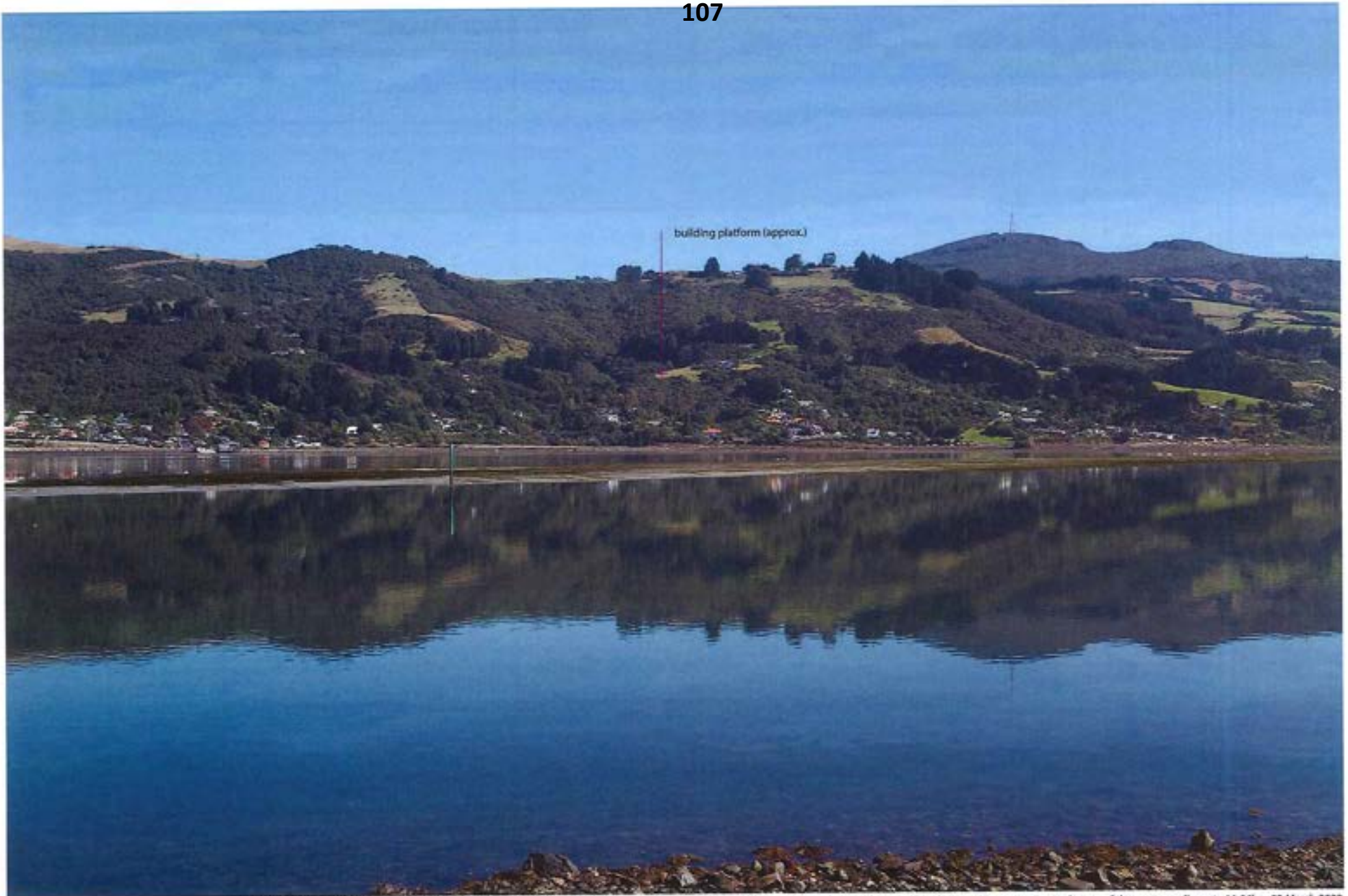


a. proposed building platform - 18m x 20m

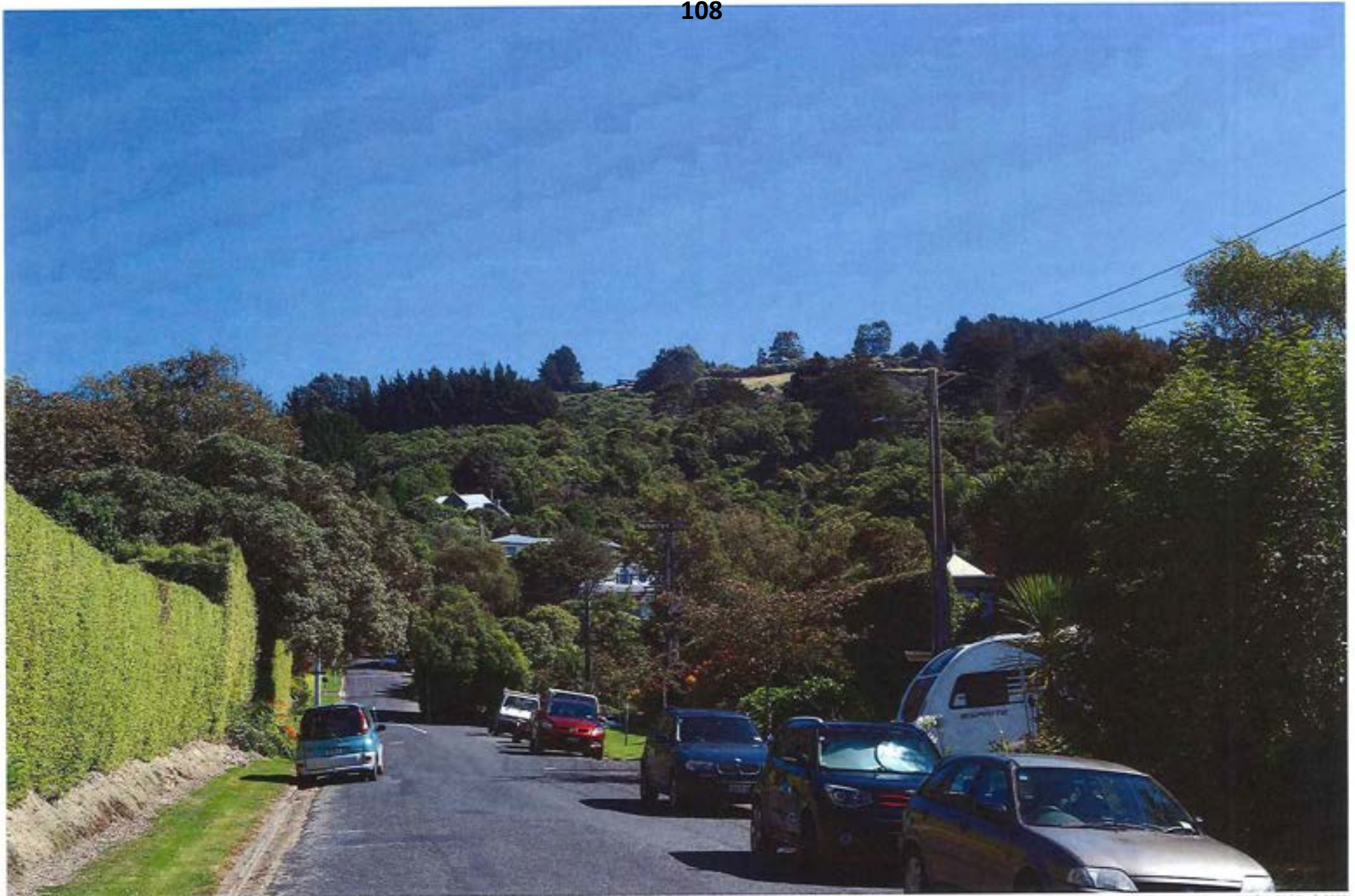
b. recommended building area - 15m x 10m

0

30m



View north/east from Portobello Road, adjacent to Mission Cove Row, approx. 2.6km from the proposed building platform. 30 Tui Street residence lies within vegetation at the top of the pasture adjacent - 11.06hr - 03 March 2022.



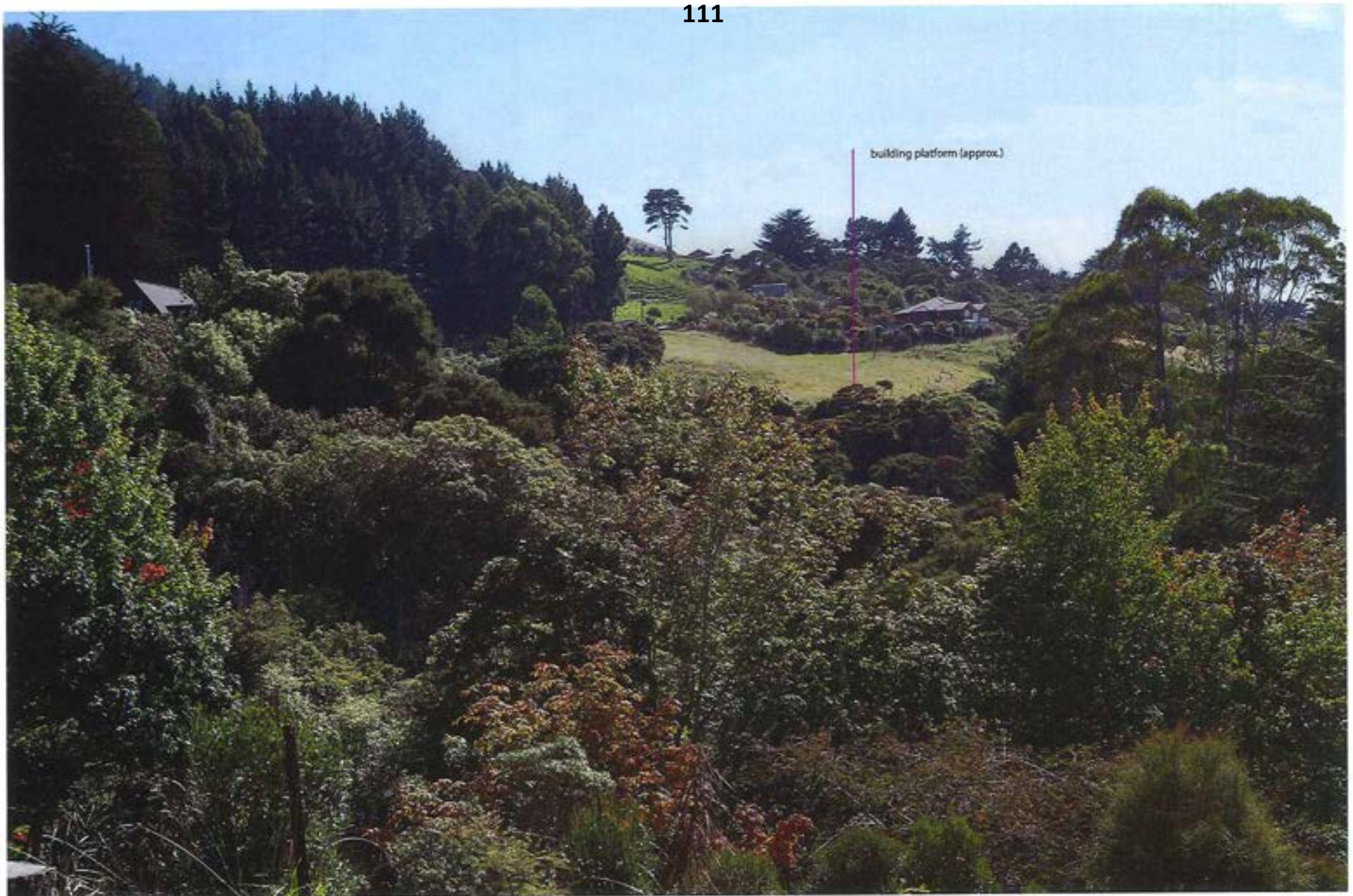
View north/west, adjacent to 1 Tui Street, approx. 14m asl. No's 2 & 6 Clifton Street are visible on the ridgeline, approx. 280m asl. The proposed building platform is not visible @ approx. 88m asl and screened by vegetation - 12.10hr - 03 March 2022



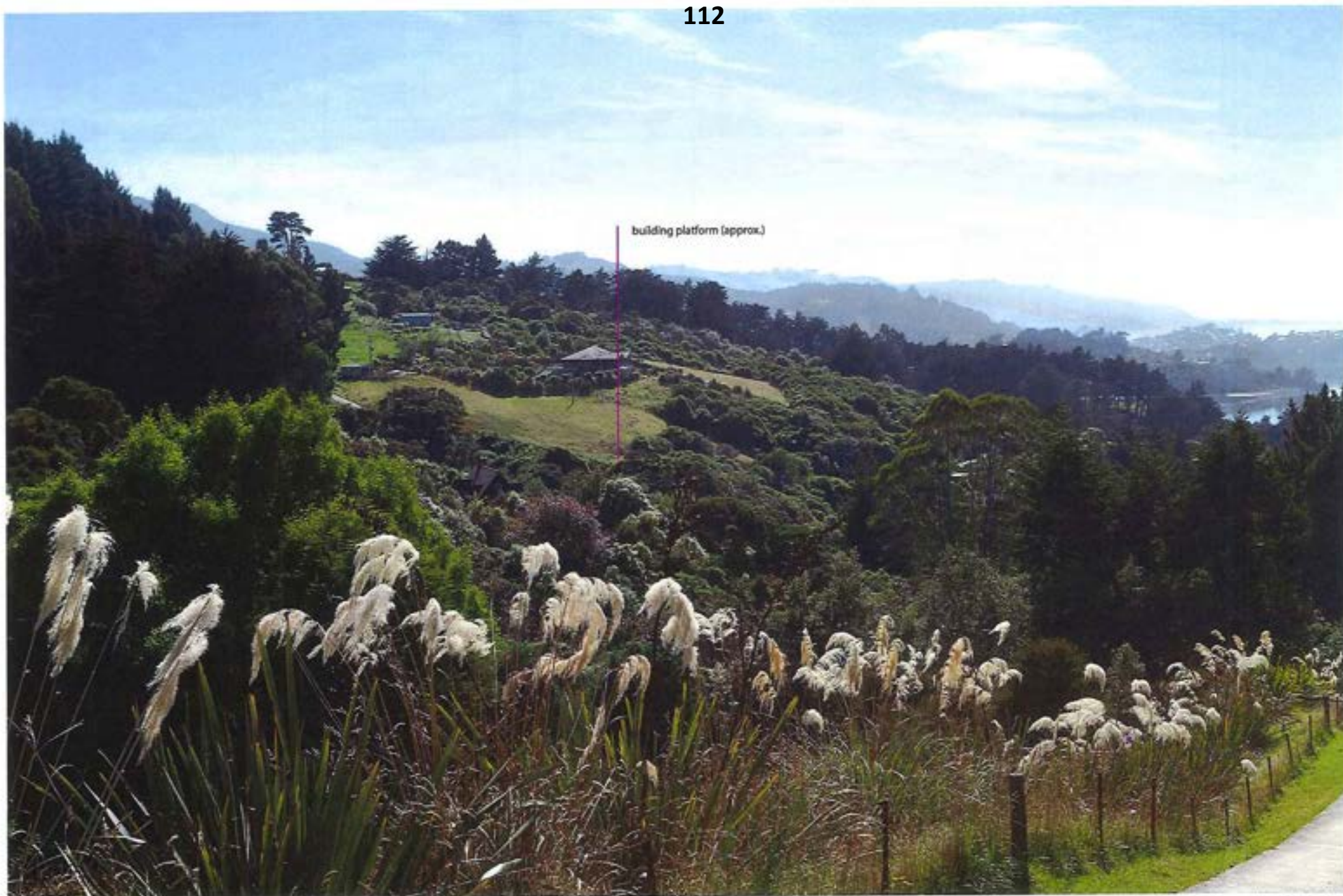
View north-west, adjacent to 5 Takahe Terrace, approx. 13m asl. The proposed house site lies to the lower left of the pasture, mid distance - 12.04hr - 03 March 2022



View north/west to proposed building platform, adjacent to 24 Runu Avenue @ approx. 46m asl and 215m to mid platform. The proposed house site lies behind existing vegetation - 12.01hr - 03 March 2022



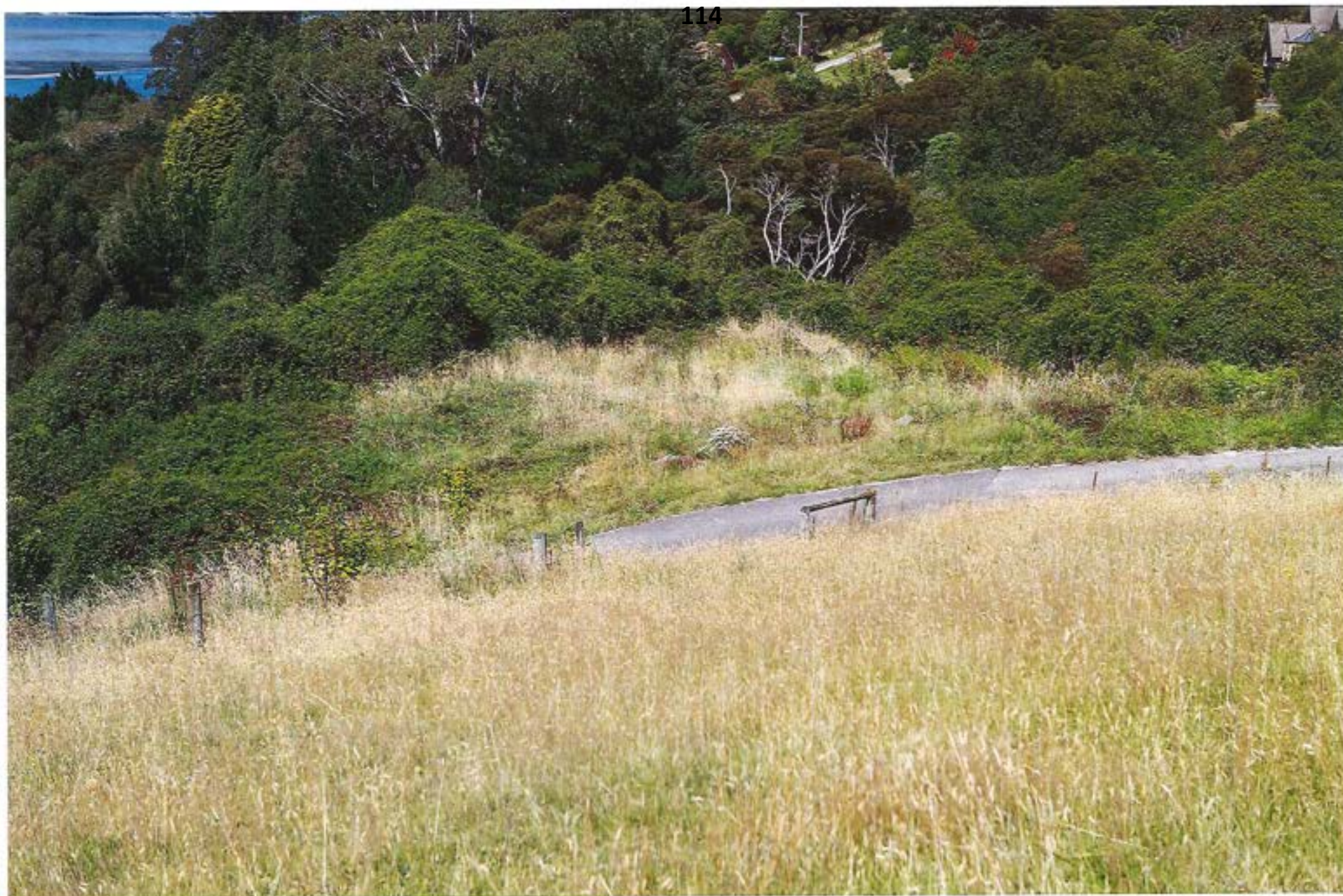
View north/east to proposed building platform, adjacent to 27 Ruru Avenue - approx. 88m a.s.l. and 260m distance to proposed platform. 30 Ruru Avenue is visible mid field, to left of image - 11.501hr - 03 March 2022



View north/east to proposed building platform, opposite entrance to 35 Ruru Avenue @ approx. 120m a.s.l and 375m distance to mid platform. 30 Ruru Avenue is visible in lower left foreground - 11.48hr - 03 March 2022



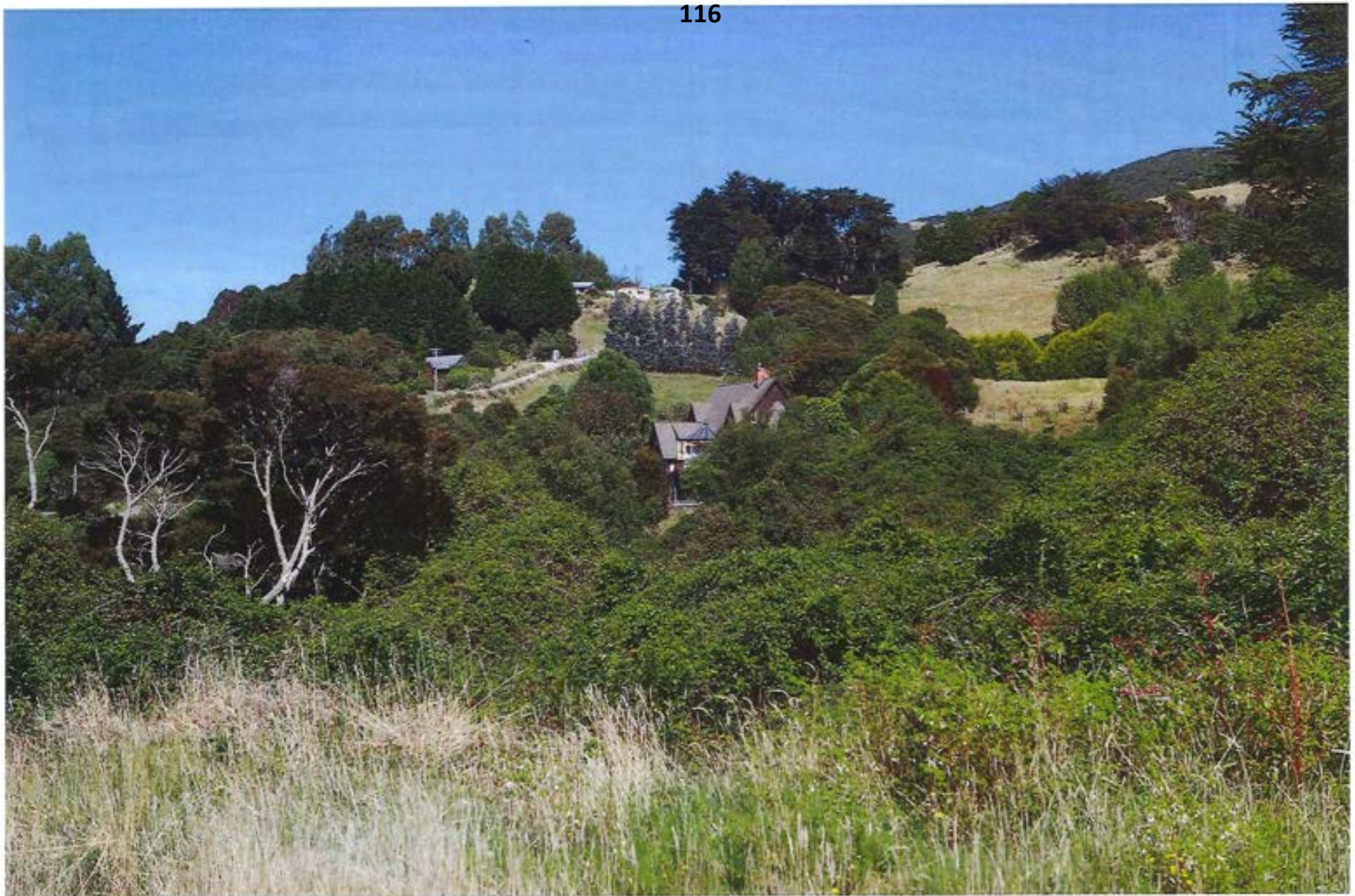
View south/east from 30 Tui Street to south Company Bay Headland @ approx. 102m asl and 2.55km to Mission Row (Viewpoint 1). 50 St Leonards Drive is visible on the near shoreline, approx. 380m to western building face - 12.20hr - 03 March 2022



View south/west to proposed building platform from 30 Tui Street, opposite road boundary. Viewpoint approx. 98m asl - 12.22hr - 03 March 2022



View south/east from road boundary of proposed building platform towards St Leonards shoreline residential. 15 Takahe Terrace is visible approx. 115m to western building face - 13.33hr - 06 March 2022



View south-west from road boundary of proposed building platform towards 30 Ruru Avenue, approx. 150m to northern building face - 12.26hr - 03 March 2022

Lianne Darby

From: Lianne Darby
Sent: Friday, 12 January 2024 03:46 p.m.
To: Lianne Darby
Subject: sub-2022-80 s95 assessment.pdf

From: Emma Peters <sweepconsultancy@gmail.com> **On Behalf Of** emma
Sent: Monday, 20 November 2023 11:02 a.m.
To: Lianne Darby <Lianne.Darby@dcc.govt.nz>
Subject: Re: sub-2022-80 s95 assessment.pdf

Hi Lianne,

Comment re relation to the HAIL search:

"The Dunedin City Council Property Hail Search report for 30 Tui Street found no evidence within Council records of any HAIL activities being conducted on the site. Included in the Council HAIL report for the site was the application for the subdivision that created the site in 2001 (see RMA-2001-364849). The application states at page 3, paragraph 3.3 that at that time the then owners of the larger property being subdivided had owned it since 1989, had used the it for rural residential use including pastoral grazing of 34 ewes and that the typography of the larger property was considered generally too steep for use of 'wheeled farm implements' e.g. tractors. The aerial photographs included in Council's HAIL report for the site, do not appear to raise any concerns in relation to the proposed location of the landscape building platform. The application included information from Otago Regional Council showing that the site was not listed on the Otago Regional Council HAIL register."

Let me know if you need further comment.

Cheers,

Emma Peters Consultant Sweep Consultancy Limited P.O. Box 5724 Dunedin 9054 Phone 0274822214
www.sweepconsultancy.co.nz

APPENDIX 2:
COUNCIL OFFICER EVIDENCE

Lianne Darby

From: Lianne Darby
Sent: Friday, 12 January 2024 03:47 p.m.
To: Lianne Darby
Subject: sub-2022-80 30 Tui Street

From: MWH Hazards Team <MWHHazardsTeam@stantec.com>
Sent: Tuesday, 7 November 2023 3:44 p.m.
To: Lianne Darby <Lianne.Darby@dcc.govt.nz>; MWH Hazards Team <MWHHazardsTeam@stantec.com>
Subject: RE: sub-2022-80 30 Tui Street

Hello Lianne,

We have assessed the application in relation to the hazard register, street files and available aerial photography. We have not visited the site.

We have the following comments to make regarding the application.

Proposal

The proposed activity is to subdivide the above lot into two.
 Site investigation reports have not been provided.
 Plans for the proposal are provided within the application.

Hazards

There are no hazards identified within the hazards register for the above lot.

Global Setting

The underlying geology consists of second main eruptive phase volcanics and is steeply sloping by up to 26 degrees.

Discussion

The application is effectively a boundary adjustment at this stage between the existing dwelling and the remaining land. There is a proposed building platform location on slopes of approximately 20 degrees.
 A site specific engineering assessment and design will need to be undertaken for any new dwelling on slopes over 15 degrees.
 We recommend that the application not be declined on the ground of known natural hazards.
 The proposal will not create or exacerbate instabilities on this or adjacent properties

Conditions

We recommend that the following conditions be required for any future development:-

- All walls retaining over 1.5m, or supporting a surcharge / slope, or neighbouring land, including terracing, require design, specification and supervision by appropriately qualified person/s
- Where the long-term stability of other's land or structures may rely upon the continued stability of retaining works, the designer must confirm that the retaining structure can be safely demolished following a complete design life without creating hazards for neighbouring properties.
- Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431:2022 Engineered fill construction for lightweight structures
- Slopes may not be cut steeper than 1:1 (45°) or two metres high without specific engineering design and certification
- Slopes may not be filled steeper than 2h:1v (27°) or two metres high without specific engineering design and certification
- As-built records of the final extent and thickness of any un-engineered fill should be recorded

- Any modifications to existing stormwater flow paths or addition of new stormwater features shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding or concentrated runoff during storm rainfall events.
- Any earthworks on slopes steeper than 15 degrees shall be subject to design, supervision and certification by a suitably qualified engineer, confirming the site is suitably stable and that the works will not introduce any further instability.
- Any modification to the site shall not increase any adverse stormwater effects on neighbouring lots as a result of the work

Regards,

Edward Guerreiro
BEng Civil
Civil/Geotechnical Engineer

Mobile: +64 21 866 028
Email: edward.guerreiro@stantec.com

We're moving, from 6 March you will find us at:

Unit D1.03, 19 Grant Road
Frankton, Queenstown



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Lianne Darby

From: Andrew Budd
Sent: Friday, 3 November 2023 02:43 p.m.
To: Lianne Darby
Subject: RE: sub-2022-80 30 Tui Street

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Lianne.

No comment required from 3 Waters for this development.

Regards

Andrew Budd
 Subdivision Support Officer
 City Growth Team

P 03 474 3702 | E Andrew.Budd@dcc.govt.nz
 Dunedin City Council, 50 The Octagon, Dunedin
 PO Box 5045, Dunedin 9054
 New Zealand
www.dunedin.govt.nz



Please consider the environment before printing this e-mail

From: Lianne Darby <Lianne.Darby@dcc.govt.nz>
Sent: Tuesday, 31 October 2023 4:24 p.m.
To: Resource Consents WWS-BC Comments <resconsent.wwsbc-comments@dcc.govt.nz>; Transport <Transport@dcc.govt.nz>; MWH Hazards Team <MWHHazardsTeam@stantec.com>; City Development - Consent Comments <Citydevelopmentconsentcomments@dcc.govt.nz>
Cc: Luke McKinlay <Luke.McKinlay@dcc.govt.nz>; Zoe Lunniss <Zoe.Lunniss@dcc.govt.nz>; Paul Freeland <Paul.Freeland@dcc.govt.nz>
Subject: sub-2022-80 30 Tui Street

Hi all,

This is an application from last year which has just come off hold.

I'm planning to do a s95 report asap with a view to notifying this. Your input will be invaluable.

If you are wanting to do a site visit up front, I need to do one too.

Regards

Lianne

TO: Lianne Darby

FROM: Building Services Processing

DATE: 08/10/2023

SUBJECT: SUB-2022-80
30 Tui Street St Leonards

General: There are no DCC Service crossing this site
All private drainage matters will be dealt with at time of Building Consent.

Foul Drainage: The existing Foul Drainage from proposed Lot 3 shall continue to discharge to the existing onsite effluent disposal system

The Foul Drainage from proposed Lot 1 shall discharge to its own onsite effluent disposal system to be dealt with at time of Building consent

Stormwater Drainage: The existing Stormwater Drainage from proposed Lot 3 shall continue to discharge to an appropriate outfall, if concentrated surface water crosses allotment boundaries, an easement to discharge will be required or the surface water overflow shall be contained entirely within Lot 3

The Stormwater Drainage from proposed Lot 1 shall be collected and discharged to an appropriate outfall

Surface Water: Collected or concentrated by Building or siteworks shall not cause nuisance to neighbouring property and must discharge to an appropriate outfall

**Senior Building Consent
Processing Officer P & D
Andrew Roberts**

Memorandum

TO: Lianne Darby - Planner

FROM: Daniel Fitzpatrick, Graduate Planner – Transport

DATE: 02/11/2023

SUBJECT: **SUB-2023-80 & LUC-2023-215**
30 TUI STREET, ST LEONARDS

APPLICATION:

A resource consent application has been submitted for the purpose of a three-lot subdivision and the associated construction at 30 Tui Street, St Leonards. The subject site, covering an area of 2.5334 hectares, is characterized as a rural residential property with an irregular shape and a general south-east aspect. Currently, the site is divided into two parts by an unformed legal road. Access to the property is provided through the extension of Tui Street, along a concrete driveway that winds through the southern part of the site, crosses the legal road, and leads to the existing dwelling located in the northern part.

The applicant's proposal involves the formalization of a division of the property into three separate lots. Lot 1, covering 1.56 hectares, includes the section situated south of the existing concrete driveway. It's worth noting that Lot 1 will own the aforementioned section of the driveway, but a Right of Way Easement A will be established to ensure legal access to the other two lots. The applicant intends to construct a single dwelling on Lot 1, which is indicated as a proposed building platform in the provided plans. Apart from the driveway and building platform, Lot 1 will largely remain undeveloped.

Lot 2, encompassing 0.29 hectares, comprises the vacant land between the paved concrete driveway and the unformed extension of Tui Street. The applicant has not provided details regarding existing or proposed access arrangements, and there are no development plans at this stage.

Lot 3, covering 0.68 hectares, includes the northern section of the site and contains the existing driveway, dwelling, and driveway. Access to the driveway is facilitated through an additional Right of Way, which is part of the extended driveway and passes over the neighbouring property at #34. No alterations to the physical layout of Lot 3 are proposed.

The property is zoned as Rural-Residential 1, and Tui Street is classified as a Local Road according to the 2GP Road Classification Hierarchy. This proposal is subject to assessment as a restricted discretionary activity.

ACCESS:

The site is accessed via a hard surfaced vehicle crossing located at the end of the formed section of Tui Street. This leads onto a long, 6.0m wide concrete driveway which winds south of the unformed section of Tui Street, before circling north and crossing over the paper road. This then continues north, into an existing Right of Way section of the driveway owned by

#34, before forking off and giving access to the existing dwelling located on the northern section. It is noted that there are three existing users of the southern section of driveway. #34 and 70 Tui Street both have legal access on the driveway via a pre-existing Right of Way agreement.

The applicant proposes to divide the property into three Lots, two of which will gain access via the southern section of the concrete driveway, and Lot 3 being located on the northern section will maintain its existing access provisions. The applicant does not explicitly state the access provisions for Lot 1 and Lot 2; however, it is assumed that they will be fully compliant with all Rules listed in section 6.6.3 of the 2GP.

2GP Rule 6.6.3.2.b.i requires the provision of minimum sight distances. In this instance, the minimum sight distance requirement from the existing vehicle crossing is 69.0m in both directions. It is noted that this is only achieved in one direction, however this is simply due to the carriageway formation as the site is located at the end of the formed section of Tui Street. Therefore, the provision of sightlines in only a south-eastern direction is considered acceptable to Transport.

2GP Rule 6.6.3.9 requires that for a residential activity within a Rural Residential zone, the driveway must have a legal width of 4.0m and a formed width of 3.5m when it serves 1-3 units. In the instance of four or more residential units, the 2GP requires a legal width of 6.0m and a formed width of 5.0m. Currently, the shared driveway has a formed width of 3.5m and provides access to three dwellings which is acceptable per the aforementioned requirements. However, the applicant proposes to construct a new dwelling on proposed Lot 1, bringing the total number of users to four. This would require the driveway to have a minimum formed width of 5.0m, which is not proposed by the applicant and is therefore a breach of the aforementioned rule. The effects of this breach can be considered less than minor, given that this is a pre-existing situation which would only create one additional user. It is noted that in the event of future development, this may be reassessed and the driveway may be required to be reformed.

In summary, the existing access provisions are considered acceptable to Transport, subject to the advice notes detailed below.

PARKING AND MANOEUVRING:

Currently, the existing dwelling on proposed Lot 1 provides compliant on-site parking and manoeuvring in the form of a large concrete parking bay. The applicant does not detail any proposed parking or manoeuvring provisions within proposed Lot 1 or 2, as they only provide a proposed building platform within the Lot 1 area. From assessing the site in Geocortex, it is assumed that compliant parking and manoeuvring within the building platform area can be provided and is therefore acceptable to Transport.

In summary, the existing and proposed parking and manoeuvring provisions are considered acceptable to Transport.

GENERATED TRAFFIC:

Transport considers that the effects of the traffic generated as a result of this proposal on the transport network to be less than minor.

CONCLUSION

Transport considers the effects of the proposed development on the transportation network to be less than minor, subject to the following advice note(s):

ADVICE NOTES:

- (i) It is advised that a formal agreement be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.
- (ii) It is advised that in the event of any future development on the site, Transport would assess provisions for access, parking and manoeuvring at the time of resource consent/building consent application.

Memorandum

TO: Lianne Darby, Planner

FROM: Luke McKinlay, Landscape Architect

DATE: 13 November 2023

SUBJECT: SUB-2022-80 & LUC-2022-215
30 TUI STREET
ST LEONARDS
LA Comments

Kia ora Lianne,

The following is in response to your request for comment on the above resource consent application for the subdivision of 30 Tui Street, St Leonards, into two lots, and for the establishment of a residential unit on one lot. As you identify, the subject site is a rural residential property with a generally south to southeast aspect. It is divided into two parcels by an unformed legal road and has an existing dwelling on the northern parcel. Access is via the continuation of Tui Street, with the driveway curving through the southern parcel before crossing the legal road again and terminating at the house on the northern parcel.

The subject site is legally described as Lot 3, 7 Deposited Plan 318930, held in Record of Title 74129, and has an area of 2.5334ha.

Proposal

The proposed subdivision will create three lots, with an amalgamation condition used to form two sites as follows:

- Lot 1 will be a site of 1.56ha containing the land to the south of, and including, the curved driveway. A landscape building platform is to be defined approximately mid-site for a future dwelling.
- Lots 2 and 3 (0.29ha and 0.68ha) will be amalgamated to form a site of 0.97ha. It will contain the existing dwelling.

2GP Context

The subject site is zoned **Rural Residential 1**. The residential land is subject to the **Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone**.

Subdivision:

Rule 17.3.5.2.c lists general subdivision in the Rural Residential 1 zone (SNL) as being a **restricted discretionary + activity**, subject to compliance with the performance standards. The proposal will fail to comply with the following:

- Rule 17.7.5.1 specifies a minimum site size of 2.0ha for the Rural Residential 1 zone. Neither new site will comply with minimum site size.

Activities which contravene this rule are considered to be a **non-complying** activity pursuant to Rule 17.7.5.3.

- Rule 17.7.6.2 specifies that each resultant site that is to be development must have a slope of 12° or less. Council's Data map indicates that the slope of the proposed landscape building platform is greater than 12°, although the applicant states that it is not.

Activities that contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 17.7.6.5.

Land Use

The proposal falls under the definition of *standard residential activity*, and *new buildings or structures*. Under the Proposed Plan, activities have both a land-use activity and a development activity component.

Land use:

Rule 17.3.3.12 of the Proposed Plan states that standard residential activity within a SNL is a permitted activity provided that it complies with the relevant performance standards. The existing and proposed residential activity will fail to comply with the following:

- Rule 17.5.2.1.a lists a minimum site size of 2.0ha for standard residential unit. Neither the existing house on Lots 2/3 or the proposed residential activity will comply with density.

Activities which contravene this rule are considered to be a **non-complying** activity pursuant to Rule 17.5.2.2.

- Rule 17.7.3 requires subdivision to comply with Rule 9.3.3.
- Rule 9.3.3.1 requires resultant sites of subdivision to have fire-fighting water supplies. Based on the information currently available, neither site will have compliant fire-fighting provision.

Activities which contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 9.3.3.3.

Development

Rule 17.3.4.5.c lists new development in a SNL as being a permitted activity subject to compliance with the performance standards. The new house will fail to comply with the following:

- Rule 17.6.X requires new buildings in a SNL to comply with Rule 10.3.5.
- Rule 10.3.5.X/a specifies that a new building greater than 60m² on a landscape building platform in a SNL is a controlled activity.

The future residential development of the landscape building platform will be a controlled activity. Consent is not been granted for this purpose on the basis that no building proposal has been promoted as part of the application. Further consent will be required.

- Rule 17.6.10.2 requires indigenous vegetation clearance – small scale to comply with Rule 10.3.2.1.
- Rule 10.3.2.1.c.ix specifies a maximum vegetation clearance of 250m² over a period of three years within the Rural Residential 1 zone. The proposed landscape building platform will have an area of approximately 360m², potentially allowing 110m² of site clearance more than permitted.

Activities which contravene this rule are considered to be a **restricted discretionary** activity pursuant to Rule 10.3.2.1.e.ii.

Comments

These comments review the following documents:

- Landscape Assessment Report (LAR) (March 2022), prepared by Site Environmental Consultants,

This review is structured in accordance with the recommendations of *Tangi a te Manu Aotearoa New Zealand Landscape Assessment Guidelines, July 2022*. Specifically, it will consider whether the LAR, prepared by Site Environmental Consultants, follows a sound methodology that includes the following elements:

- An assessment of landscape effects in the context of the relevant statutory provisions and any 'other matters'
- A description, interpretation, and evaluation of relevant landscape character values.
- An analysis of the effects on landscape values in a balanced and reasoned way.
- A series of credible findings supported by a clear rationale.
- A set of appropriate recommendations and/or conclusions.

The purpose of this review is an appraisal of the assessment. It is not a parallel assessment.

Methodology:

The LAR follows a methodology that is consistent with the NZILA Landscape Assessment Guidelines *Te Tangi a Te Manu, July 2022*. The method is appropriate for the purpose of the assessment, the nature of the surrounding rural/rural-residential landscape, the potential landscape issues and the scale of the proposal and its potential effects.

The LEA is structured as follows:

- *Landscape context;*
- *Statutory context;*
- *Existing landscape and amenity values;*
- *Proposal details;*
- *Assessment of landscape and visual effects;*
- *Assessment of statutory effects; and*
- *Summary and conclusion.*

The LAR provides a thorough examination of both the landscape and statutory context, which informs the subsequent assessment of existing landscape and amenity values and potential effects on these values.

When considering landscape and visual effects, the LAR finds that landscape effects will be no more than low in the short term and very low in the longer term. The LAR assesses the capacity that the environment surrounding the site has for absorbing further residential development. It identifies the following that supports the assessment of low effects:

- *The low level of intervention required to establish the proposed development,*
- *Consistency with the surrounding pattern of development.*
- *Environmental benefits associated with creating a 1.524ha ASBV.*
- *Proposed mitigation measures that are volunteered as conditions.*

The following mitigation measures are proposed.

- *Residential unit will have a maximum height of 5m;*
- *The tanks and wastewater treatment plant must be screened from public view and must have a light reflectivity rating (LVR) of 35% or less;*
- *Only indigenous vegetation can be planted on the landscape building platform; and*

- *To promote the visual integration of the residential buildings (including residential accessory buildings) into the surrounding landscape, exterior colours (including roofing materials) that are visually recessive and/or do not contrast with surrounding natural colours must be used. Nonpainted, natural cladding materials (including, but not limited to, stone, bricks or timber) that are not likely to result in reflective glare, are acceptable. The use of highly reflective materials, such as unpainted metallic surfaces, mirrored glazing and metallic finishes (such as Silver Zincolume), must be avoided. Exterior painted surfaces must have an LVR of no more than 35% for exterior walls with roofs being coloured 5% below the LVR of the exterior walls. All concrete paving is to be tinted to 50% LVR.*

In general, it is agreed that the proposed mitigation measures are appropriate and would be required to ensure effects are kept to a low level. It is recommended, however, that in this location, the max LRV for the roof of the building should be no more than 15%. In a bush clad setting, such as this, a darker roof will help to reduce the contrast between the relatively dark colours of the bush and the roof of a dwelling, which will enhance visual integration.

The LAR includes view location photos from a range of surrounding representative locations. The LAR finds that the lower part of a building within the identified building platform would likely be screened from West Harbour coastal view locations. It also finds that there were few public locations with a potential direct street view to the site (e.g Takahe Avenue (Fig. 6 of the LAR) and relatively short section of Ruru Avenue as one travels downhill).

The LAR identifies that the majority of the surrounding residences do not have a view to the proposed site, however, it notes that there will be potential views of a new dwelling from 30 Ruru Avenue (140m to the southwest of the site). While the visual effects from this address are not assessed in detail, the LAR recommends the planting of kanuka along the western boundary of the proposed building platform to provide screening to the future dwelling. This appears to be a reasonable response and should be included as a condition of consent.

It is generally agreed that views towards the site are generally limited from surrounding West Harbour locations. Steep topography and vegetation cover obscures clear views of the site from locations near the harbour edge. It is considered that from peninsular locations the combination of mitigation measures proposed, and the diminishing effect of distance will reduce potential adverse visual effects to low levels.

In general, it is agreed with the findings of the LAR that potential adverse landscape and visual effects on the values of the surrounding environment and the Flagstaff/Mt Cargill Significant Natural Landscape area can be kept to low levels.

Recommendation

If consent is granted for this application, it is recommended that the proposed mitigation measures identified in the LAR are adopted in full as conditions with the minor amendment that the maximum LRV for the roofs of any structures within the proposed building platform be no more than 15%.

Regards,

Luke McKinlay
Landscape Architect

Appendix 1: Site Photographs



Figure 1: View to the east from the site towards the Peninsula



Figure 2: View to the southeast from the site towards the Peninsula



Figure 3: Proposed building platform



Figure 4: View towards the site from Company Bay

TO: Lianne Darby

FROM: Zoe Lunniss, Biodiversity Advisor

DATE: 10 November 2023

SUBJECT: SUB-2022-80 & LUC-2022-215 – 30 TŪI STREET, SAINT LEONARDS - BIODIVERSITY COMMENTS

Kia ora Lianne,

Please find my biodiversity comments on application SUB-2022-80 & LUC-2022-215.

1. The application seeks resource consent for the subdivision of 30 Tūi Street into two lots and the establishment of a residential unit on one lot.
2. Lot 1 is proposed as a 1.56 ha site containing the land to the south of the main driveway. A proposed building platform is located on the flat aspect of Lot 1, on the southern edge of Tūi Street (Figure 1).
3. The site is zoned Rural Residential 1 and sits within the Dunedin Ecological District¹. The property is positioned between two Level 4 Land Environments²; Q4.3d and L4.1a. The indigenous vegetation addressed in this memo is in an 'At Risk' land environment, with between 20-30% indigenous cover remaining nationally, and an 'Acutely Threatened' land environment, with less than 10 % indigenous cover remaining nationally³.
4. Wildlands Consultants Ltd. conducted an ecological assessment on behalf on the applicant to determine the significance of indigenous biodiversity at the site.
5. The proposed subdivision aims to conserve indigenous vegetation on Lot 1, suggesting enhancement through underplanting with ecologically appropriate podocarp species.

Relevant 2GP Policy

6. **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 ongoing basis, biodiversity values;
 - b. protect any areas of significant indigenous biodiversity 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.B.

¹ McEwen WM (1987). Ecological regions and districts of New Zealand. Third revised edition (Part 4). New Zealand Biological Resources Centre publication No. 5.

² Leathwick JR, Wilson G, Rutledge D, Wardle P, Morgan F, Johnston K, McLeod M, Kirkpatrick R. 2003: Land Environments of New Zealand, Nga Taiao o Aotearoa. David Bateman Ltd, Auckland. 184 p.

³ Walker S, Cieraad E, Barringer J. 2015. The Threatened Environment Classification for New Zealand 2012: a guide for users. Landcare Research Contract Report LC2184.

Site

7. The site includes a sizable area of indigenous vegetation on the southern aspect of Lot 1 (approximately 1.56 hectares), with the proposed building platform situated in the northern aspect of this area (Figure 2). A smaller area of indigenous vegetation is present in the south-eastern corner of Lot 3 (approximately 0.13 ha).
8. Indigenous vegetation of Lot 1 is contiguous with Stevens Bush Reserve, scheduled as an Area of Significant Biodiversity Value (ASBV) in the 2GP (ASBV C124).
9. The smaller area of indigenous vegetation in Lot 3 is already protected under a LUC-2007-484 conditions requiring the retention of the bush.

Proposed activity

10. The ecological assessment provided by the applicants determined the indigenous vegetation within Lot 1 (Figure 2) meets 2GP Policy 2.2.3.2 criteria for significance under the following criterion;
 - a. Rarity – the site contains indigenous vegetation on land environments that have less than 10% and 20-30% indigenous cover remaining respectively. This criterion is met where indigenous vegetation is present on land environments retaining less than 10% of their original indigenous cover.
 - b. Ecological context – indigenous vegetation on the property is contiguous with Stevens Bush Scenic Reserve which is an important resource for forest birds in the area. The vegetation in Lot 1 extends the amount of forest bird habitat available. It also provides a buffering function to the small stream that passes through the site, helping to maintain freshwater habitat values and water quality.
11. The applicant proposes that the area meeting ASBV criteria (Figure 2), as listed in Policy 2.2.3.2, should be protected via scheduling as an ASBV in the 2GP.
12. The applicant also proposes that enhancement work be carried out within the identified ASBV through the supplementary planting of podocarps.

Conclusion

13. I concur with the advice provided by Wildland Consultants Ltd. regarding the assessment of indigenous vegetation and suggestions provided for enhancement.
14. To maintain and enhance indigenous biodiversity values on an ongoing basis, protect areas of significant indigenous vegetation and the habitats of indigenous fauna, and therefore be consistent with 2GP Policy 10.2.1.11, the proposal should:
 - a. protect the existing indigenous vegetation in Lot 1 by scheduling as an ASBV in the next appropriate plan change (as proposed), and
 - b. protect indigenous vegetation through consent conditions to ensure retention before formal recognition as an ASBV in the 2GP, including:
 - i. Retaining all indigenous vegetation
 - ii. Supplementary planting of ecologically appropriate species only
 - iii. Ensuring stock exclusion from the area
 - c. enhance indigenous vegetation in Lot 1 by planting at least 20 ecologically appropriate podocarp species, such as rimu and low land tōtara (as proposed).

15. The potential adverse effects of the proposed subdivision on indigenous biodiversity are deemed minor, given the identified significant indigenous vegetation is scheduled as an ASBV in the next appropriate plan change (and protected through consent conditions), and proposed enhancement is completed. In the long term, the proposed activity is likely to have a positive effect on indigenous biodiversity.

Additional advice notes

16. The application proposal excludes indigenous vegetation clearance associated with the proposed building platform.
17. According to the Wildlands report, the proposed building site is largely devoid of indigenous vegetation, with woody vegetation on the periphery of the proposed building platform approximately 50% indigenous.
18. Depending on the applicant's future plans for the building platform, please note that consent may be required for indigenous vegetation clearance exceeding the small-scale permitted baseline in the Rural Residential 1 zone. This excludes indigenous vegetation within identified ASBVs.

Nāku iti noa, nā

Zoe Lunniss
Biodiversity Advisor



Figure 1: Subdivision Scheme Plan as provided in the application



Figure 2: Indigenous vegetation at 30 Tui Street that meets 2GP Policy 2.2.3.2 significance criteria

**APPENDIX 3:
SECTION 95 REPORT**

TO: Campbell Thomson, Senior Planner

FROM: Lianne Darby, Associate Senior Planner

DATE: 14 November 2023

SUBJECT: SUB-2022-80 – NOTIFICATION ASSESSMENT
30 TUI ROAD, ST LEONARDS

Public Notification

Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification.

Step 1: Mandatory public notification in certain circumstances

- If the answer to any of the below questions is yes, then public notification is required and consideration of the other steps in Section 95A is not needed.

Question	Yes	No	N/A	Assessment Notes
Has the applicant requested public notification? (s95A(3)(a))	–	✓	–	
Is public notification required under Section 95C (applicant has not provided or refuses to provide further information; or, applicant refuses to agree to commissioning of report or does not respond to report commissioning request)? (s95A(3)(b))	–	✓	–	
Has the application been made jointly with an application to exchange recreation reserve land under Section 15AA of the Reserves Act 1977? (s95A(3)(c))	–	✓	–	

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

- If the answer is yes to any of the below questions, then Step 3 must be skipped and Step 4 considered.
- If the answer is no to all of these questions, then Step 3 must be considered.

Question	Yes	No	N/A	Assessment Notes
Does a rule or national environmental standard preclude	–	✓	–	

public notification of each activity in the application? (s95A(5)(a))				
Is the application for one or more of the following, but no other, activities:				
• A controlled activity? (s95A(5)(b)(i))	—	✓	—	
• A restricted discretionary, discretionary or non-complying 'boundary activity'? (s95A(5)(b)(iii))	—	✓	—	

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

- If any of the answers to these questions is yes, then public notification is required and consideration of Step 4 is not needed. If the application is for multiple activities and is being processed as a 'bundled application', and any part of that application meets either of the below criteria, the application must be publicly notified in its entirety.
- If the answer to both of these questions is no, then Step 4 must be considered.

Question	Yes	No	N/A	Assessment Notes
Does a rule or national environmental standard require public notification of the activity or any of the activities? (s95A(8)(a))	—	✓	—	
Will the activity have, or be likely to have, adverse effects on the environment that are more than minor? (s95A(8)(b) and s95D)	—	✓	—	The proposal has been assessed by 3 Waters, Transport, Stantec and Council's Landscape Architect. No department identified any adverse effects which would more than minor.

Step 4: Public notification in special circumstances

- If the answer is yes to this question, then the application must be publicly notified.
- If the answer is no, then the application needs to be considered for limited notification.

Question	Yes	No	N/A	Assessment Notes
Do special circumstances exist that warrant the public notification of the application? (s95A(9))	—	✓	—	

The subject site is zoned Rural Residential 1 where the minimum site size for subdivision and development with residential activity is 2.0ha. The proposed subdivision and the residential activity (both proposed for Lot 1 and the existing residential unit for the amalgamated site of Lots 2 and 3) are non-complying activities because of the proposed site sizes. The proposed landscape

building platform for Lot 1 is also situated within a Significant Natural Landscape (SNL) and any residential unit situated on this platform will be visible from some distance. If the landscape building platform is approved at the time of subdivision, the establishment of a residential unit on this platform will be a controlled activity under Rule 10.3.5.x.a; otherwise, any construction within the SNL will be a restricted discretionary activity.

Given the non-complying activity status of the subdivision under the rules of the Rural Residential 1 zone, the proposal has the potential to undermine the integrity of the Proposed Plan. The subject site at 2.5334ha is too small for subdivision to be anticipated as a restricted discretionary activity. Furthermore, the new dwelling on proposed Lot 1 will have visual effects within a SNL that will be seen over considerable distance although not necessarily from closer viewpoints.

Policy 17.2.3.5 directs that general subdivision in the rural residential zones is only allowed where the associated land use and development will maintain or enhance the character and amenity of the rural residential zone. In this case, the rural residential zone is on the hillside above the Township and Settlement zone of St Leonards and there are several residences within the Rural Residential 1 zone in relatively close proximity to the proposed Lot 1 building site, all on undersized sites. Accordingly, the proposal is not expected to have adverse effects on the character and amenity of this rural residential zone.

Policy 10.2.5.9 directs that large buildings and structures, and earthworks – large scale should be allowed within the SNL overlay only when the adverse effects on the landscape values of the SNL are avoided, or if avoidance is not practicable, when the effects are no more than minor and where there are no practical alternative locations, adequately mitigated. Effects will not be avoided as the new dwelling will be visible, in a position relatively high on the hillside. The proposed landscape building platform is the only position on proposed Lot 1 suitable for development because of the topography (i.e. there is no practical alternative location). However, the Proposed Plan does not anticipate the creation of Lot 1 nor the siting of a second dwelling on the subject site before or after subdivision, so it is difficult to apply the ‘no practical alternative’ test when the development should not be occurring in the first place.

Policies 10.2.5.10 to 10.2.5.12 direct that subdivisions should only be allowed where the design ensures any future land use or development will enhance the landscape values, and the adverse effects of development on landscape building platforms are avoided or adequately mitigated. The effects of development will not be avoided but Council’s Landscape Architect considers them to be minor in this context.

Overall, the effects of the proposal are likely to be minor or less than minor but the proposed subdivision and density of development is a challenge to the Proposed Plan provisions. As this will be primarily a policy assessment, the proposal is unlikely to be of interest to the wider public, and accordingly, public notification is not required. However, consideration of the policy context and implications for the challenge to the Proposed Plan provisions should be considered by the Hearings Committee on a non-notified basis.

Limited Notification

Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. The Council must decide whether there is any affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.

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

- If there is any affected protected customary rights group or affected customary marine title group, or any person to whom a statutory acknowledgement has been made that is affected in a minor or more than minor way, then the application must be limited notified to these parties unless their written approval has been obtained.
- Irrespective of the above, Step 2 must then be considered.

Question	Yes	No	N/A	Assessment Notes
Is the activity in a protected customary rights area?	—	✓	—	
Will the activity have adverse effects on the protected customary right?	—	—	✓	n/a, the activity is not in a protected customary rights area.
Has the protected customary rights group given written approval for the activity and it has not been withdrawn?	—	—	✓	n/a, the activity is not in a protected customary rights area.
Is the activity an accommodated activity in a customary marine title area?	—	✓	—	
Does the activity have adverse effects on the exercise of the rights applying to a customary marine title group?	—	—	✓	n/a, the activity is not an accommodated activity in a customary marine title area.
Has the customary marine title group given written approval for the activity and it has not been withdrawn?	—	—	✓	n/a, the activity is not an accommodated activity in a customary marine title area.
Is the activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement? (s95B(3) and s95E(2)(c))	—	✓	—	
Is the person to whom the statutory acknowledgement made affected in a minor or more than minor way and has their written approval been obtained? (s95B(3) and s95E(2)(c))	—	—	✓	n/a, the activity is not on or adjacent to, or might affect, land that is subject of a statutory acknowledgement.

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

- If the answer is yes to any of these questions, then Step 3 must be skipped and Step 4 considered.
- If the answer is no to all of these questions, then Step 3 must be considered.

Question	Yes	No	N/A	Assessment Notes
Does a rule or national environmental standard preclude limited notification of each activity in the application?	—	✓	—	

(s95B(6)(a))				
Is the application for a controlled activity (and no other activities) under the district plan(s) and is not a subdivision? (s95B(6)(b)(i))	—	✓	—	

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

- If there are any persons who might be adversely affected, then the application must be limited notified to these parties unless their written approval has been obtained.
- Irrespective of the above, Step 4 must then be considered.

Question	Yes	No	N/A	Assessment Notes
Is the application for a 'boundary activity', and have all owners of an allotment with an 'infringed boundary', where the activity's adverse effects on the owner are minor or more than minor (but are not less than minor), given written approval? (s95B(7)(a))	—	✓	—	
In all other cases, will the activity have adverse effects on any person that is minor or more than minor (but not less than minor), and have these persons given their written approval? (s95B(8) and s95E)	—	✓	—	

The proposal will introduce an additional residential unit within on land where the neighbours could reasonably expect no development to occur. However, the subject site is at the top of the road with only three residential units (including the existing house on the subject site) located beyond the proposed house site. Given that there is little visibility of the proposed landscape building platform from neighbouring properties, and little opportunity for interaction between properties, no adjoining property owners are considered to be affected by the proposal.

Step 4: Further notification in special circumstances

- If the answer is yes to the below question, then the application must be limited notified to these other persons.

Question	Yes	No	N/A	Assessment Notes
Are there special circumstances that warrant the application being limited notified to any other persons not already determined to be eligible for limited notification (excluding persons assessed under Section 95E as not being affected persons)?	—	✓	—	

(s95B(10))				
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As noted above, the effects of the proposal are considered to be less than minor or minor. While the proposed landscape building platform will be visible from some locations (including across the harbour), any development on this platform will not result in the highest house on the hillside, nor will it have dissimilar effects to any other residential unit within the area. The issue in this case is a more general determination about the consequences of the proposal in relation to the provisions of the Proposed Plan for the rural residential zone. No persons are considered to be adversely affected by this particular proposal.

Conclusion

Having regard to the step-by-step process for considering public notification and limited notification, it is determined that:

- The application can proceed on a non-notified basis but the implications for the provisions of the Proposed Plan should be considered before the Hearings Committee.

Notification Recommendation

That, for the reasons concluded above, this application be processed on a non-notified basis before the Hearings Committee, pursuant to Sections 95A and 95B of the Resource Management Act 1991.



14 November 2023

Lianne Darby

Senior Associate Planner

Date

Notification Decision

That the recommendation above be adopted under delegated authority.



Campbell Thomson

Senior Planner

Date