

2 October 2023

P M Jaggar
17 Sandringham Street,
Dunedin 9012

Via email: penelope.jaggar@gmail.com

Dear Penelope

RESOURCE CONSENT APPLICATION:

**LUC-2023-253
17 SANDRINGHAM STREET
DUNEDIN**

INTRODUCTION

- [1] Your application to remove the scheduled tree (T990) at 17 Sandringham Street was processed on a publicly notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991 (the Act). No submissions in opposition were received in respect of the application. One submission was received in support. However, the applicant provided written confirmation on 27 September 2023 that they were agreeable to no hearing taking place. The submitter also provided the same written confirmation on 28 September 2023. Pursuant to Section 100 of the Resource Management Act 1991, it was determined that a hearing was not required, and the application was considered by the Resource Consents Manager, under delegated authority, on 02 October 2023.
- [2] I advise that the Council has **granted** consent to the application. The decision is outlined below, and the decision certificate is attached to this letter.

DESCRIPTION OF SITE AND LOCATION

- [3] The rectangular site at 17 Sandringham Street is a flat, 809m² area of land and has a single-storey villa dwelling, a separate garage building, a driveway, and an attractive landscaped curtilage comprising lawn, and gardens. The scheduled tree (T990) is in the centre of the front yard area, and approximately 4.1m from the dwelling structure. This tree is numbered T990 in the scheduled tree register (Appendix A1.3) of the Proposed 2GP, and is a *Cordyline australis* (cabbage tree). Figure 1 below depicts tree T990.
- [4] The site has a legal description of Allotment 48 Block I Deposited Plan 335 (held within Record of Title OT64/240).
- [5] The surrounding environment is a flat residential street with similar-sized, established residential lots, and areas of grassed road reserve/berm containing both young, and mature deciduous trees.



Figure 1: Tree T990

DESCRIPTION OF PROPOSAL

- [6] Resource consent is sought to remove a scheduled tree which is not considered to be in terminal decline located in the front yard of 17 Sandringham Street.
- [7] A copy of the application, including reasons for the proposed removal of a significant tree (T990), which is not considered to be in terminal decline, is contained in Appendix 1 of this report.
- [8] Summary statements of reasons for the proposed removal of the tree in the application are as follows:
- a. *"We would like to re-concrete our driveway and beautify the whole section, with plantings, paving and fencing."*
 - b. *"While a large and old tree, it is not a great specimen, which has been confirmed by DCC arborist, Mark Roberts."*
 - c. *"The tree has cracked our concrete driveway, we have had tree roots block our roadside drain which had to be removed and repaired, the roots lift the lawn and it sucks all the moisture out of the front garden which makes growth incredibly slow for other plantings."*
 - d. *"The tree is missing branches, has some rot and dead limbs."*
 - e. *"As a cabbage tree, it drops a huge amount of non-compositable fronds and debris continuously." [Sic].*
 - f. *"The tree doesn't have particular pedestrian appeal, as when you walk past you can really only see the trunk, which as can be seen in the attached photos, is rather ugly."*

- [9] No technical comments or assessments from a qualified arborist were provided by the applicant related to the above concerns caused by the tree. DCC requested further information from the applicant on 18 July 2023, including information to allow better assessment of the matters in Policy 7.2.1.2. This was provided to DCC on 28 July 2023.
- [10] The further information provided by the applicant on 28 July 2023 included the items in paragraphs 11 - 13 below.
- [11] An email providing a summary of an attached consultant arborist report, and an attached ISA tree risk assessment form, and including two photos of the existing damage to the tree.
- [12] A report by an arborist (Mr Dylan King) in the form of a letter stating:

"The Overall health of the Cordyline in my professional opinion is in slow decline. It is sporting multiple wounds around the base of the trunk right up to chest height where there has been a large limb removed previously. This wound has rot actively spreading through the trunk with two large heavily weighted stems on either side. If there was a failure with that main union essentially half the tree would fall, either on the house or the phone line and footpath. The tree is definitely not in it great shape, I wouldn't say it is an immediate high risk but there is no easy way to remedy its fault. A heavy prune of the canopy would possibly reduce the risk of its impact upon failure but the damaged union would still remain and continue to hinder the trees health not really accomplishing much. I believe the tree has Past its best days." [Sic]

- [13] An ISA basic tree risk assessment form, completed by Mr King, and summarised as:

"The area of concern is spreading rot through the centre of the two dominant leaders – heavily weighted canopy could split through the centre"

The "house" is at risk from "possible" failure of the "crown/canopy" due to the "split in the union from rot". This is assessed to produce a "medium/high" impact, and is "likely". Consequences would be "significant". Risk rating is "high".

The "phone line on street", and "footpath" are respectively at risk from "possible" failure of the "crown", or "crown and trunk" due to the "split in the union from rot". This is assessed to produce a "medium" impact, and is "likely". Consequences would be "minor". Risk rating is "low".

HISTORY OF THE SITE/BACKGROUND TO THE APPLICATION

- [14] The tree in question at this site was subject to land use consent application LUC-2016-427, *prune a significant cabbage tree - T990*. This was approved and the pruning of the cabbage tree to remove several limbs is assumed to have been carried out shortly after the consent was granted on 11 October 2016.

ACTIVITY STATUS

- [15] Dunedin currently has two district plans: the operative Dunedin City District Plan, and the Proposed Second Generation Dunedin City District Plan (the "Proposed 2GP"). Until the Proposed 2GP 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.

- [16] 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.

Dunedin City District Plan

- [17] At the time of assessing this consent application the relevant activity rules in the Proposed 2GP are not under appeal and therefore in accordance with s86F of the RMA, the Operative District Plan rules must be considered inoperative for the purposes of assessing this application.

Proposed Second Generation Dunedin City District Plan (Proposed 2GP)

- [18] The Proposed 2GP was notified on 26 September 2015 and almost all appeals are now resolved. The site is within the General Residential 2 Zone. The site contains scheduled tree T990, and is also within the Wastewater Constraint Mapped Area.
- [19] Sandringham Street has not been issued a classification under the Road Classification Hierarchy Mapped Area, so is considered to be a 'local road'.

City-wide Activity

- [20] The proposal is a **non-complying** activity under Rule 7.3.2(3) of the Proposed 2GP as the tree is not considered to be in terminal decline.

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

- [21] 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.
- [22] The property is not an identified HAIL site in the Otago Regional Council database. While no formal HAIL search has been undertaken, a preliminary check of DCC records for this property does not indicate a likelihood of any HAIL activity. On the basis of the current available information, it is considered, more likely than not, that no activities have been undertaken on the site that appear on the HAIL. As such, this National Environmental Standard is not applicable to the proposal.
- [23] The application is considered to be a **non-complying** activity.

NOTIFICATION AND SUBMISSIONS

- [24] No written approvals were submitted with the application.
- [25] Rule 7.4.1.1 requires public notification in accordance with Section 95A of the RMA of any proposal to remove a scheduled tree that is not in terminal decline, or to modify a scheduled tree that is not in terminal decline, and which will lead to the death or terminal decline of the tree. Therefore, in accordance with the notification decision pursuant to

Section 95 of the RMA approved on 3 August 2023, the application was publicly notified on 9 August 2023.

- [26] The application was publicly notified in the Otago Daily Times on 9 August 2023. On this date a public notice sign was also attached to the low wooden picket fence at the front of the property, directly in front of the scheduled tree. This sign was placed by the Council with the knowledge and cooperation of the applicant.
- [27] Copies of the application were sent to those parties the Council considered could be directly affected by the proposal, and included the owners of the properties that are adjacent to the site and that may have clear sightlines towards the tree. Submissions closed on 6 September 2023.
- [28] One submission was received by the close of the submission period, and this submission is in support of the application.
- [29] The submission is summarised in the table below, and a full copy of the submissions is attached in Appendix 2.

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
Protect Private Ownership of Trees Society (POTS)	Support	That T990 no longer possesses values equivalent with its scheduled status, and is past its best days. That there is no substantial evidence that the tree is not in terminal decline. That the assessments by the DCC consultant arborist regarding the appearance of T990 are opinion. And POTS considers the tree to be 'Gross' POTS are of the opinion that the tree is likely to fall and could cause building damage, or kill a person. POTS point out the ISA risk assessment by the applicant's consultant arborist Mr Dylan King, and Mr King's professional opinion that T990 is in slow decline. POTS also point out the assessments by Mr King regarding active rot spreading through the trunk, and the heavily weighted stems on either side leading to risk of failure, and half of the tree falling either on the house or the footpath.	Yes

		POTS seeks the removal of T990 via the granting of the application. POTS supports no hearing being needed given no knowledge of submissions opposing the application.¹	
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Requirement for hearing

[30] It is considered that there is no need for a hearing of the application in accordance with Section 100 of the RMA due to the following reasons:

- a. It is recommended that resource consent be granted to the proposed activity (as per the detailed assessment below).
- b. No submissions in opposition were received in respect of the application.
- c. Neither the applicant nor submitter in support wish to be heard at a hearing, and both of these parties have agreed to no hearing being required.

[31] Accordingly, based on consultation with the Chairperson of the Consents Hearings Committee, it was determined that a hearing is not necessary, and that the decision can be made under delegated authority.

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[32] 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

[33] 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.

¹ This report assumes the POTS support for no hearing is also on the outcome that the DCC would grant the application.

- [34] The Proposed 2GP does not allow any modification or removal of a scheduled tree as a permitted activity in any circumstance. Accordingly, there is no relevant permitted baseline effects that are applicable to the proposal.
- [35] This report considers it useful to note that unscheduled trees can be modified or removed as of right, unless there are other protective mechanisms in place through the RMA or other relevant regulations.
- [36] The existing environment comprises a lawfully established residential activity on the site, as described in paragraph 3 above. The surrounding adjoining and adjacent residential sites are similar in nature to the subject site.

Assessment of Effects

- [37] Council's discretion is not limited to certain matters when assessing non-complying activities. However, Rule 7.8.2.1 of the Proposed 2GP lists relevant considerations as guidance when assessing the proposed non-complying activity:

Relevant objectives and policies (priority considerations)

- a. *Objectives 7.2.1, 2.4.1*
- b. *Policy 2.4.1.2*
- c. Avoid the removal of a scheduled tree (except as provided for in Policy 7.2.1.1) unless:
 - i. *there is a significant risk to personal/public safety or a risk to personal safety that is required to be managed under health and safety legislation;*
 - ii. *the tree poses a substantial risk to a scheduled heritage building or scheduled heritage structure;*
 - iii. *there is a moderate to significant risk to buildings;*
 - iv. *the removal of the tree is necessary to avoid significant adverse effects on existing infrastructure and network utilities;*
 - v. *removal of the tree will result in significant positive effects in respect of the efficient use of land; or*
- x. *removal of the tree is required to allow for significant public benefit that could not otherwise be achieved, and the public benefit outweighs the adverse effects of loss of the tree (Policy 7.2.1.2).*

- [38] Objective 2.4.1 and Policy 2.4.1.2 of the Strategic Directions section, provide the following matters to consider:

- The elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected and enhanced. These include: trees that make a significant contribution to the visual landscape and history of neighbourhoods (Objective 2.4.1(b)).
- Policy 2.4.1.2 refers to the creation of the schedule on the basis of 'trees that make a significant contribution to the visual and historical landscape and amenity of

neighbourhoods and other places' and the STEM criteria used to evaluate their inclusion, and use rules to restrict the removal or modification of these trees.

[39] Accordingly, assessment is made of the following effects of the proposal:

- Visual and historical landscape and amenity of neighbourhoods
- Risks buildings, infrastructure, personal/ public safety and network utilities
- Positive effects on the efficient use of land
- Effects on public benefit

Effects on visual and historical landscape and amenity of neighbourhoods

[40] This report acknowledges that assessing the amenity values of a tree can often be a subjective matter and dependant on the perceptions of the assessor rather than objective standards. The STEM assessment provides some degree of objectivity to assessing amenity values of tree, but it does not provide a complete objective assessment in relation to the 'amenity' aspects of the tree. The Council has generally relied on both the Council's Arborist and Landscape Architect to provide the condition and amenity scores respectively for a STEM evaluation to provide a balanced assessment. Accordingly, the advice of the Council's Arborist and Landscape Architect on this matter are addressed in paragraphs 45 to 51 below. However, I turn first to the comments on visual effects and amenity expressed in the application and in the submission in support.

[41] The applicant reasons for wishing to remove the tree include its appearance, such as it being "ugly"² may be relevant given it is located on their property and has visual effects on them more than anyone else. This report sympathises with the applicant position in this regard and considers the applicant views on the visual appearance of the tree are relevant. However, this report also considers that an expert-led, and objective-analysis approach should be applied when considering the effects of the proposal on the relevant visual and amenity matters.

[42] The submitter (POTS) stated in their submission that the tree is "visually gross", and has "outgrown its solo role at the site". Further, this submitter stated that the tree is "ugly, overgrown, and a blot on the urban landscape".

[43] This report considers that the above submitter statements may be somewhat overstated. They do not appear to be formed from an objective analysis of the tree's contribution to the visual landscape and amenity of neighbourhoods, and may be influenced by a view that the scheduling of this tree is an imposition on the landowners rights. While the submitters assessment must be considered, the decision maker should generally give weight to expert analysis where available when determining what the effects of the proposal on these matters would be. Accordingly, this report recommends that the submitter statements above should be given a lower weighting against the STEM assessment amenity component noted below.

[44] Policy 2.4.1.2 of the Proposed 2GP notes "Identify in a schedule (see Appendix A1.3) trees that make a significant contribution to the visual and historical landscape and amenity of neighbourhoods and other places, and use rules to restrict removal or modification of these trees..." In accordance, with this policy, the criteria when assessing whether a tree is identified as being significant is determined by the condition and amenity aspects of the STEM evaluation and considering any potential adverse effects on risks to safety and damage to existing infrastructure, buildings or structures. Accordingly, the primary reason for the inclusion of a tree in the schedule which restricts the removal or modification of

² Application AEE page 9.

such trees is driven by the tree having significant contribution to the visual and historic landscape, and to the amenity of the area/neighbourhood

[45] Mr Mark Roberts (Council's consultant Arborist) has provided comments on July 17, 2023, including that *"the tree is not a great specimen", and "It has lost one of its trunks and is slightly asymmetrical as a result". The associated pruning wound has discoloured the lower portion of the trunk and the effect does take away from the form of the tree."*

[46] This report references an updated STEM assessment score, formed from a composite score derived from assessments by the Council's consultant Arborist Mr Mark Roberts, and the Council's Landscape Architect Mr Luke McKinlay. This report considers that the purpose of an updated STEM assessment score in the context of an application to remove a scheduled tree is not to determine whether the tree should be scheduled or not, but to more accurately assess the relevant scheduled tree's current contribution to the visual and historical landscape and amenity of neighbourhoods and other places, and to therefore better assess the effects of its removal on these matters.

[47] The updated STEM assessment component by Mr Roberts is as follows:

"The qualifying April 19, 2001, STEM assessment awarded 81 points in the Condition Evaluation section. As of June 23, 2023 I awarded the tree 63 points for the same section. The differences are;

o Form has dropped from Very Good (21 points) to Moderate (9 points)

o Function has dropped from important (15 points) to Useful (9 points)

I have not seen anything to corroborate or document the 3 recognition points awards in 2001 under the Notable Evaluation section.

To generate a current evaluation, I recommend that you add my Condition score to the Council's Amenity score and disregard the 3 points awarded in the Notable section."

[48] The updated STEM amenity assessment component by Mr McKinlay is as follows:

It is considered that the existing STEM scores for stature, visibility and proximity are reasonable. With regards to proximity, the assessment of this criterion is largely determined by the extent to which the surrounding context is considered. At the site level, this is a solitary tree. If considered in the context of the neighbouring properties, there is generally some separation to other nearby trees. It is not part of an obvious cluster/block of trees (refer figs 1-3, Appendix 1).

With regards to role, this criterion assesses a trees' value in its setting or as part of a visual composition. The STEM assessment guide recommends considering this criterion, by asking the question "how would a particular vista/place look without the tree?". A positive role can relate to a harmonious relationship between the tree and its surrounds (i.e. it does not necessarily need to be the most visually dominant tree in the neighbourhood to have a valued role). Broadly, "role" relates to the visual and amenity contribution made by a tree in a particular location.

It is considered that T990 is a moderately prominent native tree, as viewed from the immediate surrounding streetscape. It forms part of the wider “treescape” within this neighbourhood, which consists of both street trees and a mix of native and exotic trees within neighbouring residential properties. While a relatively tall and longstanding tree on this street, in the context of other surrounding trees, T990 is not a primary focal feature. Further, the removal of a limb on the eastern side of this tree has adversely affected the form of this tree somewhat. Overall, it is considered that it has a moderate role.

According to the STEM methodology guide, the climate criterion specifically refers to the microclimatic influence of a tree in terms of shade, shelter and temperature control. On this basis, it is considered that the 2001 STEM assessment has somewhat overestimated the climatic influence of T990. Because this cabbage tree does not have a particularly dense canopy, it’s influence on nearby public spaces is no more than a minor.

Reassessment of the amenity component of the STEM.

- *Stature: 9-14 (9 points)*
- *Visibility: 0.5km (3 points)*
- *Proximity: Solitary (27 points)*
- *Role: moderate (9 points)*
- *Climate: minor (3 points)*

Total amenity score: 51 points

- [49] Accordingly, the updated STEM assessment score is currently 114, formed by a composite of assessments by Mr Roberts’ and Mr McKinlay. The minimum STEM assessment score for a tree that has been used by the Council for consideration of a tree to be scheduled as a significant tree is 147. Based on the updated assessments the tree currently falls 33 points below the accepted baseline level applied by the Council.
- [50] While the tree may have previously warranted a higher STEM score when it was first included in the tree schedule, this is moot as it does not change the present contribution of the tree to the environment. Based on the current STEM analysis it is considered that notwithstanding the current listing on the District Plan as scheduled tree T990, there is now no evidence that the tree on the subject site has attributes and characteristics where it provides significant contribution to the visual landscape or amenity of the surrounding area. Hence, notwithstanding the tree being included in the schedule, based on the current STEM score the tree is not considered to be ‘significant’ as intended by the Proposed 2GP.
- [51] Further email correspondence was had with Mr Roberts regarding whether the tree would realistically regenerate so that its STEM score rose back to a ‘schedule-worthy level’. Mr Roberts provided an email reply on 14 September 2023. The most relevant parts of this response regarding the question were:

The cabbage tree at 17 Sandringham Street does not need to regenerate because it is not in terminal decline - it has good vigour and vitality.

The question of STEM is a separate question again - currently it is a scheduled tree (I don’t know if it should be, but it is) given enough time it could be the most schedule-

worthy cabbage tree in NZ. So yes it could be - realistically at some stage in the future (I'm not sure if it currently is).

- [52] The tree is currently scheduled but no longer meets the criteria to be scheduled. This report's purpose is not to comment on whether it should be scheduled or not, but is to determine the relevant effects of the proposed tree removal. Therefore, this report considers the adverse effects of the removal of the tree on the visual and historical landscape and amenity of neighbourhoods would not be significant, nor would these adverse effects equate with those generally expected to result from the removal of a scheduled tree. This report assesses further that the adverse effects of the removal of this tree on visual and historical landscape and amenity of neighbourhoods are no more than minor, and acceptable.

Effects on safety, property, buildings, network utilities, and infrastructure

- [53] The consent application notes the applicant concern regarding risks to the house and powerlines presented by possible collapse of the tree, or parts of the tree. The additional information provided to DCC in response to the further information request also specified the above concerns, as well as additional safety concerns and potential effects on the footpath should the tree collapse in that direction.
- [54] However, to undertake a thorough assessment and to substantiate the concerns related to the tree raised in the application it is considered appropriate that a technical assessment from a suitably qualified person such as an arborist would be required. As noted earlier in this report, no technical assessments were provided initially in the application by any suitably qualified person such as an arborist to assess whether the specific tree in its current location and condition poses a risk to personal safety or properties including all the matters raised in the application.
- [55] At the request of the Council, the applicant provided further information as outlined in paragraphs 8 – 13 of this report and including an assessment by an arborist engaged by the applicant (Mr Dylan King).
- [56] Mr Roberts, (Arborist) made the subsequent comments and conclusions in an email received on 27 August 2023 after considering the further information provided by the applicant, and arborist Mr King:
- a. *"the decay (rot) in the tree is unlikely to be active, spreading or structural in nature"*
 - b. *"Mr King is not a registered ISA TRAQ tree risk assessor (he does not hold the qualification or has he undertaken formal training in the methodology). His assessment is inaccurate and demonstrates a lack of understanding of 'the consequences of failure' and 'likelihood of impact'. His timeframe is also unrealistic for the probability of failure that we has given"*
 - c. *"Using Mr King's targets and time frame, the risk posed by the tree is Low according to the TRAQ methodology. For a private tree such as this one I would typically use a 3 year time frame. Based on a X3 year time frame the risk associated with this tree on Mr King's targets remains Low. Although it is possible to extend the time frame to 5 or even 10 years, determining risk it becomes problematic and less meaningful due to the potential unknown influence of unknown external factors (i.e. how would the risk change if the footpath is replaced, or the house is renovated, or if below ground services are installed)"*

- d. *“Cabbage trees are grasses (monocotyledons) they have different structural properties compared to trees (dicotyledons). Mr King has perhaps not considered the physiological properties of grasses when undertaking his risk assessment. He seems to have extrapolated a possible failure profile from trees and applied it grasses which has elevated and/or confused his determination if risk. I would not recommend that the tree is removed based on it posing an elevated and/or unacceptable level of risk to people or property”*

[57] The submitter (POTS) considers that “in a severe climate event as occurred recently in Northland this lonely, tall cabbage tree, in falling could cause building damage or even kill a human”. This submitter position appears to be based on the ISA risk assessment made by Mr Dylan King, including the report from Mr King that the tree has active, and spreading rot. This report considers that these submitter points should be considered in light of Mr Robert’s arboriculture comments above in paragraph 53, and that Mr Robert’s view on these matters should prevail.

[58] At the request of the Council Mr Roberts made further comments in an email received on 3 September 2023 regarding the likelihood that the cabbage tree roots have cracked the existing concrete driveway:

It is very unlikely that cabbage tree is the problem, it may be contributing to it but the driveway is hardly new and who knows how or what it was built on. To say for sure that the roots ‘are’ cracking the driveway will require root excavation - something that I have not done (and, to the best of my knowledge they have not provided evidence one way or the other).

Cabbage trees have a fibrous root system which is typically shallow and tightly packed - their roots are relatively small but tend to spread like a mat through the soil. The shear volume of roots can put pressure on surrounding walls and paths but they rarely cause structural damage.

[59] This report acknowledges the applicant and submitter concerns regarding the risk the tree poses to the house and other infrastructure on site, including the powerlines and the driveway, or any planned new concrete driveway. The applicant’s consultant arborist Mr King has assessed these risks to be higher than those assessed by the DCC consultant arborist Mr Roberts.

[60] This report takes account of both arborist’s assessments and places more weight on the assessments by Mr Roberts due to his qualifications, and experience assessing such matters. This report therefore considers the risk is low to the relevant house and infrastructure should the tree remain in place. Based on this assessment this report considers that the Scheduled Tree T990 in its current condition and location does not pose any significant risks to personal safety, public safety, property, or infrastructure.

[61] This report has considered the information from both arborists and for the sake of clarity does not consider that there is no risk to personal safety, or any property posed by the tree, or that there is no potential for structural failure of the tree. However, after balancing consideration of the two contradictory arborist assessments this report concludes that the scheduled cabbage tree T990 does not appear to pose significant health and safety risks on individuals’ safety, property, buildings, network utilities, and infrastructure that currently warrant the removal of the tree.

Significant positive effects on the efficient use of land

- [62] An assessment of this measure is dependent on comparing the efficiency of different competing land uses. In this case an existing scheduled tree, and proposed landscaping/gardening activities in the same location.
- [63] The proposal to remove the scheduled tree will allow for more effective and intensive use for the front yard area for landscaping, and the desired gardening activities of the applicant. This report does not strictly consider that this would comprise significantly positive effects on efficient use of land compared to the current situation beyond benefits to the applicant. The positive effects on this matter will be limited to a part of a single front yard, and would merely allow a different private gardening and landscaping activity from its current situation in this front yard. Accordingly, this report does not consider that of the proposal's positive effects on the efficient use of land will be significant beyond benefits to the applicant, and their desired use of their own property.

Effects on public benefit

- [64] This report considers that the public benefit of the removal of the tree is limited to providing the landowner/applicant the ability to carry out the proposed landscaping, and gardening they wish to do on their property, as well as relief of concern regarding the safety of the tree, and any real or perceived risks posed by its failure.

Positive Effects

- [65] The applicant's primary reason for seeking the removal of the tree is related to the perceived risks to personal safety and property, and the desire to use the area for alternative landscaping. As no submission opposing the removal of the tree was received and given the applicant has raised personal concerns related to the tree and wish to have the tree removed it is considered that removal of the tree would address the associated perceived risks. Whether or not there is any evidence of the risks, the perceived risk is likely to be ongoing for the applicant due to the proximity of the tree to the dwelling, and refusing consent will only frustrate the expectations of the applicant and for no significant public benefit gained by the trees continued presence. Given the location of the tree within the subject site and a lack of knowledge regarding any neighbour's perceptions of the tree, the removal of the tree is not considered likely to result in any positive effects on the public in general, nor will it result in a more significantly positive effect on the efficient use of land beyond the limited benefit outlined above.

Effects Assessment Conclusion

- [66] After considering the most relevant likely effects of this proposal above, this report considers the adverse effects of the proposal are no more than minor.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

- [67] 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.
- [68] In this case, no offsetting or compensation measures have been proposed or agreed to by the applicant.

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of National Environmental Standards (Section 104(1)(b)(i))

- [69] Section 104(1)(b)(i) of the Act requires that the Council take into account any relevant National Environmental Standards (NES). This report considers that no NES has any relevance to the proposal.

Assessment of National Environmental Standards (Section 104(1)(b)(iii))

- [70] Section 104(1)(b)(iii) of the Act requires that the Council take into account any relevant National Policy Statement (NPS). This report considers that no NPS or its objectives and policies have any relevance to the proposal.

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

- [71] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. The Partially Operative Otago Regional Policy Statement 2019 (POORPS19) was approved and made partially operative on 15 March 2021. This report considers that the provisions of the POORPS19 do not have any direct relevance to the proposal. The Proposed Otago Regional Policy Statement 2021 (PORPS21) was notified on 26 June 2021. This report considers that the provisions of the POORPS19 do not have any direct relevance to the proposal.

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

- [72] 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 2GP were taken into account in assessing the application.

Dunedin City District Plan

- [73] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Proposed 2GP were taken into account in assessing the application. As the zoning and relevant rule provisions of the ODP for this site have been superseded by the provisions of the Proposed 2GP, it is considered that the most relevant objectives and policies should be given less weight than the Proposed 2GP provision assessments below. Notwithstanding this, the relevant assessments of the most relevant provisions are made below.

Trees Section

Objective/Policy	Is the proposal Consistent, Inconsistent with or Contrary to the Objectives and Policies?
Objective 15.2.2 <i>Protect Dunedin's most significant trees.</i>	The tree T990 condition, or contribution towards amenity and environmental quality is not currently at a level considered to be significant as its STEM score is below the level required to be a significant tree (114 of a required 147). The proposal is therefore not considered to be inconsistent with this objective or policy, and is not considered contrary to this objective or policy.
Policy 15.3.2 <i>Identify and protect trees that make a significant contribution towards amenity and environmental quality</i>	

Proposed 2GP

- [74] The following objectives and policies of the Proposed 2GP were considered to be relevant to this application:

Scheduled Trees Section

Objective/Policy	Is the proposal Consistent, Inconsistent with or Contrary to the Objectives and Policies?
Objective 7.2.1 <i>The contribution made by significant trees to the visual landscape and history of neighbourhoods is maintained</i>	The T990 contribution to these matters is not currently at a level considered to be significant as its STEM score is below the level required to be a significant tree (114 of a required 147). The proposal is therefore not considered to be inconsistent with this objective, and is not considered contrary to this objective
Policy 7.2.1.2 <i>Avoid the removal of a scheduled tree (except as provided for in Policy 7.2.1.1) unless:</i> <i>a. there is a significant risk to personal/public safety or a risk to personal safety that is required to be managed under health and safety legislation;</i> <i>b. the tree poses a substantial risk to a scheduled heritage building or structure;</i> <i>c. there is a moderate to significant risk to buildings;</i> <i>d. the removal of the tree is necessary to avoid significant adverse effects on existing infrastructure and network utilities; or</i> <i>e. removal of the tree will result in significant positive effects in respect of the efficient use of land.</i> <i>X. removal of the tree is required to allow for significant public benefit that could not otherwise be achieved, and the public benefit outweighs the adverse effects of loss of the tree.</i>	

	Based on the assessment above, it is considered that the removal of the tree does not meet any circumstance listed under Policy 7.2.1.2. However, the current overall STEM score assessed by the Council's relevant experts is 114 points. The benchmark score for a tree to be included in the schedule is 147 points. Notwithstanding the current scheduling of tree T990 there is no evidence to suggest that it has attributes and characteristics where it provides significant contribution to the visual landscape or amenity of the surrounding area. Based on the current STEM assessment the tree is not considered to be 'significant', and its maintenance and protection is therefore not considered particularly relevant to the environmental outcomes sought by Objective 7.2.1. The removal of this tree is therefore not inconsistent with the objective and in the absence of any evidence of a significant loss of public amenity or other environmental value, the removal of Tree T990 does not undermine, and is not repugnant to the objective. This report considers that in this case the proposal is clearly contrary to the Policy 7.2.1.2 as worded as the policy has directive wording to avoid the removal of scheduled trees - except in certain circumstances. The proposal does not meet any of the circumstances by which this policy allows for removal of the tree. The objective is not as clearly directive as the policy which states to avoid removal of scheduled trees, as the objective which instructs to "maintain" the contribution of significant trees. However, policies are considered to be the course of action to achieve or implement an overarching objective of a plan. In other words, the path to be followed to achieve a certain, specified, environmental outcome. When viewed in this lens and in the whole, the differing way that the two above provisions interact with this proposal becomes less important and one can place more weight on the environmental outcome sought in the objective. In this case the tree is below the benchmark required for inclusion on the schedule, so the proposal being contrary to the policy loses importance, and the objective outcomes will be maintained.
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Strategic Directions Section

Objective/Policy	Is the proposal Consistent, Inconsistent with or Contrary to the Objectives and Policies?
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Objective 2.4.1: Form and structure of the environment: <i>The elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected and enhanced. These include:</i> ... b. <i>trees that make a significant contribution to the visual landscape and history of neighbourhoods.</i>	This report considers that the removal of the tree is not inconsistent with, or contrary to Objective 2.4.1. The updated STEM score of 114 points means that the tree no longer makes significant contribution to the visual landscape and amenity of the relevant neighbourhood.
Policy 2.4.1.2 <i>Identify in a schedule (see Appendix A1.3) trees that make a significant contribution to the visual and historical landscape and amenity of neighbourhoods and other places, and use rules to restrict removal or modification of these trees. Identify significant trees based on the following criteria:</i> a. <i>health and condition of the tree, including:</i> i. <i>vigour and vitality;</i> ii. <i>and age; and</i> b. <i>contribution to the amenity of an area, including:</i> i. <i>occurrence of the species and historic and scientific values;</i> ii. <i>function (usefulness), for example biodiversity supporting or fruit bearing;</i> iii. <i>stature;</i> iv. <i>visibility;</i> v. <i>proximity of other trees;</i> vi. <i>role in the setting;</i> vii. <i>climatic influence; and</i> c. <i>any potential adverse effects, including:</i> i. <i>risk to safety; and</i> ii. <i>risk of potential damage to existing infrastructure, buildings or structures.</i>	This report considers that notwithstanding the tree's current inclusion on the significant tree schedule, the current STEM assessment does not support its ongoing inclusion. This report also considers that the policy seeks to "restrict" removal but not to prevent removal in all circumstances when considered alongside the allowances for removal in Policy 7.2.1.2. While the proposal is not consistent with this policy, it is also not contrary as the tree is no longer identified as making contribution to the visual and historical landscape and amenity of neighbourhoods and other places to a level that justifies inclusion on the schedule. Accordingly, it is considered that the removal of the proposed scheduled tree is not contrary to this objective, or the relevant Policy 2.4.1.2 which seeks to achieve it.

Overall Objectives and Policies Assessment

- [75] Having regard to the most relevant objectives and policies individually, and considering these in the whole, the above assessment indicates that the application is not inconsistent with these provisions when assessed in an overall way that determines the outcomes

sought by the Proposed 2GP. The proposal is contrary to Policy 7.2.1.2 when assessed in isolation, however this report acknowledges that there is no requirement to assess any provision in isolation, and that the Proposed 2GP does not direct a decision maker to give precedence to any single provision when assessing a resource consent application.

DECISION MAKING FRAMEWORK

Part 2 Matters

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

Section 104D

- [77] 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.
- [78] This report considers that the actual and potential effects associated with the proposal will be no more than minor and therefore the first 'gateway' test of Section 104D is met. Only one of the two tests outlined by Section 104D need be met in order for Council to be able to assess the application under the broader considerations of Section 104 of the Act. It is therefore appropriate for the Committee to undertake a full assessment of the application in accordance with Section 104 of the Act. In turn, consideration can therefore also be given to granting of the consent.

Section 104

- [79] 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 will be no more than minor and can be adequately avoided remedied or mitigated provided recommended conditions of consent are adhered to.
- [80] 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. No offsetting or compensation measures have been proposed or agreed to by the applicant.
- [81] 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 with the key objectives and policies relating to the Proposed 2GP.
- [82] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it is concluded that the proposal has no direct relevance to the objectives and policies of the Regional Policy Statements for Otago.

Other Matters

- [83] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.

- [84] Case law indicates that for the Council to grant consent to a non-complying activity, the application needs to be a 'true exception', otherwise an undesirable precedent may be set, and the integrity of the District Plan may be undermined.
- [85] This report considers there is supporting evidence that this proposal can be considered a 'true exception'. This report acknowledges that the Proposed 2GP is very prescriptive in Policy 7.2.1.2 when the removal of a scheduled tree is appropriate and provides a non-complying activity status for removal. The current application has been assessed as not meeting any of the criteria allowing for removal of a scheduled tree under Policy 7.2.1.2. However, as mentioned, Objective 7.2.1 references the contribution of 'significant trees' to the visual landscape and history of neighbourhoods, and that this is maintained. Accordingly, although the Cabbage tree is scheduled under the Proposed 2GP, it is considered that with the current STEM score provided by the Council's Arborist and Landscape Architect, it falls 33 points short of the 'benchmark' score that would qualify a tree for inclusion in the District Plan tree schedule as being 'significant'. Hence, it is considered that the original 2001 STEM score no longer reflects the condition of the tree, and there does not appear to be any clear evidence or reasons to justify its ongoing protection on the grounds of public benefit via the schedule of the Proposed 2GP. The removal of the tree would therefore not be contrary to the relevant objectives and policies of the Proposed 2GP and the outcomes sought for the reasons discussed earlier in the assessments of the Proposed 2GP objectives and policies.
- [86] The proposed removal of the scheduled tree may pose some challenges to the integrity of the Proposed 2GP, particularly, the integrity of Appendix A1.3 Schedule of Trees as it raises questions of whether there are other trees included in the schedule that may not truly be considered 'significant'. Hence, granting of this consent may pose a risk of creating an undesirable precedent, where it may result in increased number of applications to remove scheduled trees by challenging the significance of a scheduled tree listed in Appendix A1.3.
- [87] This report agrees that significant trees should be protected to achieve the outcomes sought in the Proposed 2GP. However, there is little to be gained for the city in terms of maintenance and enhancement of the visual and historical landscape and amenity of neighbourhoods and other places by protecting trees that are objectively assessed by the Council's own relevant experts to fall short of the STEM score required to be significant/scheduled. To protect trees such as this by refusing resource consent due to the tree scheduling alone could also be viewed as adversely affecting the perceived credibility of the schedule Appendix A1.3. A schedule which this report assumes to mostly contain trees that remain objectively worthy of protection.
- [88] Further, just as this application has been assessed, any future application for the removal of a scheduled tree would also be assessed on its own merits and the relevant Council officers (Arborist, and Landscape Architect) would likely still need to provide their technical assessments regarding the tree, and which may include reviewing of the STEM evaluation. If the STEM score provided by the Council officers is meaningfully different and much lower than the score that originally resulted in the tree being scheduled, then it would be justifiable to assess whether the current tree condition still warrants the protection as required under the Proposed 2GP on a case-by-case basis. This report acknowledges that the significance of a tree is not permanent and is likely to change through time due to natural ageing, and environmental or other factors. This report also acknowledges the purpose of the schedule A1.3 via the overarching objectives which is to identify and protect trees which contribute significantly to the amenity of the city, not to protect trees which are below a certain threshold and do not contribute significantly to the city.

- [89] For the above reasons, this report considers that approval of the proposal will not undermine the integrity of the Plan as the activity will produce only localised and minor adverse effects on the relevant effects matters. This report therefore does not consider that the Committee should be concerned about the potential for an undesirable precedent to be set in granting a resource consent to this proposal.

Conclusion

- [90] Having regard to the above assessment, I recommend that the application be granted consent subject to appropriate conditions.

DECISION

*Pursuant to Part 2 and sections 34A(1), 104, 104B, and 104D of the Resource Management Act 1991, and the provisions of the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying activity** being to remove the scheduled tree – *Cordyline australis* ('Cabbage Tree') identified as T990 under Appendix A1.3 of the Proposed 2GP at 17 Sandringham Street Street, Dunedin, legally described as Allotment 48 Block I Deposited Plan 335 (held in Records of Title OT64/240), subject to the conditions imposed under section 108 of the Act.*

REASONS FOR RECOMMENDATION

- [91] Provided that the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated and be no more than minor.
- [92] The proposal is not considered to be inconsistent with most relevant objectives and policies of the Proposed 2GP, except for Policy 7.2.1.2, to which the proposal is considered to be contrary.
- [93] The proposal is considered to be consistent with the objectives and policies of the Regional Policy Statement for Otago.
- [94] As the proposal is considered likely to give rise to adverse effects that will be no more than minor, it is considered to meet one limb of the Section 104D 'gateway test'. Consideration can therefore be given to the granting of consent to the proposal.
- [95] Overall, the proposed removal of the scheduled tree in this instance will not result in any significant undesirable precedent nor significantly compromise the integrity of the Proposed 2GP.

RIGHTS OF APPEAL

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

The Registrar
Environment Court
PO Box 2069
Christchurch Mail Centre
Christchurch 8013

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

- The Dunedin City Council.
- The applicant(s).
- Every person who made a submission on the application.

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

COMMENCEMENT OF CONSENT

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

MONITORING

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

[102] The City Planning Department sets out the fixed fees charged for monitoring in its schedule of fees. The fee for your scheduled inspection/s will be included in the invoice for your application.

[103] It should be noted that if additional inspections are required, beyond those scheduled at the time the consent is issued, then there is the ability to apply additional charges to cover the costs of these extra inspections. Often you can reduce the need for additional inspections by complying with the conditions of consent in a timely manner and by ensuring on-going compliance with those conditions. Please ensure that you read the conditions of your consent carefully to establish your obligations when exercising your consents.

Report prepared by:

Report checked by:



Phil Petersen
Planner

Campbell Thomson
Senior Planner

02 October 2023 _____
Date

02 October 2023 _____
Date

Consent Type: Land Use Consent

Consent Number: LUC-2023-253

Purpose: To remove the scheduled tree – Cordyline australis ('Cabbage Tree') identified as T990 under Appendix A1.3 of the Proposed 2GP.

Location of Activity: 17 Sandringham Street, Dunedin.

Legal Description: Allotment 48 Block I Deposited Plan 335 (Record of Title OT64/240).

Lapse Date: 2 October 2028, unless the consent has been given effect to before this date.

Conditions:

- The proposed activity must be undertaken in general accordance with the information provided with the resource consent application received by the Council on 27 June 2023, and further information received on 28 July 2023, except where modified by the following conditions.*
- All works associated with the removal of the tree must be undertaken by a suitably qualified and experienced professional/s, in a safe manner that ensures neighbouring people and properties are not put at risk or damaged. All debris resulting from the felling of the tree must be cleaned up and removed from the site.*

Advice Notes:

Noise

- All works associated with the removal of the tree must be undertaken in manner than complies with the relevant noise standards under the district plan unless authorised by a resource consent. Failure to comply with the relevant noise standards may result in enforcement action.

9.3.6 Noise

Land use activities, public amenity activities, network utility activities, temporary activities and the operation, repair and maintenance of the rail network must not exceed the following noise emission limits:

Zoning of receiving property		Noise level measured at the boundary of the receiving property or the notional boundary of noise sensitive activities in a rural, rural residential or Ashburn Clinic zone		
		a. 7.00am to 7.00pm	b. 7.00pm to 10.00pm	c. 10.00pm to 7.00am
1.	Residential, Recreation, Smith Street and York Place, schools, Dunedin Botanic Garden, Wakari Hospital, Mercy Hospital and Moana Pool zones	50 d _B LAeq (15 min)	45 d _B LAeq (15 min)	i. 40 d _B LAeq (15 min); and ii. 70 d _B LAFmax

General

2. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
3. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
4. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.
5. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
6. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

Issued at Dunedin on 2 October 2023

A handwritten signature in black ink, appearing to read 'Nic Jepson', written in a cursive style.

Nic Jepson
Senior Planner, Monitoring and Compliance
Under delegation from the Resource Consent Manager

Appendix One: Consent application LUC-2023-253



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

ENTERED
27/10/23
Received

Application details

I/We *Penelope May Jagger*
(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:

*Request removal of listed cabbage tree # T990
from 17 Sandringham St, St Clair*

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: *17 SANDRINGHAM ST, STCLAIR, DUNEDIN*

Legal description: *LOT 48 BLK 1 DP 335*

Certificate of Title: *OT64/240*

Contact details

Name: *Penelope Jagger* (☒ applicant ☐ agent (tick one))

Address: *17 Sandringham St
St Clair* Postcode: *9012*

Phone (daytime): *0275270770* Email: *penelope.jagger@gmail.com*

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? *Toumaline Trust (I am a trustee)*

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

Address: Postcode:

Phone (daytime): Email:

 **DUNEDIN** | *kaupihara*
CITY COUNCIL | *a-rohe o*
ōtēpoti

Page 1 of 7

Planning Application Fees Payment Details (Who are we invoicing)

N/A

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):

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

Email Address of Deposit Payee:

Daytime contact phone number:

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

Fees

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

Development contributions

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

Occupation of the site

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

Monitoring of your Resource Consent

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

(month and year)

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

Detailed description of proposed activity

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

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.

(Attach separate sheets if necessary)

District plan zoning

What is the District Plan zoning of the site?

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.

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.

Affected persons' approvals

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

Name:

Address:

Name:

Address:

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

Assessment of Effects on Environment (AEE)

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

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

Please see pages attached.

(Attach separate sheets if necessary)

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

Assessment of Objectives and Policies

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

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):



Date: 27.6.23

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:

17 Sandringham St – Application to remove cabbage tree (T990)

We wish to remove the cabbage tree as shown above. We are planning on landscaping our property and this has precipitated our desire to apply for this consent. As part of our landscaping, we would like to re-concrete our driveway and beautify the whole section, with plantings, paving and fencing. We think this, as a whole, would add to the positive aesthetic of our street and greater neighbourhood.

While a large and old tree, it is not a great specimen, which has been confirmed by DCC arborist, Mark Roberts (see his comments attached). I note in the attached printed email from Phil Marshall he mentions that an independent arborist's opinion may help with our application. We trust Mark Roberts opinion, and, feel that as the DCC arborist he would be accurate and impartial. We agree with his comments and wish to progress without another opinion at this stage.

The tree is not rare, there are approximately 6 other cabbage trees within sight of our front lawn and many others within our block.

We live in a very tree dense suburb with many other large trees around including one other on our property, multiple large trees in our surrounding neighbour's properties and the street itself.

The tree is missing branches, has some rot and some dead limbs.

As a cabbage tree, it drops a huge amount of non-compositable fronds and debris continuously.

The tree has cracked our concrete driveway, we have had tree roots block our roadside drain which had to be removed and repaired, the roots lift the lawn and it sucks all the moisture out of the front garden which makes growth incredibly slow for other plantings.

The tree doesn't have particular pedestrian appeal, as when you walk past you can really only see the trunk, which as can be seen in the attached photos, is rather ugly.





Penelope Jaggar <penelope.jaggar@gmail.com>

17 Sandringham Street

Phil Marshall <Phil.Marshall@dcc.govt.nz>

Thu, Jun 22, 2023 at 11:05 AM

To: "penelope.jaggar@gmail.com" <penelope.jaggar@gmail.com>

Hi,

Notes from Mark Roberts.

Roberts Consulting Ltd | +64 21 508 255 | www.robertsconsulting.co.nz

The cabbage tree (T990) at 17 Sandringham St, is nice but has issues. The owners wish to remove it based on nuisance and it being nothing special (which is hard to argue against). I explained that it would most likely require a public hearing as part of the process, they seemed comfortable with that, and will probably apply to have it removed.

Possibility of public notification as suggested by Mark but this will be determined by the processing planner based on an effects assessment.

An independent arborists opinion would help the application.

Phillip Marshall

Senior Planner
City Planning

P 03 477 4000 | DD 03 474 3348 || E Phil.Marshall@dcc.govt.nz

Dunedin City Council, 50 The Octagon, Dunedin

PO Box 5045, Dunedin 9054

New Zealand

www.dunedin.govt.nz



DUNEDIN | kaunihera
CITY COUNCIL | a-rohe o
Ōtepoti

If this message is not intended for you please delete it and notify us immediately; you are warned that any further use, dissemination, distribution or reproduction of this material by you is prohibited..

The existing fence line will be removed and replaced with a new 1800mm high timber fence, located to the rear of the property.

Plantings

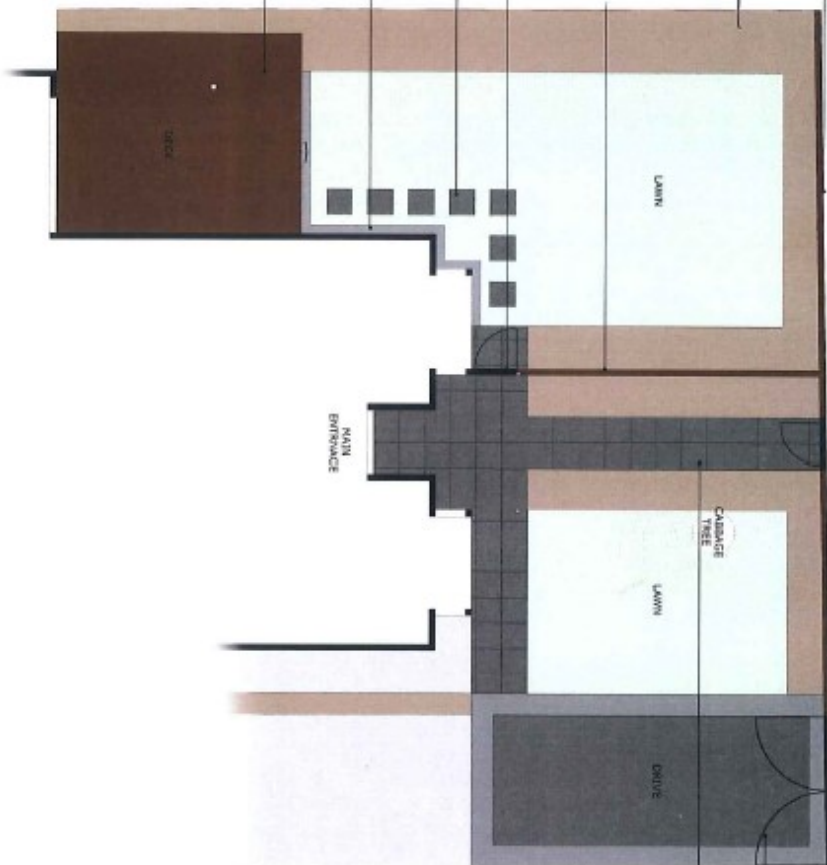
The new fence line will be located back towards the rear of the property. The fence will be located back towards the rear of the property. The fence will be located back towards the rear of the property.

There will be a gap between the fence and the end of the new internal fence, this will be located in a more open and sunny area. This will be located in a more open and sunny area.

There is the option to plant a variety of plants along the fence line. This will be located in a more open and sunny area. This will be located in a more open and sunny area.

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The existing garden could also be replaced but there the option to be converted to a lawn area and a garden area. This will be located in a more open and sunny area.

The main surface of the driveway will be removed and replaced with a new internal surface of the driveway. This will be located in a more open and sunny area.

The existing concrete path will be removed and replaced with a new internal surface of the driveway. This will be located in a more open and sunny area.



JAGGAR RESIDENCE

17 SANDRINGHAM ST,
ST CLAIR, DUNEDIN

LANDSCAPE CONCEPT
LAWNS

DATE: 12/04/2023

SCALE: 1:50 @ A1

DO NOT SCALE OFF THIS PLAN. CHECK ALL DIMENSIONS ON SITE.

DESIGN + GARDEN
LANDSCAPES

ADD: 205 St Andrew St, Dunedin TEL: 03 477 7819
EMAIL: info@designandgarden.co.nz WEB: www.designandgarden.co.nz



STONE QUARTZ PORCELANE
PAVING

BLACK REVERSED PORCELANE
PAVING

FENCE EXAMPLE

DUNEDIN CITY
COUNCIL
Kaumihara-a-rohe o Dunedin

Submission concerning resource consent on publicly notified application under section 95A, Resource Management Act 1990

⁹DCC

18 AUG 2023

Business Information
Services

Description of Proposal: The removal of a significant tree (T990), which is not considered to be in terminal decline.

protect Private Ownership of Trees Society (POTS)

Jim Moffat, secretary-advocate

63 Fitzroy Street, Dunedin

Post Code: 9012

425 89 25

Jbmoff63@gmail.com

I would like my contact details to be withheld: Yes ☐ No ☒ (tick one)

Trade competitors only:

I Am/Am Not (choose one) directly affected by an effect of the subject matter of the submission that—

- (a) adversely affects the environment; and
- (b) does not relate to trade competition or the effects of trade competition.

Note: If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

POTS

I: Support/Neutral/Oppose this Application (choose one)

Support

The specific parts of the application that this submission relates to are [give details]:

A print out of all parts of this submission are attached to this page

Please attach other pages as required

POTS

My submission is [include the reasons for your views]:

PLEASE TURN OVER

Please attach other pages as required

I seek the following decision from the Council [give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought]:

Please attach other pages as required

Note: If you have a right of appeal under section 120 of the Resource Management Act 1991, you may appeal only respect of a matter raised in your submission (excluding any part of the submission that is struck out).

POTS

I: ~~Do/Do not~~ (delete one) wish to be heard in support of this submission at a hearing.

If others make a similar submission, I will consider presenting a joint case with them at a hearing:

Yes ☒ No ☐ (tick one)

I request, pursuant to section 100A of the Resource Management Act 1991, that you delegate your functions, powers, and duties required to hear and decide the application to 1 or more hearings commissioners who are not members of the Council

Yes ☐ No ☐ (tick one)

Note: If you make a request under section 100A of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you may be liable to meet or contribute to the costs of the hearings commissioner or commissioners.

Signature of submitter: Jim Moffat Date: _____
(or person authorised to sign on behalf of submitter)

Notes to Submitter:

Closing Date: The closing date for serving submissions on the Dunedin City Council is Wednesday, **6 September 2023 at midnight**. A copy of your submission must be served on the applicant as soon as reasonably practicable after the service of your submission on the Dunedin City Council. The applicant's address for service is 17 Sandringham Street, Dunedin 9012 or email to penelope.jaggard@gmail.com.

Electronic Submissions: A signature is not required if you make your submission by electronic means. Submissions can be made online at <http://www.dunedin.govt.nz/rma> or sent by email to resconsent.submission@dcc.govt.nz

Privacy: Please note that submissions are public. Your name, contact details and submission will be included in papers that are available to the media and the public, **including publication on the Council website**. You may request your contact details be withheld. Your submission will only be used for the purpose of the notified resource consent process.

Strike Out: Please note that your submission (or part of your submission) may be struck out if the Council is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious.
- It discloses no reasonable or relevant case.
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further.
- It contains offensive language.
- It is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

The specific parts of the application that this submission relates to are:

(1) That T990 is past its Heritage status as applied under the Resource Management Act by the Dunedin City Council. The Cordyline australis at 17 Sandringham Street is visually 'gross.' The tree has outgrown its solo role in this urban site. Cabbage trees naturally tend to grow in association with others.

(2) POTS supports the applicants wish to have T990 removed.

POTS submission is:

(1) No substantial evidence has been advanced that T990 is not in terminal decline. POTS believes the removal of parts by milling the trunk would reveal major growth flaws because of its age and past pruning.

(2) Roberts Consulting Ltd, a contractor to the council, is on record (Junc 22/2023) noting T990 "is nice." This a pure opinion. Other public viewers, i.e. POTS, believe it to be ugly, overgrown and a blot on the urban landscape. More over in a severe climate event it is quite likely to fall.

(3) POTS would take issue again with Roberts Consulting regarding T990: "That the owners wish to remove it based on its nuisance and it being nothing special," POTS believe in a severe climate event as occurred recently in Northland this lonely, tall cabbage tree, in falling could cause building damage or even kill a human.

(4) A standout item in Jaggar's application for the removal of T990 is the **ISA** risk assessment made by Dylan King. In his professional opinion T990 health is in slow decline. "It is sporting multiple wounds around the base of the trunk right up to chest height where there has been a large limb removed previously."



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"This wound has rot actively spreading through the trunk with two heavily weighted stems on either side. If there was a failure with that main union essentially half the tree would fall, either on the house, or phone line and foot path," He and POTS agree in believing T990 has pasted its best days.

POTS seeks the following decision from the council.

- (1) The removal of T990.
- (2) As this case is straight forward and the council has the discretionary power the removal of T990 be granted to P. M. Jaggar.
- (3) At the date of this submission POTS has no knowledge of any other ratepayers have objected to the tree's removal. If this remains the case there would be no need for a hearing which POTS would support.

P.M.

Appendix Three: Scheduled Tree (T990) subject to removal under LUC-2023-253

