

TO: Hearings Committee

FROM: Finn Campbell, Planner

DATE: 20 January, 2024

SUBJECT: **RESOURCE CONSENT APPLICATION**
LUC-2024-297
2 Fifield Street, Dunedin

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 20 January 2025. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.
- [2] In preparing this report I have relied on the reports provided by DM Holdings 2023 Ltd for the applicant (refer to Appendix 1); Mr Rikki Williams, Building Inspector for the applicant (refer to Appendix 1); Mr Luke McKinlay, Dunedin City Council Landscape Architect; Mr Mark Mawdsley, Heritage Advisor for the Dunedin City Council; Mr Joe Fitzsimmons, Building Inspector for the Dunedin City Council; and Mr Mark Roberts of Roberts Consulting, consultant arborist to the Dunedin City Council (refer to Appendix 3).

SUMMARY OF RECOMMENDATION

- [3] I consider that the proposal should be granted.
- [4] I consider that the adverse effects of the proposal will be no more than minor; and it is not practical to retain the tree due to its conflict with the maintenance requirements of heritage building B099.
- [5] I consider the application to be inconsistent, but not contrary with the key policy of the Partially Operative Second Generation District Plan relevant to this application. I therefore consider that it is open to the panel to consider granting consent for the proposal.
- [6] The tree is in good health and the policy criteria that provides for the removal of T454 requires a threshold of at least significant risk to buildings, in order to support granting resource consent. I believe that the policy criteria of Policy 7.2.1 has been satisfied as tree T454 and the heritage building located on the site, identified as B099 in Schedule A1.1 of the 2GP, appear to be incompatible with each. I consider that this incompatibility is to the degree that the tree is preventing necessary maintenance on the building, and that if deferred, will result in adverse effects upon the heritage building. I believe the adverse effects upon heritage building B099 can be considered moderate to substantial in terms of risk. Thus, I consider that the application is inconsistent with, but not contrary to, Objective 7.2.1 and Policy 7.2.1.2 of the Partially Operative Second Generation Dunedin City District Plan (2GP).

DESCRIPTION OF PROPOSAL

- [7] Resource consent is sought to remove a scheduled tree. The tree is a Pōhutukawa (*Metrosideros excelsa*). The tree is scheduled in the 2GP Appendix A1.3 Schedule of Trees ('the schedule'), identified as T454.
- [8] A copy of the application is contained in Appendix 1 of this report.

DESCRIPTION OF SITE AND LOCATION

- [9] The subject site, 2 Fifield Street, Dunedin, is legally described as Lot 2 DP 308 Held in Record of Title OT139/139 and overall has an area of 1118m².
- [10] The site is a rectangle-shaped parcel located on the northern corner of the intersection between Fifield and Tweed Streets. The site has approximately 24m of frontage to Tweed Street and 46m to Fifield Street. The subject Pōhutukawa tree is situated in the front garden of the property, close to the south-eastern boundary with Fifield Street. Its canopy is readily visible from Fifield Street and the tree is also visible from Tweed Street, although a hedge borders the property, and the trunk/lower parts of the tree are more obscured. The Council's Consultant arborist report includes photos of the tree and its canopy spread, and general information about the tree species in relation to his assessment of the risks of the tree failing and mitigation options.
- [11] To the north of the scheduled tree the site is occupied by a large two-storied Scheduled Heritage dwelling, called *Mahara*. As noted above, the dwelling is listed in the 2GP Heritage Schedule as B099 and the entire external building envelope is protected. The dwelling is located roughly in the middle of the site. Adjacent to the Fifield Street boundary, a modern garage and laundry extension has been established on the north-western side of the dwelling. The (original) principal entrance to the house is up a curved garden path from a gate on the bottom corner of the property and the scheduled tree sits in close proximity to this boundary corner to the west of the garden path as you walk up to the house's main entrance.
- [12] The property at 2 Fifield Street is a gently sloping site, sloping up from its boundary with Tweed Street in a north-westerly direction.
- [13] It is noted that an underground tank has been identified within the dripline of T454. This may mean that the site is identified on the Hazardous Activities and Industries List (HAIL). If this is the case, the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 may apply if the tank were to be removed or the soil were to be disturbed. It is suggested that advice is taken from a suitably qualified professional in regard to managing these works. An additional resource consent may be required. At this point it is not deemed necessary to include such activities in this recommending report.
- [14] Figure 1 below depicts the location of the subject Pōhutukawa tree on the site (circled), relative to the existing dwelling and site boundaries.



Figure 1. Aerial photograph of 2 Fifield Street. Location of the Pōhutukawa (T545) is circled in red.



Figure 2. View of T454 from corner of Tweed and Fifield Street, facing north.

- [15] Within a radius of approximately 100m of T454 there are approximately four other scheduled trees, including a group of Elm trees (G040) and a Spreading Elm (T455) at 12A Fifield Street and a Red Beech on the subject property (T453). A Copper Beech is located at 28 Tweed Street (T1138).
- [16] In the wider area (extending to within a radius of 300m) there are more than 50 scheduled trees.
- [17] The neighbourhood is particularly green for a residential zone, with many mature trees visible on aerial maps. Many sites feature a number of trees and plantings, whilst others have simpler outdoor space composed of lawns and landscaping. The Dunedin Town Belt is around 300m to the southeast of the subject property.

HISTORY OF THE SITE/BACKGROUND TO THE APPLICATION

- [18] As mentioned, the site contains a Scheduled Heritage building, named *Mahara*. The Heritage New Zealand Pouhere Taonga website states the house was designed by E.W. Walden in 1905 and built for prominent businessman Andrew Lees' daughters. The dwelling, similar to the dwelling on the adjoining site established at the same time, has a Heritage New Zealand Historic Place Category 2 classification. The extent of the Heritage NZ listing includes: *the land described as Lot 2 DP 308 (RT OT139/139), Otago Land District, and the building known as Mahara thereon.*
- [19] According to Council's records, the house has had various alterations over the years, and in 1973 a garage was erected (reference: H-1973-76235). The dwelling has been on the site since around 1905 and the house has been used for residential activity since that time.
- [20] There have been two previous resource consent applications relating to the tree. These are as follows:
- **LUC-2009-196** – non-notified consent issued to Delta on behalf of owners G Johnston and R Creighton for powerline clearance. The date of decision was 10 March 2009.
 - **LUC-2021-63** – non-notified consent issued to Delta on behalf of owners G Johnston and R Creighton for crown reduction and powerline clearance for both scheduled trees on the property. The date of the decision was 24 February 2021.

STEM ASSESSMENTS

- [21] The accepted score to warrant inclusion in the District Plan tree schedule is 147.
- [22] All trees in the schedule were assessed using the STEM (Standard Tree Evaluation Method) system. This method has three distinct components, being the condition (health) of the tree, the amenity (community benefit) that it provides and its notability. With regard to assessment of 'Condition' and 'Amenity', each tree is assessed and allocated points for the following factors:
- (i) Form
 - (ii) Occurrence
 - (iii) Vigour and vitality
 - (iv) Function (usefulness)

- (v) Age
- (vi) Stature
- (vii) Visibility
- (viii) Proximity of other trees
- (ix) Role in the setting
- (x) Climatic influence.

- [23] Items (i)-(v) are in relation to the condition of the tree. Items (vi)-(x) are in relation to the amenity the tree provides. With regard to its notability, points are allocated for recognition factors such as 'feature', 'association', 'commemoration', 'remnant', 'rarity' or its 'endangered' status.
- [24] The points received for each factor are then calculated. Any tree that is allocated a sum total of 147 points or more is considered to be 'significant; and generally worthy of inclusion in the District Plan's schedule of trees. Details of the STEM assessment are included in the Appendix 4.
- [25] Tree T454 received a total STEM score of 144 points in the assessment dated 23 March 2001. T454 was then reassessed on 12 December 2001 which resulted in a score of 150.

2GP AUDIT OF SCHEDULED TREES 2013/14

- [26] During the District Plan review process, most of the significant trees were examined in 2013-2014 by a Council Landscape Architect and a Council Arborist, to see if the trees were still worthy of continued inclusion in the 2GP's 'schedule' of significant trees (Appendix A1.3). However, a new STEM assessment was not undertaken in 2013, and the 'assessment' was more akin to a visual audit and inventory. A photograph of the subject tree is in Council's records from the 2GP audit, and attached as Appendix 5 of this report.

ACTIVITY STATUS

- [27] Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (referred to in this report as the "2006 Plan", and the Proposed Second Generation Dunedin City District Plan (the "Proposed Plan").
- [28] 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 the district plans in force at the time of the decision that must be had regard to when assessing the application.
- [29] From 19 August 2024, the Proposed Plan became partially operative and almost completely superseded the 2006 Plan except for specific provisions and a number of identified areas that are still subject to appeal. Where these provisions and appeals are relevant, the 2006 Plan must still be considered. Otherwise, the assessment of the application is to be undertaken fully under the Partially Operative Second Generation Dunedin City District Plan (referred to in this report as "the 2024 Plan"). In this case, the relevant rules and zoning are not subject to appeal, and accordingly, the 2006 Plan is not relevant to this proposal.
- [30] Plan Change 1 (Minor Improvements) to the 2024 Plan was notified on Wednesday 20 November 2024. Rules that protect areas of significant indigenous vegetation or habitats

of indigenous fauna, and that protect historic heritage, have immediate legal effect from notification of Plan Change 1. None of the rules that have immediate legal effect are relevant to this application. While the submission period has now closed, the analysis of the submissions is not complete and it is still unclear which Plan Change 1 rules are in effect. There are no proposed changes to the land use rules which will be relevant to this application.

Dunedin City District Plan

- [31] In this case the relevant zoning and rules of the Operative Plan (2006) are considered to have been superseded by the Partially Operative 2GP, wherein the provisions related to this application are beyond challenge. Therefore, no assessment of the proposal under the Operative Plan (2006) has been undertaken.

Partially Operative Second Generation Dunedin City District Plan “Partially Operative 2GP”

- [32] The subject site is zoned **General Residential 2** and is subject to the following overlay areas:

- Variation 2 Mapped Area
- Scheduled building B099
- Scheduled Tree T453
- Scheduled Tree T454

- [33] The proposal falls under the definition of the following city-wide activity:

Scheduled trees activities

- [34] As a result, only the City-wide Activities rules in the Partially Operative 2GP need consideration for this application.

- [35] Rule 7.3.2.3 of the activity status table of the Scheduled Trees Section states that 'removal and any other work on a scheduled tree that will lead to the death or terminal decline of a scheduled tree' is a non-complying activity.

- [36] It is noted that Rule 7.3.2.1 of the activity status table states that the 'removal of a scheduled tree that is 'dead, in terminal decline or with extreme failure, or subject to a court order for removal' is a restricted discretionary activity. Based on the assessment of Mr Mark Roberts, the Council's consultant arborist, the condition of the tree is not 'dead, in terminal decline or with extreme failure.' Nor did the applicant's arborist, DM Holdings, raise any suggestion to the contrary. Therefore, the application cannot be considered as a restricted discretionary activity.

- [37] The application is therefore a **non-complying activity** in accordance with Rule 7.3.2.3.

NATIONAL ENVIRONMENTAL STANDARDS

- [38] There are no National Environmental Standards relevant to this application.

NOTIFICATION AND SUBMISSIONS

- [39] Six written approvals were provided from the residents of 25 Tweed Street (one occupant gave their approval), and 28 Tweed Street (five occupants gave their approval).

- [40] Rule 7.4 of the Partially Operative 2GP states that applications for the removal and any other works that will lead to the death or terminal decline of a scheduled tree will be publicly notified.
- [41] The application was publicly notified in the Otago Daily Times on Saturday 5th of October 2024.
- [42] Copies of the application were sent to those parties the Council considered could be directly affected by the proposal.
- [43] Submissions closed on 4 November 2024.
- [44] Four submissions were received by the close of the submission period. Two submissions were in support of the application and two were in opposition.
- [45] The submissions are 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	T454 is unsuitable for the site. T454 poses a threat to the heritage home, its growth is out of control and a storm could upend it damaging the house. T454 should never have been scheduled and is an unreasonable burden on the applicant and T454 should be removed.	Yes
Nicholas Bollen	Oppose	Believes T454 could/should be pruned to mitigate any adverse effects of T454 on the house. Pruning would mitigate any adverse effects of the tree on on-site amenity (views, access to sunlight) and on closeness to powerlines. T454 may have positive effects on stability of bank bordering footpath. Believes scaffolding could be erected around house. Believes pruning the tree would not have a negative effect on tree's visual amenity. Structural integrity of the building is unlikely to be threatened by T454 because the building is made from timber. The tree is unlikely to have the negative impacts on the house – it does not shade the house being on the southeast elevation, the house is old and requires maintenance despite the tree. T454 is impressive and “enhances” the house and its removal will have negative effects on the house. T454 is in scale with the house and would take decades to replace. T454 adds a	No

		richness of NZ colour to the grounds to compliment a fine house.	
Lorraine Cheyne	Oppose	The removal of the tree will reduce the visual amenity of the view towards the house as the tree and house are on a prominent site. Being a native tree, it enhances the house and further contributes to aesthetic appreciation & enjoyment of the city. The tree is of an appropriate scale for the house and no native tree planted will now achieve that complementary scale within a generation. The provisions of the district plan require the protection and enhancement of neighbourhood amenity and aesthetic coherence, not the protection of private views and vistas. The information provided in the application about possible effects on the building is not from suitably qualified experts.	Yes
Steven De Graaf	Support	I agree that the tree in question poses a real threat to the ongoing maintenance of the historic property at 2 Fifield St. It has just grown too big and too close to the house and there is a real danger it will cause damage to this wonderful heritage house. This house can never be replaced, but the tree can. I have been inside this magnificent house many times and it would have to be one of Dunedin's finest. Over the years I have worried about this tree as it really does dominate the house now and it will only get worse. The tree must go to protect the future of this house.	No

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[46] 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

[47] 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.

- [48] In terms of the Partially Operative 2GP, the removal of a scheduled tree that is dead, in terminal decline or with extreme failure, or subject to a court order for the removal is a restricted discretionary activity. In addition, the modification of a scheduled tree is also a restricted discretionary activity, subject to compliance with the 'best arboricultural practice' performance standard.
- [49] The Partially Operative 2GP therefore provides no permitted baseline for any form of work on a scheduled tree, or the removal of a scheduled tree, as even in the case of a court order or emergency situation, resource consent is still required as a restricted discretionary activity.
- [50] In terms of the activities that may take place within proximity of a scheduled tree, the 2GP excludes new buildings, structures, additions and alterations, public amenities, all earthworks, new roads or additions or alterations to roads, network utility activities and site development activities from the dripline of the tree, or distance from a tree that is half the height of the tree (whichever is greater). Activities employing trenchless methods (the installation of pipelines and cables below the ground with minimal excavation) are exempt from this 'exclusion zone' if a number of requirements are met, however as a permitted activity this is not considered to have any relevance to the current application.
- [51] Overall, I consider there are no relevant 'permitted effects' in terms of activities that may be undertaken within proximity of this scheduled tree that could feasibly be disregarded when considering the effects of the proposed removal.

Assessment of Effects

- [52] The assessment of non-complying activities contained in section 7.8.2 of the Partially Operative 2GP provides useful guidance for this application. Assessment matter 7.7.2.2 in relation to the assessment of restricted discretionary activities determines matters of discretion as the 'effects on amenity.' While matters of discretion are not limited in this case, amenity remains a principal consideration.

Tree Condition

- [53] Council arborist Mark Roberts provided the following assessment of T454 [abridged]:

"In general, at the time of the visit the tree looked to be in good health and exhibited vigour and vitality consistent for a tree of this species and age (image one). The tree appears to have had some pruning work undertaken on it in the past which looks to have been carried out in accordance with industry-accepted pruning standards. This includes clearance from the powerlines running along the northern side of the street (image one)....The tree had six or seven stems originating from the base (being multi-trunked from that base is not uncommon for the species). The root plate appeared to be stable, and I saw no indication of any recent movement or soil disturbance. I saw no obvious issues to suggest that whole or partial tree failure was imminent or likely in the near future. The tree was not dead or in terminal decline. The tree did not pose an imminent risk to personal/public safety or property."

- [54] Mark Roberts also makes a general comment about Pōhutukawa:

“Pōhutukawa are typically a coastal colonising species that is well adapted for growth on unstable ground. They can become large spreading trees wider than tall and tend to develop relatively dense but shallow canopies which are held at the ends of long flexible stems. The foliage including flowers and fruit is comparatively heavy. They are a species that retains large numbers of active adventitious buds. These buds sit under the bark and can become roots or shoots depending on what is required. They have a vigorous root system that tends to exploit easily accessible places.”

[55] In the arborist report authored by DM Holdings for the applicant, the author notes that the tree is in overall good health with no significant signs of disease or pest infestation.

[56] DM Holdings note further with respect to the tree’s condition and structural integrity:

The foliage is lush, and the tree appears vigorous. The tree has a stable trunk and root system; however, its proximity to the foundation and the potential for further growth poses ongoing risks.

[57] I note that both arborist reports note that the tree is in good health and there is no concern regarding the stability of the tree. DM Holdings does make the following statement:

The root system has severed arterial roots and exposed root both sides. Height reduction pruning is unlikely to be successful as the tree has matured past a height that could be successfully pruned to the second-floor windows and retain sufficient canopy to ensure the tree’s health.

[58] Mr Roberts responds to this statement as follows:

The tree was not showing any signs or symptoms associated with root damage. The number of cut and/or exposed roots is not something that I considered as problematic - an arterial root is not a biological term that I am familiar with so I am not sure how to comment on this statement.

[59] In response to DH Holdings stating that “the height reduction pruning is unlikely to be successful as the tree has matured past a height that could be successfully pruned to the second-floor windows and retain sufficient canopy to ensure the tree’s health.” Mr Roberts states:

I disagree with this statement to a point. The tree could easily be cut back to below the height of the second floor window and the tree is healthy enough to recover. But in doing this, the tree would lose its integrity and no longer have sufficient size and/or stature to be retained as a scheduled tree. The resulting regrowth would most likely be vigorous and grow to form a dense wall of vegetation creating a long-term problem. In my opinion, height reduction pruning is unlikely to be successful because it will create future problems and destroy the integrity of the tree.

While the respective arborists comments generally align and conclude similarly, there is some difference of opinion regarding height reduction, relative to effects on its health. As such, I defer to Mr Roberts comments on the impact on the health of the tree, but accept that neither Mr Roberts nor Mr Williams suggest that height reduction pruning will result in a desirable outcome, likely detracting from the tree’s significance.

Amenity

[60] Two submissions were made in opposition to removing T454.

[61] Submitter Lorraine Cheyne made the following comment in terms of the tree's contribution to amenity:

The removal of the tree will reduce the visual amenity of the view towards the house as the tree and house are on a prominent site. Being a native tree, it enhances the house and further contributes to aesthetic appreciation & enjoyment of the city.

[62] Mr Bollen made the following comment in terms of amenity:

The tree is scheduled for good reason. It's most impressive when it flowers. Year round the tree enhances the house, and –though quite large– is in scale with this large house. The house will not look better with it gone...[the tree] adds a richness of NZ colour to the grounds to compliment a fine house.

[63] Not all scheduled trees will have equal amenity value, and the contribution of any particular tree may change over time as a result of various factors. It is therefore worthwhile to re-confirm the STEM evaluation.

[64] The Council's Landscape Architect, Mr Luke McKinlay, has reviewed the application and visited the site. He provided the following comments in relation to the potential effects of removing this tree in terms of the existing amenity values of the area and STEM assessment:

I note that there are two STEM forms attached to the council record for this tree. One is dated 24/3/2001 and has a total score of 144. A subsequent assessment was undertaken on 12/12/2001, which resulted in a score of 150. This later re-evaluation is above the required 145 threshold for inclusion on the schedule.

Site Context

The site is located on the corner of Fifiel and Tweed Streets within a residential area between Highgate and the town belt. The surrounding area of Māori Hill consists largely of private residential sections, however there are schools (Columba College, Kaikorai Primary) and a retirement village (Yvette Williams) with (sic) a 250m radius of the site. Most residential sections in this area are occupied by one or two storey stand-alone dwellings, some of which are substantial and located on generously sized sections. A wide range of architectural styles are represented in the neighbourhood. Front boundary treatments are varied, including timber and wrought iron fences and clipped evergreen hedges.

There are no street trees on Tweed or Fifiel Streets, however, there are several mature trees within private properties on these streets, many of which are visible from surrounding public locations.

In addition to the Pohutukawa, there is a scheduled red beech (T453) on the subject site, a group of elm's (G040 & T455) at 12A Fifiel St and a copper beech (T1138) at 28 Tweed St. The dense bush of the town belt also contributes to the "green", well-vegetated character of wider surrounding area.

Potential effects associated with additional pruning.

While the application is for the removal of the tree, the following considers potential effects associated with additional pruning if it is established that on-going maintenance of the tree is reasonable and could avoid risk to the building (Policies 7.2.1.2. b & c). As I understand it, council's consultant arborist has recommended that 1.4m of clearance between the tree and building is required to enable scaffolding to be constructed for maintenance purposes. If this were to occur, parts of the north-western side of the tree's canopy, including some large limbs, would need to be removed. This would reduce the overall canopy size and would further emphasize the asymmetry of the canopy caused by pruning already undertaken to clear nearby powerlines on Fifield Street.

It is noted that council's consultant arborist has identified the following points regarding pruning this tree:

- Height reduction pruning is unlikely to be successful as it will likely create future problems and destroy the integrity of the tree, and*
- In the urban environment, they often respond vigorously to a heavy pruning and can produce a mass of new growth along exposed stems. As a rule of thumb, they should only be pruned lightly, or they need to be pruned frequently to control and manage the regrowth.*

In terms of effects on amenity, pruning to provide 1.4m clearance of the house would likely have some minor-moderate adverse effects on the amenity value of the tree, related to increasing the asymmetry of the canopy. The tree would likely have a more lop-sided appearance following this work. Views of the tree from Fifield Street would be most adversely affected given that pruning to provide clearance of the house and nearby powerlines would be more prominent from this aspect.

Potential effects associated with tree removal

As a healthy, substantial tree that is relatively prominent from the immediate surrounding area, the removal of T454 would have adverse effects on the amenity of the surrounding area. As a large natural feature, it currently provides a natural counterpoint to the surrounding built environment. Its' removal would reduce the contribution that large mature trees, such as this, make to the balance of natural versus built elements in this neighbourhood.

If it is determined that tree removal is required to maintain the integrity of the scheduled heritage building, then it is noted that the removal of the tree would enable improved views of the primary façade of the building from surrounding public locations. This facade would likely become a primary focal feature of the immediate surrounding streetscape, with positive effects on streetscape values related to the visual amenity of heritage architecture.

It is also noted that other mature vegetation will be retained on the subject site, including a scheduled tree - a red beech (T453).

As such, while the removal of T454 will have adverse effects on streetscape amenity, if removal is necessary, these effects will likely be moderate and will be balanced, to a certain extent, by positive effects related to revealing views of a heritage building.

STEM Assessment

The 2001 council STEM assessment of T454 resulted in a total amenity 'score' of 75.

It is considered that if pruning to maintain 1.4m clearance of the building was undertaken, this may result in a reduction in the "role" criteria score, which was assessed in 2001 as being "significant". The role criteria relates to a tree or trees' value in a setting or as part of a composition. It is considered that, in general, T454 makes a positive contribution to the amenity of the surrounding area. Due to its stature and location near the street front boundary, it is a primary focal feature of the surrounding streetscape. However, its role is also related to its setting within a garden surrounding a heritage dwelling. Once pruned on two sides, T454 will be somewhat lop-sided and it will become more apparent that its potentially broad canopy is compromised by a cramped, corner location, where it is constrained by both powerlines and the dwelling itself. Modification to its "natural" canopy form will limit its contribution to the amenity of the surrounding area. In my assessment, it is likely that the tree would lose some points for this criteria, if it were re-assessed following the recommended extent of pruning. It would likely have an "important" rather than "significant" score for this criteria.

Lastly, it is considered that the visibility assessment may also reduce if the STEM was re-assessed. It is considered that the current assessment (visible at 2km), is at the uppermost extent based on current visibility. I found it difficult to find a location where this tree is currently visible at this distance. The dwelling itself and surrounding dwellings screen most views from the west and north. From CBD locations, views of the tree are typically screened by intervening topography or other structures. With a further reduced canopy, a visibility rating of 1km, at most, seems likely.

The remaining criteria – proximity, climate and stature would likely remain unchanged.

In conclusion, if the STEM assessment was undertaken following the required extent of pruning, it is likely that T454 would lose 6-12 points.

Conclusions

- As a large natural feature, T454 currently has a positive impact on streetscape amenity. It provides a natural counterpoint to the surrounding built environment. Its' removal would reduce the contribution that large mature trees such as this make to the balance of natural versus built elements in this neighbourhood.*
- When considering the site-specific context, it is acknowledged that the removal of T454 would enable views of the front façade of a scheduled heritage building from surrounding public locations. This will likely have some positive effects on streetscape amenity related to the amenity contribution of heritage architecture.*
- The subject site will retain other mature vegetation, including another scheduled tree on the site, a red beech (T453).*
- If pruning to maintain 1.4m clearance of the building was undertaken, it is likely that T454 would lose 6-12 points from its STEM amenity evaluation, if re-assessed.*

- [65] I accept Mr McKinlay's assessment of T454's amenity value and consider that its removal would reduce the contribution that large mature trees provide to the neighbourhood, but this is balanced by an increased positive benefit provided by heritage architecture. Nevertheless, I note that these effects would be localised to Fifield Street; and parts of Tweed Street. Fifield Street is not a main transport route and accordingly, any public amenity benefits are largely experienced by people who live nearby. Thus, I expect that the effects of tree removal will be likely be no more than minor.

Historical Associations

- [66] The dwelling at 2 Fifield Street has been called the "Mahara". The following [abridged] text is from the Heritage New Zealand website and provides some historic record of the site.

"Mahara is one of a pair of elegant timber mansions in Dunedin designed by E.W. Walden in 1905 and built for prominent businessman Andrew Lees' daughters.

Andrew Lees (1833-1904) arrived in 1859 in Dunedin and "established one of the most successful firms in New Zealand" specialising in paint, wallpaper and glass. On Andrew's death in 1904, his married daughters Catherine Smith Melville (1869-1953) and Annie Millar Blakely (1865-1918) kept two sections from his estate bordering Tweed Street. They commissioned noted architect Edward Walter Walden (1870-1944) to design two adjacent residences. ...Annie Blakely's residence was complete by October 1905 and named 'Mahara' (meaning to remember or recall). Catherine named her house 'Leebank'. ...Over the intervening century, Mahara has passed through various hands - yet it remains an elegant and grand mansion. Gracing the Littlebourne hill with its sister house Leebank, they stand as a testament to the Lees' family wealth."

- [67] There is no immediate evidence that the tree is of any great historic significance other than the inherent local heritage value as a tree of some age in the garden of a grand house on the corner of Tweed and Fifield Street.



Figure 3. Aerial Photography of 2 Fifield Street taken in 1947. No Pōhutukawa can be identified.

- [68] Based on the above, I do not consider the tree's likely historical associations to be of any particular importance.

Health and Safety

- [69] The key reasons for seeking removal of the tree are related to damage to the foundations of the house and the prevention of necessary maintenance. The types of risk/harm identified with this application are not imminent nor sudden, but gradual and over time. No report provided by any party indicated any immediate/sudden risk was anticipated.

As such, I consider the risk associated with imminent or sudden damage/harm to people/human health; or the heritage building, to be low or negligible.

Risk to Property

Heritage Building maintenance and degradation.

- [70] The tree T454 and the heritage building B099 appear to be incompatible with each other. The focus of the discussions provided in the reports by council staff and the applicant related to the gradual risks posed by the tree upon the heritage building by way of degradation as a result of the prevention of necessary maintenance.
- [71] Mr Roberts states in a follow up clarification on his report that due to the size and proximity of the tree to the house the following issues [see below] will be ongoing for the tree and the house:

"a. [the tree] will make contact with and rub against the outside of the house

b. roots are likely to enter the stormwater drainage system

c. roots are likely to continue to cause damage to the paths and low retaining walls, and

d. possible that stem failure in the direction of the house - due to the restricted growth options."

[72] Mr Roberts states that these identified issues will require ongoing management of the tree such that it will be visually/aesthetically compromised such that it will not warrant its scheduled status.

[73] From this assessment it appears that tree T454 and the scheduled building are not able to coexist to their fullest. It appears that the necessary preventative maintenance in favour of the heritage building will not allow for T454 to flourish as a scheduled tree.

Maintaining heritage building

[74] Heritage Advisor Mark Mawdsley has commented on the importance of identifying and resolving any potential issues with a scheduled heritage building at the earliest possible opportunity. Mr Mawdsley also states that it is important to maintain timber constructions in a timely and scheduled manner. He also notes that the presence of the tree will compromise the normal wetting and drying cycle of the exterior timber wall due to reduced sunlight and vegetation, likely negatively affecting the timber construction over the long term.

[75] Mr Mawdsley has also commented on the potential for the Heritage building and T454 to coexist. He defers to the advice of Mr Roberts on whether the works on the tree can be carried out and considers that as long as the necessary maintenance on the heritage building can be carried out, coexistence is feasible. However, if the necessary maintenance of the heritage building cannot be carried out then he considers it to be advantageous to remove the tree.

[76] The evidence provided by Mr Roberts, Mr Mawdsley, and Mr Fitzsimmons make mention of the obstruction of the scaffolding. There is a consensus that scaffolding would not fit in the space between the building and the tree. Trimming will be necessary to make room for the scaffolding. Scaffolding has been determined to be an important component of preventative maintenance of the scheduled building and there has been no discussion suggesting that T454 is not preventing scaffolding. Mr Roberts states that the pruning of the tree to accommodate the scaffolding would degrade its STEM score such that it would not warrant a scheduled status.

Maintenance regime

[77] In further discussion with Mr Roberts, he raises that the required maintenance schedule, being for the building and the tree cyclically requiring works in tandem with each other, will be considered "above normal". I note this as being beyond the scope of the policies framing this decision. My position is based on the comments of Mr Roberts and Mr Fitzsimmons that the maintenance regime required for this tree and building is likely above what would normally be expected.

Foundations

[78] The two reports from Mr Williams and Mr Roberts disagree about the risk to the building foundations. Mr Williams indicates that the presence of significant root structures around the building foundations are likely exerting pressure on the foundation walls and

potentially compromising the structural integrity of the building. However, Mr Roberts disagreed, stating there was no evidence of roots compromising the foundation nor would the roots compromise them in the future. Mr Roberts further states that damage to the foundation is not something he would expect from a tree of this type, size, and distance from the building; and, that pōhutukawa are not renowned for lifting 'slab type flooring or pushing houses off pile foundations.

- [79] I accept Mr Roberts assessment and on the basis of the above discussion (paragraph 77) do not consider there to be any substantiated risk to the building foundations.

Limb failure

- [80] The dwelling is approximately 3.0m from T454 has between 6 and 10 branches extending from the stump. In his assessment, Mr Roberts does not identify any imminent risk to people or property due to limb failure. Likewise, Mr Williams does not identify any potential limb failure in his report. Both assess the tree as healthy with no imminent risk to the building or people due to limb failure.

- [81] Mr Roberts describes a situation where limb failure may strike the house.

"Natural growth of the tree is inhibited to the north (due to the house) and to the west (due to the powerlines) therefore the mass of the tree will develop towards the south and east. Being exposed from the west (due to the requirements of powerline clearance) the tree is likely to fail where the majority of the weight will be; towards the east. It is possible that stem failure in this direction may impact part of the house."

- [82] I accept these assessments and consider that potential limb failure may impact the house but that neither assessment raises this matter as an immediate concern.

Drainage

- [83] The Mr Williams' report identified the drainage within the dripline of the tree but made no other mention of the drain. However, Mr Roberts did indicate that it was likely that roots will inevitably, if not already, penetrate the earthenware stormwater pipes. The path of this pipe is not available on historic records, but I consider it likely that it travels under, or in proximity, to the dripline and roots of T454 on its journey to the drainage point on the curb. This may be cause for future conflict between the tree and the stormwater pipe (infrastructure/network utility). But it may be reasonable that works to resolve any stormwater pipe do not require excavations within the dripline of T454 by travelling to the curb to the west. At this stage this has not been raised as concern by the applicant.

- [84] I accept that there is a likely impact on underground infrastructure by the roots of T454. But I concede that this matter has not been thoroughly investigated and the impacts upon underground infrastructure for any repairs or maintenance has not be fully substantiated.

Powerlines

- [85] Neither report indicated any concern regarding proximity of branches to the nearby powerlines. There may be future pruning required to maintain the regulated powerline clearance distance if T454 is retained. There is no immediate concern about any risk to powerlines, and there are alternative options to prune if and when T454 encroaches into any powerline clearance distances.

Underground diesel tank

- [86] Both reports reference the presence of an underground fuel/diesel tank. It is indicated to likely be to the immediate east of the tree and positioned within the dripline. Mr Williams makes no suggestion regarding the status or implication of the presence of this tank. Mr Roberts generally takes the same position but does suggest that the mass of the tree may compromise the structural integrity of the tank and collapse into the void, or cause the contents of the tank to leak into the local environment. Mr Roberts notes this as being less likely scenario.
- [87] I accept the location of the underground diesel tank and do not give weight to its presence, location, or environmental impact with respect to assessing the tree removal.

Consideration of Alternatives

- [88] There has been no significant discussion on the consideration of alternatives regarding the retention of this tree. Following the discussions posed by the reports it appears that the incompatibility of tree T454 and the building B099 means that there is little possibility for the consideration of alternatives that do not result in the compromising of either the tree or the building. Preserving the tree in favour of the building would potentially result in deferred maintenance and a degradation of a heritage building. Further, carrying out preventative maintenance of the heritage building would potentially result in a degradation of the scheduled tree. As such, no report or discussion has raised an alternative maintenance or trimming regime that is able to preserve both the tree and the building and there doesn't appear to be an alternative where they can coexist.
- [89] Continuing with the status quo may be viable in the short term because the tree currently poses low risk to people and property. However, damage to the subject property is likely to occur over time and there are no viable methods to mitigate this damage to the building without minimising the quality of the tree. Tree maintenance work appears to be insufficient in this case to address any likely issues that may arise with risk to a heritage building.

Positive Effects

- [90] There is no significant public benefit that would ensue if the tree is removed, although it would eliminate any potential risk of impacts on the adjacent power lines and risk of impacting the heritage home over time.
- [91] Removal of the tree would allow for greater light into the site and dwelling, adding to on-site amenity. Further, less obstruction of the heritage building would increase the visibility of the heritage building and add to streetscape amenity. On this basis, I expect that there would be no overall loss of amenity by removing the tree due to the positive benefits provided by the heritage building.

Cumulative Effects

- [92] 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".

- [93] In this respect, 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'.
- [94] The removal of the tree is unlikely to have significant cumulative adverse effects. The removal of the tree would cumulatively contribute to the loss of urban vegetation across the city. However, in the context of the immediate environment, the loss of the tree is not considered to combine with the loss of other vegetation in the area to any noticeable extent that would represent a tipping point in terms of the amenity and character of the area and natural environment.

Effects Assessment Conclusion

- [95] After considering the advice of Mr Roberts and Mr McKinlay on the health and amenity values of the tree, and the other effects noted above, I anticipate that there will be localised effects on amenity values that are potentially moderate but balanced given the increased visibility of the heritage building and easing of issues relating to its maintenance, currently posed by the tree.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

- [96] 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.
- [97] 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))

- [98] In accordance with section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Operative District Plan and the Proposed 2GP were taken into account when assessing the application.
- [99] The Proposed 2GP 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, the Operative District Plan has been considered superseded and full weight has been given to the objectives and policies of the Proposed 2GP.

Partially Operative 2GP

- [100] The following 2GP objective and policies are considered to be relevant to this application:

Scheduled Trees Objectives and Policies

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 7.2.1 The contribution made by significant trees to the visual landscape and history of neighbourhoods is maintained.	The proposal is inconsistent with, but not contrary to this objective. If the tree was to be removed, its resulting loss would be balanced by the greater visibility of a heritage home and ease of maintenance. As such, while this will likely have a moderate adverse effect on the visual landscape of the neighbourhood, positive outcomes with respect to heritage are expected. The Highgate area has many trees of varying stature and the neighbourhood features a high presence of vegetation. There are notable trees and greenery of varying sizes and species that provide amenity to the immediate area. An inspection of equivalent trees in the local area shows that this is a notable tree that is of a better 'quality' or 'stature' than many nearby non-scheduled trees. However, the loss of T454 will be countered by the presence of other trees and vegetation of good amenity.
Policy 7.2.1.1 Enable removal of a scheduled tree where they are certified as dead or in terminal decline by a suitably qualified arborist, or where subject to an order for removal in terms of Section 333 of the Property Law Act 2007.	This policy is not considered to be relevant to the proposal given that the tree is not 'dead or in terminal decline,' and nor is there any debate regarding the tree's health and vitality.
Policy 7.2.1.2 Avoid the removal of a scheduled tree (except as provided for in Policy 7.2.1.1) unless:	The application is considered to be inconsistent with, but not contrary to this policy.
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;	a. I do not consider it has been identified that there is a significant risk to personal or public safety; or a risk that is required to be managed under health and safety legislation.
b. the tree poses a substantial risk to a scheduled heritage building or scheduled heritage structure;	b. & c. I consider it has been demonstrated that there is likely to be damage and degradation to heritage building B099 if tree T454 is retained.

c. there is a moderate to significant risk to buildings;	This is due to the preventative works required to preserve the cladding and roof of this heritage building. I believe it is reasonable to desire to maintain this heritage building and it is likely that scaffolding will be required to facilitate this. The required pruning and trimming to fit the scaffolding in close proximity to T454 will likely reduce the STEM score and it will likely no longer warrant its scheduled status. There is discussion around the risk to the foundations of B099. I do not consider that any material risk to the foundations has been established. The policy requires that there is a 'moderate to significant risk' to buildings. Based on the comments from the Council's arborist, I consider any immediate risk to be low. However, I consider that the gradual degradation and prevention of maintenance may meet the threshold of 'moderate' risk to the building, or 'substantial' effect upon a heritage building.
d. the removal of the tree is necessary to avoid significant adverse effects on existing infrastructure and network utilities;	d. In terms of adverse effects on infrastructure and network utilities, there is no evidence provided to determine that there is a significant risk of adverse effects on infrastructure or network utilities. I consider that there is some risk to the underground stormwater pipes that will need to be managed over time. I don't consider that significant adverse effects has been substantiated but do consider that further investigation may clarify the adverse effect. Risk to powerlines seems to have been managed over the years via pruning and accordingly no significant adverse effects on power lines has been established. I give less weight to this policy criteria as it is not an element of this application that has been considered applicable.
e. removal of the tree will result in significant positive effects in respect of the efficient use of land; or	e. I do not consider that there has been any question of the efficient use of land in this application and do not consider it relevant to this decision.
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.	X. The removal of the tree will not result in significant public benefit that could not otherwise be achieved.

Overall Objectives and Policies Assessment

- [102] The above assessment demonstrates that, overall, there are inconsistencies with the Proposed 2GP significant tree objectives and policies, particularly Policy 7.2.1.2. However, the proposal is not so repugnant with any provision so as to be considered 'contrary' to that provision.
- [103] The Objectives and Policies clearly define the circumstances where the effects from the removal of a scheduled tree are considered acceptable i.e., when a tree is dead or in terminal decline. These circumstances do not apply to the proposal. The question therefore becomes whether the risk posed by the tree to the adjacent heritage building warrants its removal. In this case I consider that there is a potential substantial risk to a heritage building or moderate risk to a building that reaches the threshold under Policy 7.2.1.2.

DECISION MAKING FRAMEWORK

Part 2 Matters

- [104] It is considered that there is no invalidity, incomplete coverage or uncertainty within the Partially Operative 2GP. As a result, there is no need for an assessment in terms of Part 2 of the Resource Management Act 1991.

Section 104D

- [105] 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.
- [106] Overall, I consider that the actual and potential effects associated with the proposed development will be no more than minor and therefore the first 'gateway' test of Section 104D is met.
- [107] 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 Section 104 of the Act.
- [108] In order for a proposal to fail the second test of Section 104D, it needs to be contrary to the objectives and policies of the Partially Operative 2GP. In order to be deemed contrary, an application needs to be repugnant, or abhorrent, to the intent of the Partially Operative 2GP and its relevant Objectives and Policies. It is noted that in this instance, the proposal is assessed as generally being inconsistent with, but not contrary to the relevant objectives and policies of the Scheduled Trees sections of the Partially Operative 2GP. It is inconsistent with Policy 7.2.1.2 of the 2GP. On this basis, I consider that the proposed development does satisfy the second 'gateway' test outlined by Section 104D.
- [109] In summary, the application passes each of the two threshold tests of Section 104D of the Act and therefore, in my opinion, it is 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 be given to the granting of the consent.

Section 104

- [110] 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 proposal on the amenity values of the immediate locality will be no more than minor.
- [111] 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.
- [112] 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 inconsistent, but no contrary to the key policy of the Partially Operative 2GP.
- [113] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it was concluded that given the very specific and localised nature of the proposal, there are no particularly relevant provisions within the Regional Policy Statement for Otago; and that overall the objectives and policies of the RPS have been delivered through the 2GP which has been thoroughly assessed in this report.

Other Matters

- [114] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application. For a non-complying activity, this includes the matter of precedent effects, and the integrity of the district plan provisions.

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. I consider the granting of consent to this application would not give rise to an undesirable precedent for other applications to remove trees because there are evidenced reasons that give reason to grant consent due to:

- the effects of the tree's removal being no more than minor;
- the tree is posing a moderate, to substantial, risk to a heritage building, by preventing necessary maintenance of the building; and
- works to accommodate the tree and enable building maintenance will likely diminish the STEM score and overall aesthetic quality of T454, such that it would likely no longer qualify for a scheduled status.

- [115] It is pertinent to note that the removal of any scheduled tree is required to go through this same robust framework of resource consent, and potentially a notified consent process and hearing depending on the circumstances of the tree. In this respect, the circumstances of each such application can be expected to be different and each must be considered on its own merits.
- [116] In this instance there is a demonstrable/substantiated case for tree removal to be considered due to the presence of the heritage building and its associated maintenance requirements. In my opinion this sufficiently distinguishes the application from most other tree removal applications in the city.

[117] Consequently, I consider that the proposal does not represent a challenge to the integrity of the Proposed 2GP.

CONCLUSION

[118] Having regard to the above assessment, I have concluded that the application to allow the removal of scheduled tree T454 at 2 Fifield Street should be granted.

[119] This conclusion has been made based on reports from Mr Roberts, Mr Mawdsley, Mr Fitzsimmons, Mr McKinley, and Mr Williams that suggest the tree is incompatible with the adjacent heritage building such that neither are able coexist without compromising the other.

RECOMMENDATION

[120] That the application to remove significant tree T454 be granted.

REASONS FOR RECOMMENDATION

[121] I consider that the likely adverse effects of the proposed activity will be no more than minor at a local level and given the particular circumstances relevant to this case, removal will be balanced by the increased visibility and prominence of the heritage building on the subject site.

[122] I consider that works to accommodate the tree and enable building maintenance will likely diminish the STEM score and overall aesthetic quality of T454, such that it would likely no longer qualify for a scheduled status.

[123] I consider the proposal is not contrary with the overall objective and the relevant policies in the Partially Operative 2GP.

[124] I consider that the proposal represents a 'true exception' that would not undermine the integrity of the Partially Operative 2GP.

[125] Overall, I consider that the granting of the consent would be consistent with the purpose of the Resource Management Act 1991, which is to promote the sustainable management of natural and physical resources.

[126] Should the Committee decide to grant consent I have included a set of recommended conditions at Appendix 6.

Report prepared by:

Report checked by:

Finn Campbell
Planner

Jeremy Grey
Senior Planner

20 January 2025

Date 20 January 2025

APPENDIX 1:

THE APPLICATION

APPENDIX 2:
SUBMISSIONS RECEIVED

APPENDIX 3:
COUNCIL OFFICER EVIDENCE

APPENDIX 4:

2001 STEM ASSESSMENT

APPENDIX 5:
2GP VISUAL AUDIT T1191



APPENDIX 6:

DRAFT CONDITIONS

1. The proposed activity must be undertaken in general accordance with the information provided with the resource consent application received by the Council on 5 August 2024; except where modified by the following conditions.
2. *The removal of the tree must be undertaken by a suitably qualified person and in accordance with arboricultural best practice.*

Conditions to be met prior to site works commencing

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

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

4. *All waste generated by the removal works shall not cause a nuisance and shall be suitably disposed of within 7 days of the completion of the removal works.*
5. *The person exercising this consent shall take all reasonable measures to ensure the use of machinery for the removal of T666 shall be limited to the times set out below and shall comply with the following noise limits (dBA);*

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

6. *Sound levels shall be measured and assessed in accordance with the provisions of NZS 6803: 1999 Acoustics – Construction noise.*
7. *No work is to be undertaken on Sundays or Public Holidays, nor between 8.00pm to 7.30am Weekdays or Saturdays.*

Advice Notes:

HAIL

1. It is noted that an underground tank has been identified within the dripline of T454. This may mean that the site is identified on the Hazardous Activities and Industries List (HAIL). If this is the case, the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 may apply

if the tank were to be removed or the soil were to be disturbed. It is suggested that advice is taken from a suitably qualified professional in regard to managing these works. An additional resource consent may be required.

General

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