

21 July 2020

CC Otago Ltd  
C/- Craig Horne Registered Surveyor  
PO Box 56  
Mosgiel 9053

Via email: crhorne@xtra.co.nz

Dear Craig

**RESOURCE CONSENT APPLICATION:**

**SUB-2020-33 & LUC-2020-137  
3 GOURLEY STREET  
DUNEDIN**

Your application for resource consent was processed on a non-notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991. The application was considered by a Senior Planner, under delegated authority, on 21 July 2020.

The Council has granted subdivision consent and land use consent with conditions. The assessment of the application, including the reasons for the decision, is set out in the report attached to this letter. The consent certificates are attached to the rear of this letter.

Please note that the processing of this application could not be completed within the 20-working day time limit prescribed under section 115 of the Resource Management Act 1991. The time limits for the processing of this consent have been extended pursuant to sections 37A(2)(b) and 37A(4)(b)(ii) of the Resource Management Act 1991.

**The consent certificates outline the conditions that apply to your proposal. Please ensure that you have read and understand all of the consent conditions.**

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

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

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

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

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

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

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

Yours faithfully

A handwritten signature in black ink that reads "Lianne Darby". The signature is written in a cursive, slightly slanted style.

Lianne Darby  
**Planner**

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## **APPLICATION SUB-2020-33 & LUC-2020-137: 3 GOURLEY STREET, DUNEDIN**

Department: Resource Consents

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### **DESCRIPTION OF ACTIVITY**

The applicant seeks to develop 3 Gourley Street, Dunedin, with six new residential units and to fee-simple subdivide the site so that each unit is contained within its own lot.

The subject site is a long, narrow rectangular property with frontage to Gourley Street at its southeast end. The land is generally level. There is currently a dwelling situated on the front half of the property, with an existing access to a carport on the south-western side of the house. The subject site is legally described as Part Section 70-71 Block VII Town Survey District, held in Record of Title OT296/123 (Limited as to Parcels), and has an area of 1153m<sup>2</sup> more or less.

Unit 1 will be constructed at the front of the site. Units 2, 3 and 4 will be built in sequence behind it, and Units 5 and 6 will be side by side at the rear. Units 1 and 2 will be stand-alone units, while Units 3 and 4, and Units 5 and 6 will be arranged in pairs.

The proposed subdivision will create seven lots. Lots 1 to 6 will be residential lots ranging in area from 122m<sup>2</sup> to 197m<sup>2</sup>. Each will contain a two-bedroom unit.

Proposed Lot 7 will be an access lot of 224m<sup>2</sup>. This will extend along the southwest boundary of the subject site and will provide access to Lots 2 to 6. Access to Lot 1 will be directly from Gourley Street.

The construction of the units will result in a number of land use rule contraventions which will be addressed by this consent. The construction of the driveway will involve earthworks in the vicinity of Council pipes and therefore land use consent for earthworks is also required. The applicant has included this aspect as part of the proposal in an email received at Council on 15 April 2020.

A revised plan and additional details were received at Council on 16 April 2020. The layout of the units was revised a second time and new plans submitted to Council on 21 May 2020. A final subdivision plans was submitted on 2 July 2020. This plan widened the access past Lots 3 and 4, reducing the size of the lots and units accordingly.

### **REASONS FOR APPLICATION**

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

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

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

In this case, the application was lodged on 11 March 2020 when the Proposed Plan rules were already in effect. The relevant zone and rules of the Proposed Plan are mostly beyond challenge. Accordingly, the

relevant rules of the Operative District Plan are considered to have been superseded, or where a Proposed Plan rule has been appealed (e.g. Rule 15.7.6.2), there is no equivalent rule in the Operative District Plan to consider. In this case, the Hazard 3 (coastal) overlay zone has been appealed, and Rule 6.6.3.9 regarding the minimum legal width for an access is also appealed.

### **Proposed Plan**

The subject site is zoned **General Residential 2** in the Proposed Plan. It is also subject to the **South Dunedin Mapped Area** and the **Hazard 3 (Coastal) Overlay Zone**. The Hazard 3 (Coastal) overlay zone is under appeal.

### Subdivision

Rule 15.3.5.2 lists general subdivision as being a restricted discretionary activity in the residential zones subject to performance standards.

In this instance, the proposal will fail to comply with the following subdivision performance standards:

- Rule 15.7.4.1(b)(1), which states that the minimum site sizes for new resultant sites is 300m<sup>2</sup> in the General Residential 2 Zone not in an infrastructure constraint mapped area. In this instance the residential lot sizes range from 122m<sup>2</sup> to 197m<sup>2</sup>, breaching this rule by up to 178m<sup>2</sup>.

In accordance with Rule 15.7.4.2, the proposed subdivision is a **non-complying activity**.

- Rule 15.7.6.1, which states that each resultant site that is intended to be developed must be of a size and shape that is large enough to contain a building platform of at least 7m x 10m that meets the performance standards of the Proposed Plan. In this instance, Lots 3 and 4 will not be able to accommodate a 7m x 10m building platform and comply with the relevant performance standards.

In accordance with Rule 15.7.6.5, subdivision activities that do not meet this standard are **restricted discretionary** activities.

- Rule 15.7.1 requires subdivisions to comply with Rule 6.8.1, which requires each new site to have a legal accessway which, when there is a minimum car parking requirement, must be in the form of a driveway. The standards for driveways apply.
- Rule 6.6.3.9(a)(i) specifies a minimum legal width of 4.0m for a driveway serving one to six residential units. The access to proposed Lot 5 will be only 3.2m wide, therefore being under-width. This rule is under appeal.

In accordance with Rule 6.6.3.9(b), activities that contravene this performance standard are considered to be **restricted discretionary** activities.

### Land-Use

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

### *Land-Use Activity*

The applicants seek land-use consent for a multi-unit development in anticipation of the dwellings being constructed prior to the titles being issued.

Rule 15.3.3.3 of the Proposed Plan states that standard residential activity is a permitted activity provided that it complies with the relevant performance standards. In this instance, the activity as proposed fails to comply with the following land-use performance standards:

- Rule 15.5.2.3 states that more than one residential building may only be built on a site if all residential buildings are able to be subdivided while complying with site coverage, height in relation to boundary, setbacks, and access requirements. The six units will not meet these requirements.

Activities that contravene this performance standard are considered to be a **restricted discretionary** activity pursuant to Rule 15.5.2.4(c).

#### *Development Activity*

Rule 15.3.4.3 states that new buildings and additions and alterations that result in multi-unit developments in the General Residential 2 Zone are restricted discretionary activities subject to compliance with the relevant performance standards. The development of the units is therefore a **restricted discretionary** activity.

In this instance, the proposed multi-unit development (prior to subdivision) will contravene the following development performance standards:

- Rule 15.6.13.1(a)(iii), which states that in the General Residential 2 Zone South Dunedin Mapped Area, the setback from any road boundary is 3m, and side and rear boundaries is 1.0m. Eaves must also comply with the setback. The revised proposal has the eaves of Unit 1 extending 1.5m into the roadside setback, therefore contravening this rule by up to 1.5m. The applicant notes it is only the garage extending into the setback, and considers that the proposal complies with the exemption of Rule 15.6.13.1(a)(4) for garages. The garage is an internal garage, which in my view means the house is non-compliant with this rule.
- Rule 15.6.13.1(a)(iii) specifies side and rear setbacks of 1.0m. The revised proposal has Units 1 to 4 1.25m from the northeast boundary, and Unit 5 will be 1.0m from the boundary with the eaves in all cases extending 0.25m into the yard space.
- Rule 15.6.13.1(a)(viii)(6) of Variation 1 of the Proposed Plan allows eaves within a setback provided the eaves are within 3.0m of ground level and less than 25% of the required setback. The eaves of Unit 1 will comply with this requirement.

Activities that contravene this performance standard are considered **restricted discretionary** activities pursuant to Rule 15.6.13.1(b).

- Rule 15.6.10.1(b) specifies a maximum site coverage of 50%. The multi-unit development will have a maximum site coverage of 50.5%, therefore contravening this rule by 0.5%. The maximum impermeable surface requirement of 80% will be complied with.

Proposals which contravene this rule are considered to be **restricted discretionary** activities pursuant to Rule 15.6.10.3.

No new development will follow subdivision, so there are no contraventions of the Proposed Plan rules applying in relation to the new boundaries. However, it is noted that the units on Lots 3 and 4, and Lots 5 and 6 will not meet the height in relation to boundary requirements along the new boundaries between the units. While they are built to the boundaries, setback contraventions do not occur when there are buildings on both sides of the boundary. It is also noted that Lots 1 to 4 will have site coverage contraventions following subdivision.

Rule 15.3.4.31 states that parking, loading and access development activities are permitted provided that they comply with the relevant performance standards. In this instance, the proposed parking and access areas will contravene the following development performance standards:

- Rule 6.6.1.1(a) requires a 90° parking space to have an aisle width of 5.8m. Lots 3, 4 and 5 will have insufficient aisle width.
- Rule 6.6.1.1(d) requires blind aisles to be designed so that it is possible for cars to turn around at the closed end of the aisle and drive out forwards. The vehicles for Lots 5 and 6 will have to reverse part way along the driveway.
- Rule 6.6.1.1(e)(i) requires that parking aisles for 90° parking (such as that proposed for Units 1 to 3) must be designed for two-way movement. The access lot is only 4.5m wide for approximately half its length.

Activities that contravene this performance standard are **restricted discretionary** activities pursuant to Rule 6.6.1.1(f).

- Rule 6.6.3.9(a)(i) specifies a minimum legal width for an access serving one to six residential units of 4.0m. The access to proposed Lot 5 will be only 3.2m wide, therefore being 0.8m too narrow. This rule is under appeal.

Activities that contravene this performance standard are **restricted discretionary** activities pursuant to Rule 6.6.3.9(b).

The formation of the driveway will involve earthworks. No details about the earthworks have been submitted with the application, but it is evident that the driveway formation will contravene the following performance standard.

- Rule 8A.5.6 requires earthworks to comply with Rule 5.6.2 which states that earthworks must be setback at least 2.5m from any water mains and 1.5m from all other network utility structures. The earthworks for the driveway formation will be over the Council-owned stormwater and foul sewers, therefore contravening this rule by 1.5m.

Activities that contravene this performance standard are **restricted discretionary** activities pursuant to Rule 5.6.2.2.

### *Summary*

Overall, the multi-unit residential activity, and the residential activity of Lots 1 to 6 is considered to be a **restricted discretionary** activity.

### **Operative District Plan**

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

The exception is Rule 6.6.3.9(a)(i) which is appealed in respect of the minimum legal width for a driveway serving one to six residential units. The Operative District Plan rules must be considered. The proposal will fail to comply with the following:

- Rule 20.5.7(v)(b) specifies that a driveway serving one to three residential units is to have a minimum legal width of 3.5m. The driveway to proposed Lot 5 will have a legal width of 3.2m, therefore being 0.3m too narrow.

- Rule 20.5.7(v)(b) specifies that a driveway serving four to six residential units is to have a minimum legal width of 6.0m. The driveway will be only 5.0m wide where serving four or more units, therefore being 1.0m too narrow.

The access is therefore considered to be a **restricted discretionary** activity pursuant to Rule 8.8.4(i).

### **National Environmental Standards**

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

The applicant's agent has had a search of Council records undertaken (HAIL-2020-35). The applicant's agent comments in an email dated 21 May 2020:

*'This report indicates there is no evidence of any Hail activities having taken place of the property. A dwelling existing on the site as early as 1915. We therefore consider it reasonable to conclude that it is unlikely there is any contaminated soil on the property and therefore that the NES does not apply.'*

It is therefore considered, more likely than not, that no activities have been undertaken on the site that appear on the HAIL. As such, the National Environmental Standard is not applicable to the proposal.

There are no other National Environmental Standards relevant to this application.

### **Overall Status**

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

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

The subdivision activity status is determined by the Proposed Plan and is a **non-complying** activity. The land use activity status is also determined by the Operative District Plan and the Proposed Plan and is a **restricted discretionary** activity.

## **WRITTEN APPROVALS AND EFFECTS ASSESSMENT**

### **Affected Persons**

No affected persons forms were submitted with the application. No person or party is considered to be adversely affected by the activity for the reasons discussed below in the section on the Effects on the Environment.

## **Effects on the Environment**

### Permitted Baseline

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

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

Residential development (including one family flat) at a maximum density of one habitable room per 60m<sup>2</sup> of site area is a permitted activity for this zone, although a multi-unit development (regardless of density) is only permitted where the units do not contravene site coverage, height in relation to boundary setback or access requirements if subdivided onto their own lots.

New buildings smaller than 300m<sup>2</sup> are permitted in this zone. Accessory buildings and fencing are also part of the permitted baseline.

Permitted development for this subject site is three residential units with a total of 19 habitable rooms.

### Receiving Environment

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

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

For the subject site, the existing and reasonably foreseeable receiving environment comprises residential activity.

For adjacent land, the existing and reasonably foreseeable receiving environment comprises medium density residential development with mature gardens.

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

### Assessment Matters/Rules

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

1. Lot Size and Dimensions and Physical Limitations (Operative Plan 18.6.1(q) & 18.6.1(k); Proposed Plan 15.13.5.5)

The proposed fee-simple subdivision will create six residential lots ranging in size from 122m<sup>2</sup> to 197m<sup>2</sup>. Minimum site size for the General Residential 2 zone is 300m<sup>2</sup>, so all six lots will be undersized. Lot 3, the smallest, will only be 40% of minimum site size while the largest, Lot 1, will be 66%.

Proposed Lot 1 will have frontage to Gourley Street and will obtain access directly from this road. The other five residential lots will share an access lot, Lot 7, which will extend along the southwest boundary of the development. This access lot will be 5.0m wide for the first 25.0m or so as it passes Lots 1 and 2, narrowing thereafter to 4.5m. It will only be 3.2m wide where it enters Lot 5.

While the subdivision is a non-complying activity primarily because of the undersized sites, it is noted that the proposal would be a restricted discretionary activity if cross-lease or unit title subdivided. There would be no obvious difference in physical effects arising and all the units would be held in separate titles. A fee-simple title is considered preferable to a cross lease title, and accordingly, the Council is supportive of the subdivision despite its non-complying activity status.

Not all of the new sites will be capable of accommodating a 7.0m by 10.0m building area as required by the Proposed Plan, but the proposal includes development plans for each lot and each new property will have a residential unit. As such, there is no expectation that the proposed subdivision will create any site having physical limitations rendering it unsuitable for future use.

2. Easements (Operative Plan 18.6.1(i))

The subject site is subject to drainage rights. The easement was created in 1911 in relation to a much bigger parcel of land and it is unclear whether the drainage easement has a defined location in any way related to this property. The land has since been subdivided into residential properties with reticulated services, so the existing easement registered on the title is likely to be of no consequence for the subject site.

The application plan shows a right of way over all of Access Lot 7 in favour of Lots 2 to 6. It is also likely that this will serve as a service easement in respect of the rear lots. The proposed right of way is acceptable.

New easements in gross over the Council-owned foul sewer and stormwater pipes within the property will be required. These will need to be created in accordance with the relevant section of the Dunedin Code of Subdivision and Development 2010. The revised plan of 21 May 2020, repeated in the revised plan of 2 July 2020, has increased the width of the future easement in gross beside Unit 6 to 3.0m so as to comply with requirements.

3. Infrastructure (Operative Plan 18.6.2(d), (e), (i), (j), (n), (o), & (p); Proposed Plan 15.11.4.1(c))

The Development Support Officer, Three Waters, has considered the application. She notes that a review of the Council's GIS records shows a 25mm and 75mm diameter water supply pipe, a 150mm diameter wastewater pipe, and a 450mm diameter stormwater pipe in Gourley Street. Additionally, there is a 160mm diameter wastewater pipe along the western boundary of the property and a 225mm diameter stormwater pipe at intersecting the property at the southwestern corner.

*Density assessment*

General Residential 2 zone rules in the Dunedin District Plan set a minimum site size of 300m<sup>2</sup>, but allows one undersized site provided the overall density is compliant. The overall site is 1153m<sup>2</sup> which is 647m<sup>2</sup> too small for six lots.

### *Infrastructure Requirements*

#### *Dunedin Code of Subdivision and Development 2010*

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

#### *Water services*

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

Each lot must be serviced from an individual Point of Supply. There is an existing water connection to the property which can be retained for proposed Lot 1. New water connections are required for Lots 2 to 6. For a new water connection or any change to an existing water connection, an "Application for Water Supply" is required. The Proposed Plan Rule 9.3.7 requires that all services be laid at least 600mm into resultant sites; therefore, when the connections are established, the water supply pipe must be laid at least 600mm into the lots.

#### *Firefighting requirements*

All aspects relating to the availability of water for firefighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies. There is a fire hydrant (WFH153889) 80m from the development entrance. Based on SNZ PAS 4509:2008 a FW2 (25l/s) zone requires a fire hydrant within 135m and a second within 270m. The proposed development will be compliant with these requirements.

#### *Stormwater services*

Three Waters advises that, in order to allow adequate pervious area for natural stormwater drainage, the maximum site coverage specified in the District Plan must be complied with when the sites are developed. Please note that there are new site coverage rules in the Proposed Plan for both building coverage and maximum site imperviousness, and any contravention of these rules will require additional resource consent.

The proposal is non-compliant to the current District Plan rules of minimum site size for a General Residential 2 zone. Additionally, the proposal breaches site coverage; therefore, a Stormwater Management Plan (SWMP) is required.

A Stormwater Management Plan (SWMP) prepared by a suitably qualified person must be submitted to Dunedin City Council and must include the following:

- a. Stormwater calculations which state the difference between the pre-development flows and post-development flows and how to manage any difference in flow; and
- b. An assessment of the current and proposed imperviousness of the site; and
- c. Secondary flow paths; and
- d. Any watercourses located within the property; and
- e. Detail of proposed stormwater management systems for the development to accommodate for any excess runoff from extra impervious surfaces; and
- f. An assessment of the current network and its ability to accept any additional flow from the proposed development.

It is to be noted that in some circumstances, post-development flows may need to be reduced to be as little as 80% of pre-development flows.

The SWMP must be submitted and accepted by Three Waters prior to any construction commencing.

### *Wastewater services*

The 1650mm diameter wastewater pipe intersecting Gourley Street is fully surcharged in wet weather events (1 in 10 yr ARI). Therefore, in order to reduce water consumption and the volume of wastewater generated, the consent holder is encouraged to install water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers.

### *DCC infrastructure within the property*

There is a 160mm diameter wastewater pipe along the western boundary of the property and a 225mm diameter stormwater pipe intersecting the property at its south-western corner. An easement in gross is required for these pipes as outlined below.

The applicant has proposed building within 2.5m of Council-owned wastewater infrastructure. No building, construction or disturbance in the land can be undertaken within the easement in gross area.

The applicant must provide site plans and cross-sections showing the proximity of the works to the Council-owned wastewater pipes within this property. No works may go ahead until these plans have approval from Three Waters.

Due to construction of the building within 2.5m of a Council-owned pipe, CCTV filming is required before and after any works to get an accurate location and ensure no damage takes place during construction. The filming can be undertaken through Intergroup (Intergroup needs to liaise with the 3 Waters Network Contracts Engineer). Any damage to the pipe during the earthworks and/or the construction process will be at the responsibility of the applicant.

### *Easements*

Service easements will be required where any private water supply, wastewater or stormwater pipes cross property boundaries in favour of the property they service.

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

### *Erosion and Sediment Control*

It is important that erosion and sediment control measures are utilised to control and contain sediment-laden stormwater run-off into neighbouring properties and the Council stormwater network from the site during any stages of site disturbance associated with this development. This could include diversion drains, sediment fencing, erosion control blankets etc. This is provided for as a condition of consent.

### *Private Drainage*

Council's Technical Support Officer, Seepage Control Unit, has considered the application. He notes that there are Council-owned foul and stormwater drains within the subject site available for connection. All six residential lots are to have individual foul and stormwater drains to the Council-owned services. The lots can drain to the foul sewer within Access Lot 7. Stormwater can connect to the Council-owned stormwater pipe within the property or discharge to the Gourley Street kerb and channel.

### *Summary*

The proposal is acceptable to Three Waters subject to conditions consistent with the above matters.

4. Transportation (Operative Plan 18.6.1(c); Proposed Plan 15.11.4.1(d))

The revised plan submitted to Council on 21 May 2020 has the garage of Unit 1 moved 0.5m closer to the street, but in a position which still complies with the exemption for garages relative to street frontages in Variation 1 of the Proposed Plan. The Council's Graduate Planner – Transport has assessed the revised proposal.

*Access:*

The Graduate Planner – Transport notes that the site is currently accessed via an existing bevel kerb vehicle crossing approximately 4.0m wide. Following subdivision, this vehicle crossing will connect to the vehicle access within proposed Lot 7, the access lot, and provide access to proposed Lots 2 to 6. Sight distance available from the existing vehicle crossing, to the east of the site, is below the minimum required. Notwithstanding, the vehicle crossing is currently in use and has not resulted in any known safety issues on the transport network.

A second vehicle crossing is proposed to be constructed at the eastern end of the frontage of proposed Lot 1 to Gourley Street. A utility pole is located near the eastern boundary of proposed Lot 1 on the grass berm of Gourley Street – the applicant should contact the utility operator in order to arrange for the relocation of this pole if required. The vehicle crossing to proposed Lot 1 must be formed to 3.0m wide, be hard surfaced for a minimum 5.0m from the edge of the Gourley Street carriageway towards the property boundary and be adequately drained.

The proposed access lot, Lot 7, has a legal width of 5.0m for approximately its first 24.0m, narrowing to 4.5m for its remainder. The formed width will be equal to the legal width for its duration. The proposed access widths satisfy Rule 6.6.3.9(a)(i). The vehicle access within proposed Lot 7 must be formed to between 4.5m and 5.0m wide and be hard surfaced and adequately drained for its duration.

Maintenance of all private accesses is the responsibility of their respective owners and users; therefore, the applicant is advised that a formal agreement should be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.

*Parking and manoeuvring:*

One on-site park is provided for each lot and the associated two habitable-room unit in accordance with Rule 15.5.8.2(a). On-site manoeuvring is not required for proposed Lot 1 which is accessed directly from Gourley Street. Based on the updated plans, submitted by the applicant on 2 July 2020, manoeuvring space suitable for an 85<sup>th</sup> percentile vehicle is available on-site for proposed Lots 2 to 6, using a combination of each residential lot and the access lot. Signage must be erected in the turning bay abutting Lots 3 and 4 to ensure this area is not obstructed and/or used for parking.

*Generated Traffic:*

Although all proposed lots are undersized, the number of habitable rooms proposed complies with the density permitted within the General Residential 2 zone. The traffic generated as a result of this proposal is unlikely to have any adverse effect on the operation of the transport network.

In terms of the demolition and/or construction work, the applicant is advised that a Traffic Management Plan should be submitted to and approved by DCC Transport prior to work commencing on-site, should the works affect the normal operating conditions of the transport network. Any damage to public roading assets resulting from the site works must be repaired by the applicant, at their cost, to the satisfaction of DCC Transport.

*Conclusion*

Transport considers the effects of the proposed development on the transportation network to be less than minor, subject to conditions of consent regarding the vehicle crossing and the formation requirements.

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

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

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

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

Council's Consulting Engineer, Stantec, has reviewed the application in relation to the Hazards Register, street files and available aerial photography.

The Hazards Register identifies this land as being subject to:

- Hazard ID 10111 – Intensified shaking, Earthquake Likely Amplification
- Hazard ID 11407 – Liquefaction Domain B.
- Hazard ID 11454 – Coastal Inundation – Projected Sea Level Rise
- Hazard ID 12075 - Flood – Overland Flow Path (flood plus other natural hazards).

The underlying geology of the subject site consists of alluvial material and is within a relatively flat residential area with slopes of less than 12°.

Earthworks for this project will involve service trenching and construction of the access and building platforms.

The Consulting Engineer comments:

*'The application does not acknowledge the underlying hazards of the site, however these may be controlled via conditions and advice of consent. The underlying material is not directly a hazard, though the underlying soils are relatively young, and as a result may be loose / lower strength. Foundation designers may wish to consider this. Seismic actions such as liquefaction and amplification are the primary hazards which may be controlled by advice and conditions below.'*

It is Stantec's usual practise to recommend that a minimum floor level be confirmed in order to ensure that any future development meets the Building Act 2004 requirements to avoid potential inundation (including flooding, overland flow, storm surge, tidal effects, and ponding) on the land on which the building work is to be carried out or adjacent landowners' property. The floor level should address the potential for egress of water from the property via secondary flow paths, ensure that construction is not proposed in low-lying areas and that the path of storm water is not displaced from ephemeral flow paths into neighbouring properties. Normal building requirements exist to

ensure that overland stormwater flows are not interrupted and the dwelling should be situated to avoid any adverse effects from local ponding during storm rainfall events.

As this proposal includes the development of six residential units, the floor levels will be determined at the time of building consent application.

The site lies in an area where underlying soils have been identified as having potential for amplified movement and liquefaction during a significant seismic event. Stantec notes, generally speaking:

- The cases for seismic loading are normally addressed at building control stage.
- The Dunedin City Council Building Control Authority will ask for verification that the site is 'good ground' in accordance with NZS3604, Section 3.1.
- Further to this, it is recommended that specific engineering design be required to address recognised potential liquefaction hazards.
- Specific Engineering Design, or exclusion of liquefaction risk may require investigation testing to 10m depth to quantify the potential for liquefaction for each dwelling

There are no natural hazards affecting this land which will compromise the development potential of this land, subject to appropriate design of buildings.

6. *Earthworks – Setback from Network Utilities (Proposed Plan 8A.6.3.8)*

The subject site is more or less level, and while the application does not detail the amount of earthworks requirement, it is unlikely that volumes or changes in ground level will require resource consent. The driveway construction will, however, occur over the Council-owned stormwater and wastewater pipes within the access lot, and therefore will contravene the rule regarding the separation distance from Council infrastructure. Likewise, the construction earthworks of the unit on Lot 6 is also likely to be within 1.5m of the pipe.

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

The applicant proposes earthworks within 2.5m of the Council-owned stormwater infrastructure. The applicant must provide site plans and cross-sections showing the proximity of the works to the wastewater and stormwater pipes. No works may go ahead until these plans have approval from Three Waters.

Due to earthworks being proposed within 2.5m of a Council-owned pipe, CCTV filming is required before and after any works to get an accurate location and to ensure no damage takes place during construction. The filming can be undertaken through Intergroup (Intergroup needs to liaise with the Three Waters Network Contracts Engineer). Any damage to the pipe during the earthworks and/or the construction process will be at the responsibility of the applicant.

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

The proposal is to build six new units on an area of 1153m<sup>2</sup>, and to subdivide the units onto their own fee-simple sites. One means by which the District Plan maintains the amenity values of an area is through the density provisions of the various zones. In this case, the Proposed Plan calculates density on a habitable-rooms basis, and the six proposed residential units are therefore acceptable as a development overall. The subdivision will create contraventions of this development rule because of the size of the lots but will not actually change the physical layout of the development.

Although a minimum site size of 300m<sup>2</sup> is specified by the Proposed Plan for this zone and the new lots will be undersized by this measure, the subdivision of the units onto their own fee-simple sites will create no additional effects over and above those already considered to be acceptable at the time of development. It is also noted that three houses could be built on this site area in compliance with the minimum site area, and each house could have an associated family flat of a comparable size to the proposed units. This would be a permitted activity with similar effects on density and amenity.

The Proposed Plan Rule 15.3.4.3 lists multi-unit development in the General Residential 2 zones as being a restricted discretionary activity while Rule 15.5.2.3 only allows more than one residential building (other than a family flat) on a site if all the residential buildings are able to meet the performance standards for site coverage, height in relation to boundary, setbacks, and access. Six units on this subject site, if built before subdivision, will be a temporary situation until subdivision, at which point there will be one unit per site. If the subdivision precedes development, then there is no multi-unit situation arising but the subdivision into undersized lots has less justification. The timing of the subdivision and building of the units will therefore influence the way the proposal is viewed under the planning provisions, but the outcome is identical, and chances are the development and subdivision will proceed together rather than in sequence.

The Council's Urban Designer has considered the development. He comments:

*'Regarding the above application and the likely effects to streetscape and amenity values. Gourley Street is located on the flat area between Musselburgh, Tainui and St Kilda. It is a quiet local street that runs between Royal Crescent and Ravelston Street and formed by two short sections of streets joining by a 90° corner creating two edges of a small residential block. The streetscape values are relatively high and defined by a good pedestrian scale, street trees/grass verges and a consistent residential character, predominantly based on 1920/40s character bungalows and villas. Houses are either clad with timber/plaster over timber or brick. Levels of ornamentation/detail such as, verandahs, brackets, timber joinery etc. are a common feature within the street. There is a high degree of consistency of bulk/scale and roof shape. Overall, Gourley Street is a largely intact example of early/mid-20<sup>th</sup> century residential architecture. While the existing house has undergone significant modification, it maintains critical features and character and makes a positive contribution to the streetscape.*

*'Nearby 11 Gourley Street is configured similarly to the proposed development although, in this instance there are only two units on the site and therefore the scale of the proposed development would be new to the street.*

*'The proposed design includes the demolition of a single bay villa on the subject site and replacement with six two-bedroom units configured as follows; two sets of joined units at the rear of the site and two separate units on the front half of the site. The units would be stacked along the north/east boundary with vehicle access being provided along the south/west boundary. On site car parks are provided on site (5 open and 2 garages).*

*'Breaches include: slight front yard setback (eaves only), site coverage (very slight and somewhat of a technical breach), recession plane due to common walls (no effect off site).*

*'The design provides for outdoor amenity space and service yards. Outdoor amenity space meets the minimum performance standards of the 2GP however, it is compromised by being located on the edge of the vehicle access and parking spaces. It is likely that the quality of these spaces (lots 1-4) will be affected by vehicles manoeuvring on site. Units 5 and 6 have outdoor amenity space provided away from vehicle parking /manoeuvring. In my view, where outdoor amenity space is adjacent to the vehicle accessway, some degree of*

*barrier should be provided to both soften/partially screen views of parked vehicles but also to visually delineated these incompatible spaces.*

*'Given the qualities of the existing streetscape, it is important that the proposed unit development is compatible with the surrounding architectural qualities. While I believe the basic design meets some of the local cues, the lack of detail relating to materials and opening placement makes it difficult to access the effects on the surrounding environment.*

*'To avoid minor negative effects, details of the how unit ones south and east elevations would interface with the street need to be shown. These facades should clearly articulate an entrance/front door and other openings that are consistent with the surrounding architecture. I would further suggest that cladding (on at least these facades) is compatible with surrounding buildings.'*

It is noted that Transport seek to have clear visibility between the driveway and outdoor living areas, creating a potential conflict of views between the departments. However, overall, the proposal is considered to meet the amenity values and character of the zone and surrounding area.

#### **8. Boundary Setback & Site Coverage (Proposed Plan 15.10.4.1 & 15.10.4.10)**

Proposed Unit 1 will have eaves encroaching into the front setback by 0.5m. The effects of this encroachment will be confined to the unit itself and the Gourley Street streetscape. It is unlikely that any adverse effects will be evident as the encroachment will be relatively minor in degree. Furthermore, it is noted that Variation 1 of the Proposed Plan seeks to change the rules so that the position of the eaves will become a permitted activity.

Following subdivision, there will be a number of setback contraventions relating to eaves of the various units and the new boundaries. The Proposed Plan, however, only considers setbacks at the time of development, so there is no actual contravention of the rules occurring. Any adverse effects arising from the proximity of the units to the new boundaries will be fully contained within the subject site, and is therefore acceptable.

The situation is similar with the site coverage contraventions of the units on Lots 1 to 4. The site coverage rule relates to new development and not subdivision of existing development. There is a very slight contravention of the site coverage occurring for the development overall, so while there will be small contraventions of the site coverage rules on Lots 1 to 4 following subdivision, the introduction of boundaries does not actually change the situation in any significant way. The 0.5% (or less than 6m<sup>2</sup>) is considered to be acceptable as a very minor contravention of the rule. The purpose of the rule is to manage stormwater runoff, and this is largely determined by the impermeable surfacing of a development which, in this case, is expected to be compliant.

### **NOTIFICATION ASSESSMENT**

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

#### **Step 1: Mandatory public notification in certain circumstances**

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

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

- There are no rules or national environmental standards precluding public notification.
- The application does not involve: a controlled activity; a restricted discretionary or discretionary subdivision; a boundary activity; nor, an activity prescribed in regulations as being precluded from public notification. As a result, public notification is not precluded under Step 2.

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

- There are no rules or national environmental standards requiring public notification.
- The activity will not have, or be likely to have, adverse effects on the environment that are more than minor.

Step 4: Public notification in special circumstances

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

**Limited Notification**

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

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

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

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

- There are no rules or national environmental standards precluding limited notification.
- The application does not involve: a controlled activity; nor an activity prescribed in regulations as being precluded from limited notification.

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

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

Step 4: Further notification in special circumstances

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

## **SUBSTANTIVE DECISION ASSESSMENT**

### **Effects**

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

### **Offsetting or Compensation Measures**

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

### **Objectives and Policies**

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

#### Operative District Plan

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

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)**  
These seek to enhance and maintain the amenity values of the Dunedin area.
- **Objective 8.2.1 and Policy 8.3.1 (Residential Section)**  
These seek to ensure that the adverse effects on the amenity values and character of residential areas are avoided remedied or mitigated.
- **Objective 18.2.1 and Policy 18.3.1 (Subdivision Section)**  
These seek to ensure that subdivision activity takes place in a coordinated and sustainable manner.
- **Objective 18.2.2 and Policy 18.3.5 (Subdivision Section)**  
These seek to ensure that physical limitations are identified and taken into account at the time of subdivision activity.
- **Objective 18.2.7, Policy 18.3.7 and Policy 18.3.8 (Subdivision Section)**  
These seek to ensure that provision is made at the time of subdivision activity for appropriate infrastructure, including management of associated effects.
- **Objective 20.2.2 and Policy 20.3.5 (Transportation Section)**  
These seek to ensure that activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.

#### Proposed Plan

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

- **Objective 6.2.3 and Policies 6.2.3.3, 6.2.3.4 and 6.2.3.9 (Transportation Section)**  
These seek to ensure that land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods.
- **Objective 15.2.2 and Policy 15.2.2.1 (Residential Zones)**  
These seek to ensure that residential activities, development, and subdivision activities provide high quality on-site amenity for residents.
- **Objective 15.2.3 and Policy 15.2.3.1 (Residential Zones)**  
These seek to ensure that activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.
- **Objective 15.2.4 and Policy 15.2.4.2 (Residential Zones)**

These seek to ensure that subdivision activities and development maintain or enhance the amenity of the streetscape and reflect the current of intended future character of the neighbourhood.

- **Policy 11.2.1.13 (Hazards)**

This seeks to only allow subdivision where the risk from natural hazards, including any future development, will be avoided or no more than low

### Objectives and Policies Assessment

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

### **Other Matters**

Section 104(1)(c) of the Resource Management Act 1991 requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application. The matters of precedent and Plan integrity are considered relevant here. These issues have been addressed by the Environment Court (starting with *Russell v Dunedin City Council* C092/03) and case law now directs the Council to consider whether approval of a non-complying activity will create an undesirable precedent. Where a plan's integrity is at risk by virtue of such a precedent, the Council is required to apply the 'true exception test'. This is particularly relevant where the proposed activity is contrary to the objectives and policies of the district plan and/or the proposed district plan.

In this case, the proposal is non-complying because the subdivision will result in lots smaller than minimum site size. However, the development on the site as a whole is compliant with the density provisions of the Proposed Plan. To place these new units on their own fee-simple site will introduce no obvious changes to the operation or appearance of the development. Accordingly, the subdivision proposal is considered to be acceptable, and will not undermine the integrity of the Proposed Plan.

### **Section 104D**

Section 104D of the Resource Management Act 1991 specifies that resource consent for a non-complying activity must not be granted unless the proposal can meet at least one of two limbs. The limbs of section 104D require that the adverse effects on the environment will be no more than minor, or that the proposal will not be contrary to the objectives and policies of both the district plan and the proposed district plan. It is considered that the proposal meets both limbs as any adverse effects arising from this proposed activity will be no more than minor, and the activity will not be contrary to the objectives and policies of both the Operative District Plan and the Proposed Plan. Therefore, the Council can exercise its discretion under section 104D to grant consent.

### **Part 2**

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

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## **RECOMMENDATION**

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

1. This application be processed on a non-notified basis, pursuant to sections 95A and 95B of the Resource Management Act 1991.

2. The Council grant consent to the proposed activity under delegated authority, in accordance with sections 104, 104B and 104D of the Resource Management Act 1991.
3. The time limits for the processing of this consent be extended pursuant to sections 37A(2)(b) and 37A(4)(b)(ii) of the Resource Management Act 1991.

*LC Darby*

Lianne Darby  
**Planner**

Date: 21 July 2020

## **DECISION**

I have read both the notification assessment and substantive decision assessment in this report. I agree with both recommendations above.

Under delegated authority on behalf of the Dunedin City Council, I accordingly approve the granting of resource consent to the proposal:

### Subdivision SUB-2020-33

*Pursuant to Part 2 and sections 34A(1), 104, 104B and 104D of the Resource Management Act 1991, and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying** activity being the subdivision of the land legally described as Part Section 70-71 Block VII Town Survey District (RT OT296/123 Ltd) at 3 Gourley Street, Dunedin, into six residential lots and access lot, subject to conditions imposed under sections 108 and 220 of the Act, as shown on the attached certificate.*

### Land Use LUC-2020-137

*That pursuant to section 34A(1) and 104C of the Resource Management Act 1991, and after having regard to Part 2 matters and section 104 of the Act, and the provisions of the Proposed Plan, the Dunedin City Council grants consent to a restricted discretionary activity being:*

- *the multi-unit development of the subject site with six units;*
- *setback contravention of the eaves of the front unit in respect of the Gourley Street boundary;*
- *earthworks in proximity to Council-owned infrastructure;*
- *site coverage contravention for the multi-unit development;*
- *insufficient aisle width and single lane access next to units 3 and 4 on Lots 3 and 4 SUB-2020-33;*
- *legal access to Lot 5 SUB-2020-33 which is under-width; and*
- *the use of a blind aisle for access to all the units;*

*at 3 Gourley Street, Dunedin, subject to conditions imposed under sections 108 and 220 of the Act, as shown on the attached certificate.*

*and*

*That, having taken into account:*

- *The interests of any person who may be adversely affected by the time extension,*
- *The interests of the community in achieving an adequate assessment of effects of a proposal, policy statement or plan, and*
- *Its duty under section 21 to avoid reasonable delay,*

*the Council has, pursuant to sections 37A(2)b) and 37A(4)(b)(ii) of the Resource Management Act 1991, extended the requirement outlined in section 115 regarding the time in which notification of a decision must be given after the date the application was first lodged with the Council.*

*Phil Marshall*

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Phil Marshall  
**Senior Planner**

Date: 21 July 2020



**Consent Type:** Subdivision Consent

**Consent Number:** SUB-2020-33

**Purpose:** Seven-lot fee-simple subdivision.

**Location of Activity:** 3 Gourley Street, Dunedin.

**Legal Description:** Part Section 70-71 Block VII Town Survey District (RT OT296/123 Ltd).

**Lapse Date:** 21 July 2025 unless the consent has been given effect to before this date.

**Conditions:**

1. *The proposed activity must be undertaken in general accordance with the approved revised plans prepared by Craig Horne Registered Surveyor entitled, 'Proposed Subdivision of Pt Sec 70 & 71 Blk VII Town of Dunedin,' received at Council on 16 April 2020, attached to this certificate as Appendix One, and the information provided with the resource consent application SUB-2020-33 received by the Council on 11 March 2020, and further information received on 16 April 2020 except where modified by the following conditions:*
2. *Prior to certification of the survey plan, pursuant to section 223 of the Resource Management Act 1991, the subdivider must ensure the following:*
  - a) *If a requirement for any easements for services, including private drainage, is incurred during the survey then those easements must be granted or reserved and included in a Memorandum of Easements on the cadastral dataset.*
  - b) *A right of way over Lot 7 in favour of Lots 2 to 6 must be duly created or reserved and must be shown on the survey plan in a Memorandum of Easements. The legal width of the right of way must be 5.0m for at least 24.5m, and at least 4.0m thereafter except where serving only Lot 5 at which point it can be reduced in width to 3.2m.*
  - c) *Service easements in favour of Lots 1 to 6 must be created wherever pipes pass over a different lot to the one it serves, and the easements must be shown on the survey plan in a Memorandum of Easements.*
  - d) *That easements in gross must be duly granted over any proposed or existing Council owned services located within private property. The easements must be made in accordance with the relevant section of the Dunedin Code of Subdivision and Development 2010, except where otherwise approved by Three Waters.*
  - e) *The following amalgamation condition must be endorsed on the survey plan:*

*'That Lot 7 hereon (legal access) be held as to five undivided one fifth shares by the owners of Lots 2 to 6 hereon as tenants in common in the said shares, and that individual records of title be issued in accordance therewith (See CSN Request 1649505).'*

3. *Prior to works commencing on-site, the subdivider must complete the following:*
- a) *Prior to commencing earthworks for the formation of the shared access or the building foundations of Unit 6, the developer must have Intergroup undertake pre-construction CCTV filming of the Council-owned pipe or pipes within the property or properties prior to any earthworks or construction commencing. The report from Intergroup must be submitted to rcmonitoring@dcc.govt.nz as soon as it is received.*
  - b) *The consent holder must submit a traffic management plan, prepared by a suitably qualified person, to rcmonitoring@dcc.govt.nz prior to demolition or construction works commencing if the proposed works risk affecting the normal operating conditions of the transport network. The traffic management plan must be approved by Transport prior to any works commencing.*
4. *Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the subdivider must complete the following:*

*General*

- a) *The existing building on-site must be demolished.*

*Infrastructure*

- b) *An “application for Water Supply - New Service” must be submitted to the Three Waters Group for approval to establish new water connections to Lots 2 to 6. Details of how Lots 2 to 6 are to be serviced for water must accompany the application.*
- c) *Upon approval by the Three Waters Group, the water service connection must be installed in accordance with the requirements of Section 6.6.2 of the Dunedin Code of Subdivision and Development 2010. The water supply pipe from the newly installed water connections must be laid at least 600mm into new Lots 2 to 6.*
- d) *Separate foul and stormwater laterals for each lot must be installed at least 600mm inside the boundaries of all the new lots.*
- e) *Following the completion of the driveway formation and the building of Unit 6, the developer must have Intergroup undertake post-construction CCTV filming of the pipe or pipes within the property or properties. The report from Intergroup must be submitted to rcmonitoring@dcc.govt.nz as soon as it is received.*
- f) *If the post-construction CCTV filming indicates that there has been damage to the pipe or pipes as a result of the works, then the developer must restore the pipe or pipe to pre-construction standard, to Council’s satisfaction, at their expense.*

*Transport*

- g) *If relevant, traffic management on Gourley Street must be undertaken in accordance with the approved TMP of condition 3(b) above.*
- h) *The driveway of Access Lot 7 must be formed to a minimum width of 5.0m from the road to the southern boundary of Lot 3, and a minimum formed width of 4.5m thereafter. The driveway must be hard surfaced and adequately drained for its duration.*

- i) A sign must be installed at the end of the manoeuvring bay to indicate that it is a no-parking area which is to be kept clear at all times.*
- j) The vehicle crossing on Gourley Street must be formed or widened to 5.0m (refer to advice notes for details).*

**Advice Notes:**

Transportation

1. It is recommended that the owners and users of the shared driveway enter into a formal agreement to clarify the responsibilities for maintenance.
2. The vehicle crossing, between the road carriageway and the property boundary, is within legal road and will therefore require a separate Vehicle Entrance Approval from DCC Transport to ensure that the vehicle crossing is constructed/upgraded in accordance with the Dunedin City Council Vehicle Entrance Specification (note: this approval is not included as part of the resource consent process).
3. Any work within road reserve will require a Corridor Access Request, submitted and approved prior to work commencing on-site.

Earthworks

4. This consent does not address any earthworks for this subdivision except in regards to earthworks over Council infrastructure. Should future earthworks within the new lots breach the performance standards of Rule 8A of the Proposed Plan, further consent will be required. Land use consent will also be required for any structures, such as retaining walls supporting fill or surcharge, near to boundaries.
5. When undertaking future earthworks, the developer is advised that:
  - Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development.
  - Slopes may not be filled steeper than 2h:1v (27°) without specific engineering design and construction
  - Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.
6. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss any development or earthworks proposal with Heritage New Zealand.
7. If the consent holder:
  - a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:

- i) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.
- ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Site work may recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:
  - i) stop work within the immediate vicinity of the discovery or disturbance; and
  - ii) advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to Heritage New Zealand Pouhere Taonga Act 2014; and
  - iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work may recommence following consultation with the Consent Authority.

### Infrastructure

- 8. To reduce water consumption and therefore the volume of wastewater generated, the consent holder will be required to install in new dwellings water saving devices, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers.
- 9. All aspects of this development shall be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
- 10. Detail of the water supply application process can be found at <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
- 11. All aspects relating to the availability of water for fire-fighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless otherwise approved by the New Zealand Fire Service.
- 12. The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
  - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
  - Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).

## General

13. 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.
14. 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.
15. 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.
16. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
17. 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 21 July 2020.

A handwritten signature in black ink that reads "Lianne Darby". The signature is written in a cursive, flowing style.

Lianne Darby  
**Planner**



**Consent Type:** Land Use Consent

**Consent Number:** LUC-2020-137

**Purpose:** Multi-unit development of 3 Gourley Street; setback contravention of eaves in terms of Gourley Street boundary; insufficient aisle width and single lane access next to units 3 and 4; under-width access to Lot 5; and the use of a blind aisle for access to all the units.

**Location of Activity:** 3 Gourley Street, Dunedin

**Legal Description:** Part Section 70 – 71 Block VII Town Survey District (RT OT296/123 Ltd).

**Lapse Date:** LUC-2020-137 lapse five years from the date that the s223 certificate for SUB-2020-33 is issued, unless given effect to prior to this date.

#### **Conditions:**

1. *The proposed activity must be undertaken in general accordance with the approved revised plans prepared by Craig Horne Registered Surveyor entitled, 'Proposed Subdivision of Pt Sec 70 & 71 Blk VII Town of Dunedin,' received at Council on 16 April 2020, attached to this certificate as Appendix One, and the information provided with the resource consent application LUC-2020-137 received by the Council on 11 March 2020, and further information received on 16 April 2020, except where modified by the following conditions:*

#### *Infrastructure:*

2. *If building within 2.5m of the Council-owned wastewater and/or stormwater pipe, or any manhole, within these lots, then the developer must notify Three Waters to discuss options for works and whether an encumbrance on the title is required. 'Building' includes decks, fences, garages, sheds, retaining walls and so on.*
3. *Prior to commencing earthworks for the formation of the shared access or the building foundations of Unit 6, the developer must have Intergroup undertake pre-construction CCTV filming of the Council-owned pipe or pipes within the property or properties prior to any earthworks or construction commencing. The report from Intergroup must be submitted to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz) as soon as it is received.*
4. *Following the completion of the driveway formation and the building of Unit 6, the developer must have Intergroup undertake post-construction CCTV filming of the pipe or pipes within the property or properties. The report from Intergroup must be submitted to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz) as soon as it is received.*
5. *If the post-construction CCTV filming indicates that there has been damage to the pipe or pipes as a result of the works, then the developer must restore the pipe or pipe to pre-construction standard, to Council's satisfaction, at their expense.*

6. *An “application for Water Supply - New Service” must be submitted to the Three Waters Group for approval to establish new water connections to the four rear units. Details of how the rear units are to be serviced for water must accompany the application.*
7. *Upon approval by Three Waters Group, the water service connection must be installed in accordance with the requirements of Section 6.6.2 of the Dunedin Code of Subdivision and Development 2010.*
8. *The six units must have separate foul and stormwater drains.*
9. *The six units must all have water saving devices installed, including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers in order to reduce water consumption and therefore the volume of wastewater generated wastewater discharges.*

#### *Transport*

10. *The consent holder must submit a traffic management plan, prepared by a suitably qualified person, to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz) prior to demolition or construction works commencing if the proposed works risk affecting the normal operating conditions of the transport network. The traffic management plan must be approved by Transport prior to any works commencing.*
11. *If relevant, traffic management on Gourley Street must be undertaken in accordance with the approved TMP of condition 6 above.*
12. *The access, parking and manoeuvring areas must be formed, hard surfaced, and adequately drained in entirety. The shared driveway must have a minimum formed width of 5.0m up to the manoeuvring bay, and 4.5m thereafter except where only serving one unit at which point the driveway must be formed to 3.0m width.*
13. *A sign must be installed at the end of the manoeuvring bay to indicate that it is a no-parking area which is to be kept clear at all times.*
14. *The parking spaces must be permanently marked.*
15. *Any damage to any part of the footpath or road formation as a result of the demolition or construction works must be reinstated at the consent holder’s cost.*

#### **Advice Notes:**

##### Transportation

1. It is recommended that the owners and users of the shared driveway enter into a formal agreement to clarify the responsibilities for maintenance.
2. The vehicle crossing, between the road carriageway and the property boundary, is within legal road and will therefore require a separate Vehicle Entrance Approval from DCC Transport to ensure that the vehicle crossing is constructed/upgraded in accordance with the Dunedin City Council Vehicle Entrance Specification (note: this approval is not included as part of the resource consent process).

### Earthworks

3. This consent does not address any earthworks for this development except in regards to earthworks over Council infrastructure. Should future earthworks within the new lots breach the performance standards of Rule 8A of the Proposed Plan, further consent will be required. Land use consent will also be required for any structures, such as retaining walls supporting fill or surcharge, near to boundaries.
4. When undertaking future earthworks, the developer is advised that:
  - Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development.
  - Slopes may not be filled steeper than 2h:1v (27°) without specific engineering design and construction
  - Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.
5. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss any development or earthworks proposal with Heritage New Zealand.

### Development

6. This land use consent provides for the multi-unit development of 3 Gourley Street to proceed independently of subdivision SUB-2020-33 with development occurring before subdivision. However, should development follow subdivision, the conditions of LUC-2020-137 will still apply.
7. When developing this land:
  - The cases for seismic loading are normally addressed at building control stage.
  - The Dunedin City Council Building Control Authority will ask for verification that the site is 'good ground' in accordance with NZS3604, Section 3.1.
  - Further to this, it is recommended that specific engineering design be required to address recognised potential liquefaction hazards.
  - Specific Engineering Design, or exclusion of liquefaction risk may require investigation testing to 10m depth to quantify the potential for liquefaction for each dwelling
8. At the time of building the new units, the developer will be required to determine a minimum floor level that ensures the development will meet the Building Act 2004 requirements regarding the avoidance of inundation (including flooding, overland flow, and ponding) on the land where the building work is to be carried out. The floor level must address the potential for egress of water from the property via secondary flow paths, ensure that construction takes into account low-lying areas and that the path of stormwater is not displaced from ephemeral flow paths into neighbouring properties. Normal building requirements exist to ensure that overland stormwater flows are not interrupted and that dwelling should be situated to avoid any adverse effects from local ponding during storm rainfall events.

9. It is advised that:

- Storm water from driveways, sealed areas and drain coils is not to cause nuisance on and adjoining properties.
- For secondary flow paths, the finished floor level shall be set at the height of the secondary flow plus an allowance for free board.
- As required by the New Zealand Building Code E1.3.2 surface water resulting from an event having a 2% probability of occurring annually, shall not enter dwellings, The finished floor level shall be set accordingly.

10. As a guide to suitable floor levels for residential development, Council has a data map at:

<https://dunedin.maps.arcgis.com/apps/webappviewer/index.html?id=56b2956ed47f4e94b39f54eecaed0a8c>

### Infrastructure

7. All aspects of this development shall be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
8. Detail of the water supply application process can be found at <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
9. All aspects relating to the availability of water for fire-fighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless otherwise approved by the New Zealand Fire Service.
10. The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
  - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
  - Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).

### General

11. 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.
12. 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.
13. 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.
14. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

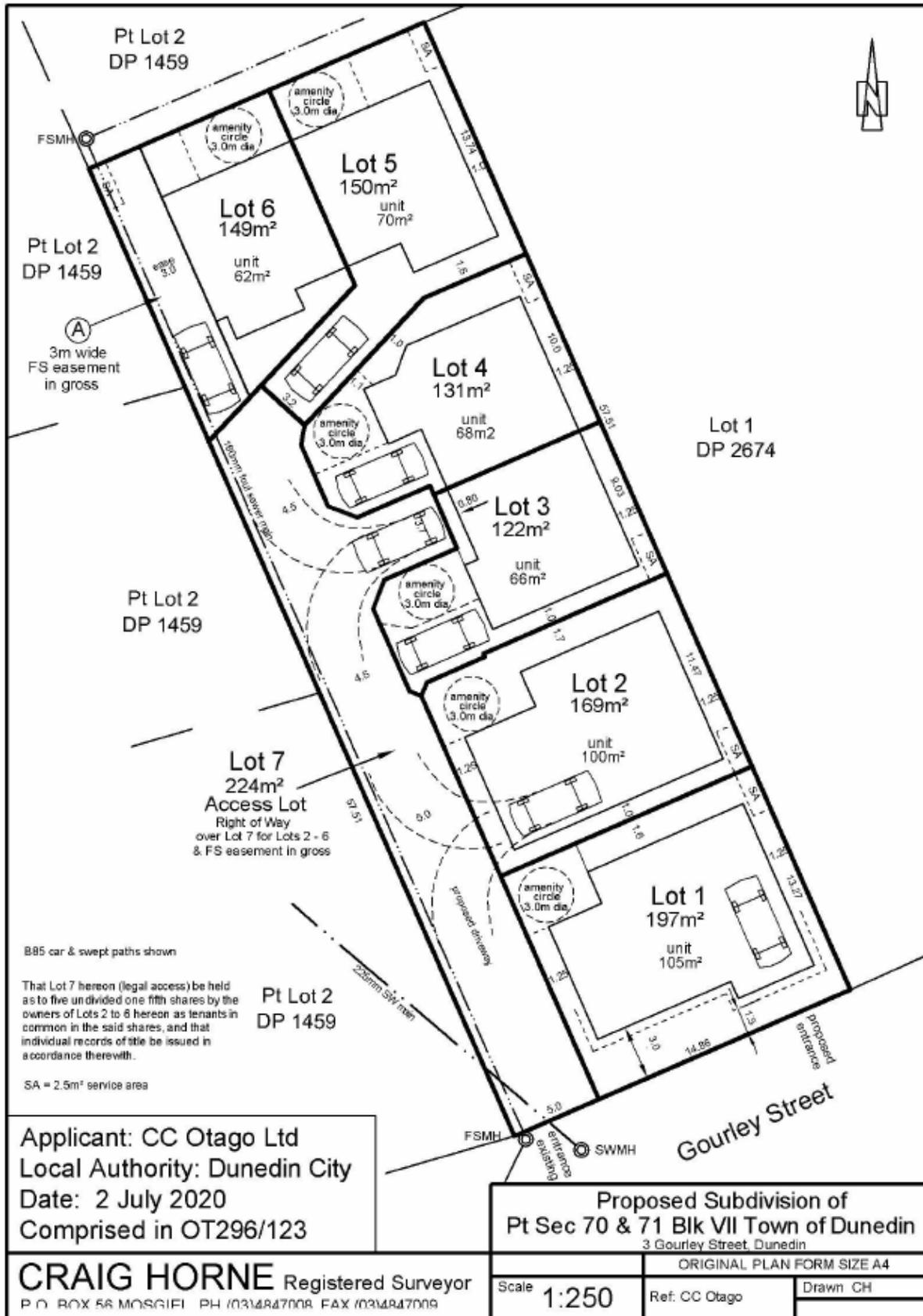
15. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

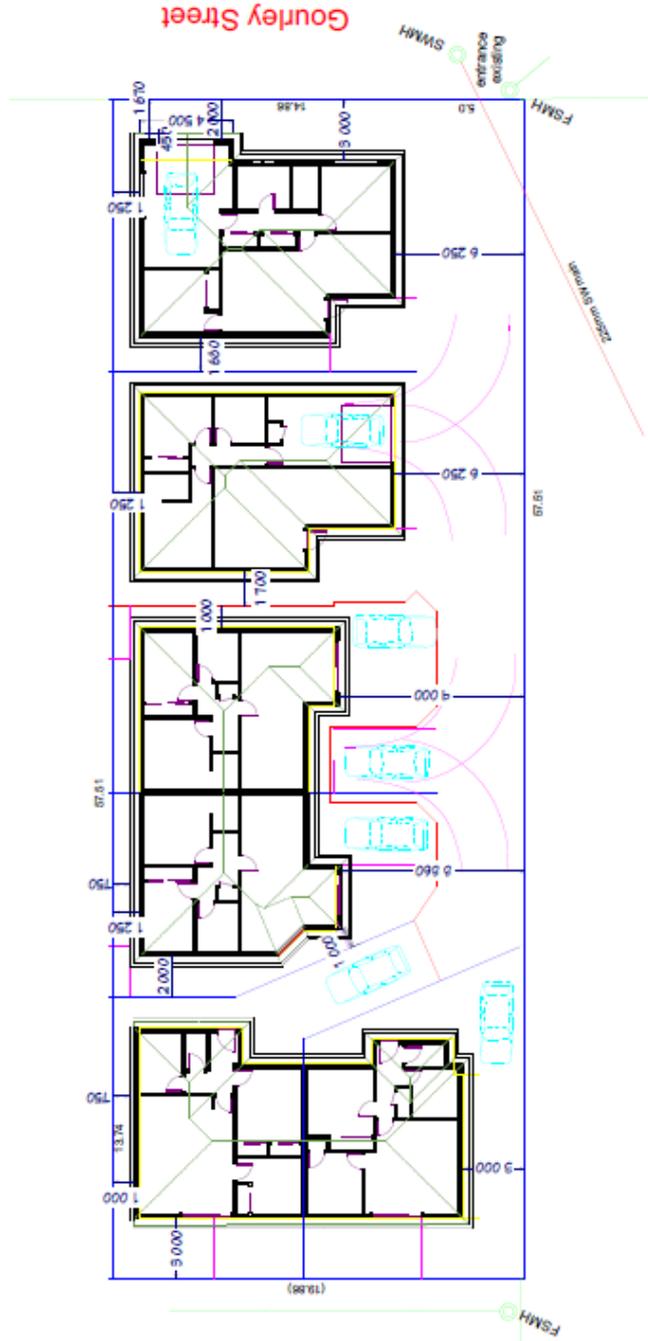
Issued at Dunedin on 21 July 2020.

A handwritten signature in black ink that reads "Lianne Darby". The signature is written in a cursive style with a large initial "L" and "D".

Lianne Darby  
**Planner**

Appendix One: Approved Plans for SUB-2020-33 & LUC-2020-137 (scanned images, not to scale)





Lee Preston Design  
 MCB: 0275520150  
 leepreston@leeprstondesign.co.nz

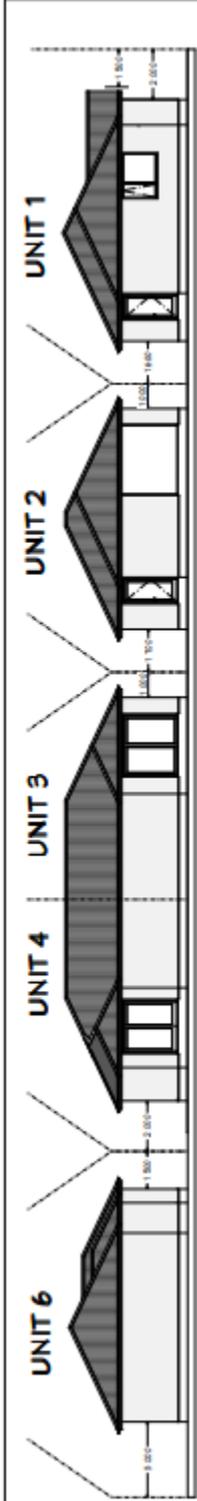
ALL CONSTRUCTION TO COMPLY WITH NZBC REGULATIONS. ALL MATERIALS TO BE  
 FREED IN STRICT ACCORDANCE WITH MANUFACTURERS SPECIFICATIONS  
 FINISHES TO BE AS SHOWN IN DRAWINGS. FINISHES NOT SHOWN  
 EXPRESSED OR IMPLIED THAT EACH AND EVERY DETAIL IS SHOWN  
 SHOULD THERE BE ANY OMISSION, DOUBT OR AMBIGUITY AS TO THE MEANING OF  
 ANY PART OF THE DRAWINGS & SPECIFICATIONS, CONTACT THE DESIGNER BEFORE  
 CONTINUING FURTHER WORK.

ROOF: N/A  
 CLADDING: Heavy  
 WIND ZONE: HIGH  
 EARTH ZONE: 5  
 SNOW LOAD: 1.0 kPa  
 CONSTRUCTION MUST CONFIRM  
 ALL DIMENSIONS ON SITE

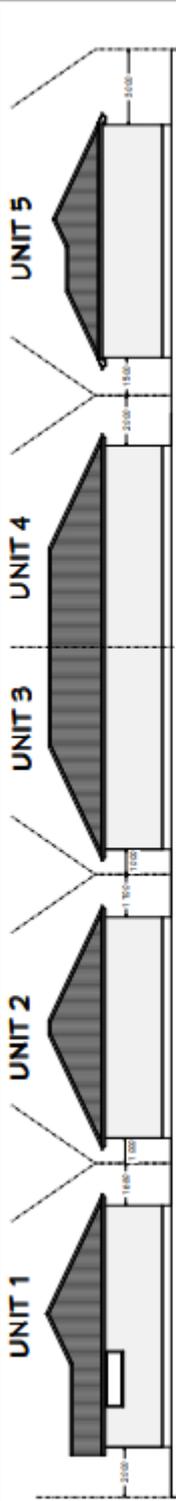
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 6 GOURLEY ST  
 DUNEDIN

DATE	19/12/2019
SCALE	1:200
NO.	1

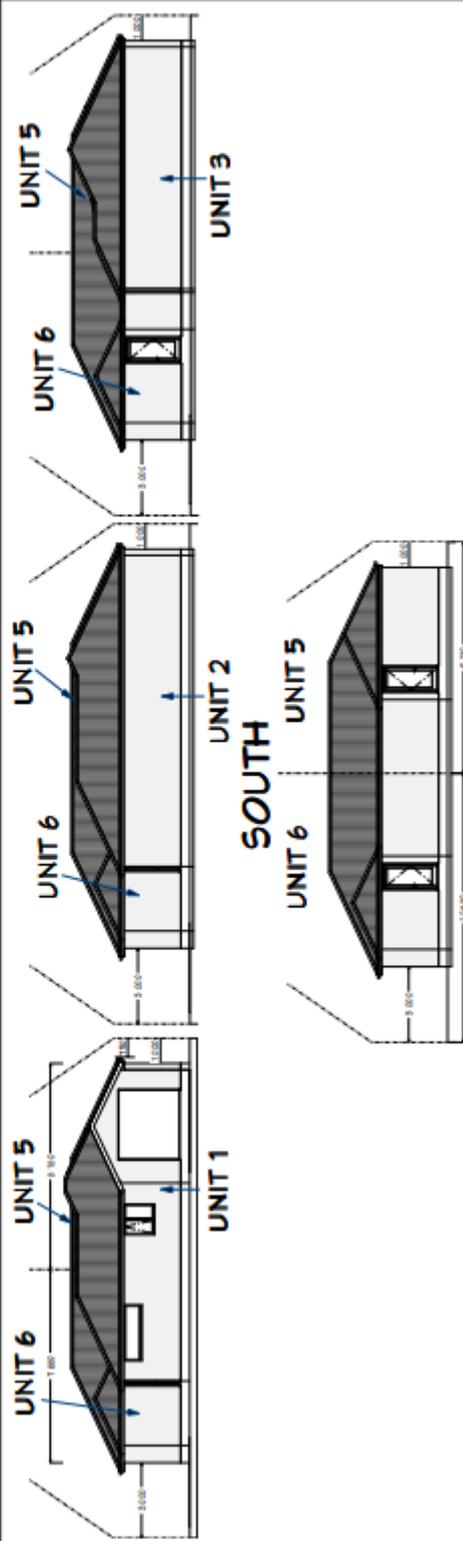
SITE PLAN



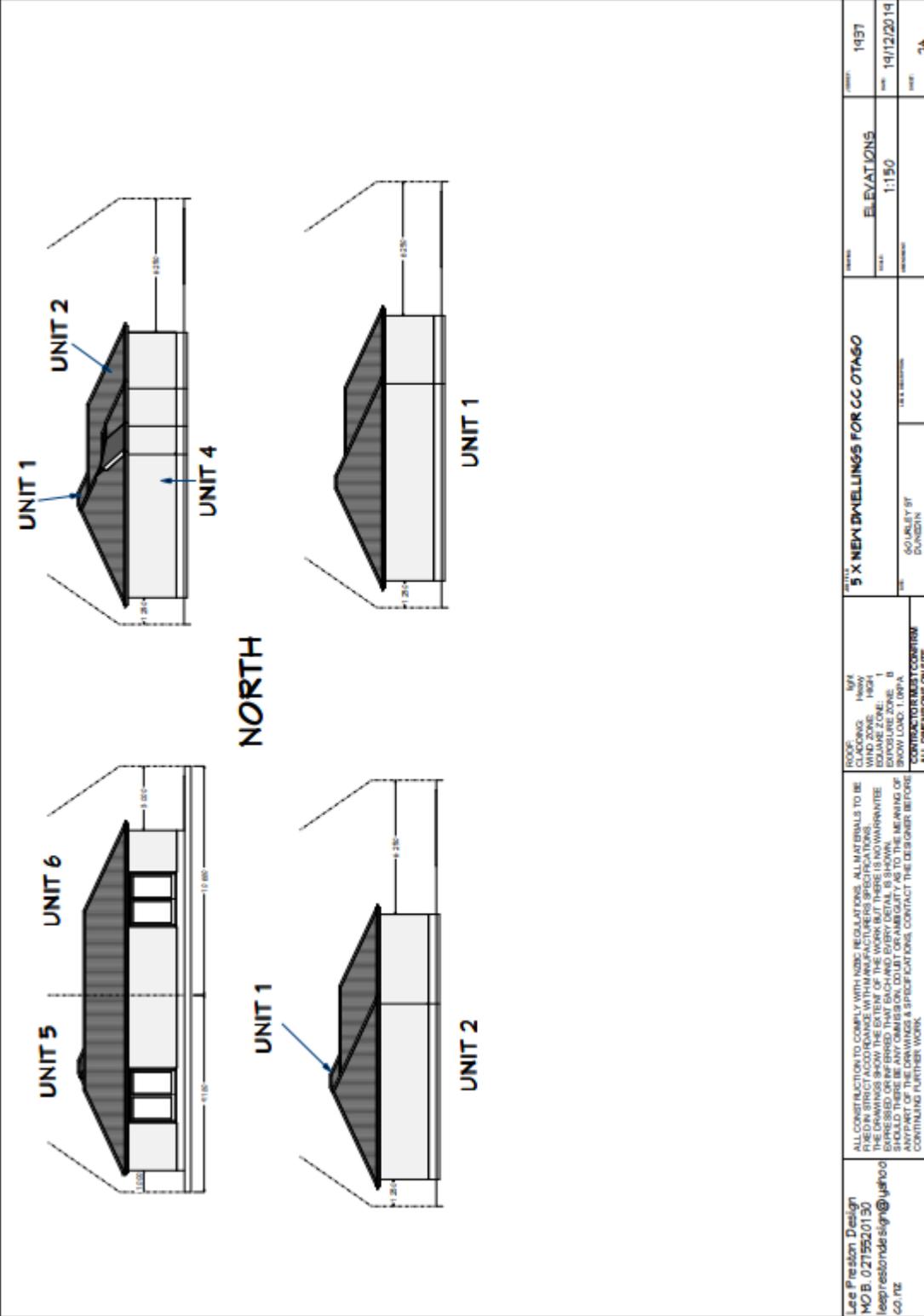
**WEST**



**EAST**



Lee Preston Design MOB. 0219520130 leeprestondesign@yahoo.com CO. NZ	ALL CONSTRUCTION TO COMPLY WITH NZBC REGULATIONS. ALL MATERIALS TO BE PROVIDED STRICT ACCORDANCE WITH MANUFACTURERS SPECIFICATIONS. ALL DIMENSIONS TO BE SHOWN IN MILLIMETERS UNLESS OTHERWISE STATED OR INFERRED THAT EACH AND EVERY DETAIL IS SHOWN. SHOULD THERE BE ANY OMISSION, DOUBT OR AMBIGUITY AS TO THE MEANING OF ANY PART OF THE DRAWINGS & SPECIFICATIONS, CONTACT THE DESIGNER BEFORE CONTINUING FURTHER WORK.	ROOF CLADDING: SP4 WIND ZONE: HIGH SEISMIC ZONE: B SOIL CLASS: 1, 0.97FA SNOW LOAD: 1.00kPa CONTRACTOR MUST CONFIRM ALL DIMENSIONS ON SITE.	5 X NEW DWELLINGS FOR CC OTAGO	DATE: 19/12/2019	NO: 2
				ELEVATIONS	SCALE: 1:150



Lee Precision Design MO B. 0275520130 leeprecisiondesign@juno.co.nz	ALL CONSTRUCTION TO COMPLY WITH NZBC REGULATIONS. ALL MATERIALS TO BE FIVE STAR ACCORDANCE WITH MANUFACTURERS SPECIFICATIONS. ALL FINISHES TO BE AS SHOWN. ALL DIMENSIONS UNLESS OTHERWISE EXPRESSED OR IMPLIED. THAT EACH AND EVERY DETAIL IS SHOWN. SHOULD THERE BE ANY OMISSION, CLASH OR AMBIGUITY AS TO THE MEANING OF ANY PART OF THE DRAWINGS & SPECIFICATIONS, CONTACT THE DESIGNER BEFORE CONTINUING FURTHER WORK.	ROOF: 50% CLADDING: 100% WIND ZONE: HIGH EXPOSURE: B SNOW LOAD: 1.0 kPa CONTRACTOR MUST CONFIRM ALL DIMENSIONS ON SITE	DATE: 19/12/2019
			PROJECT: 5 X NEW DWELLINGS FOR CC OTAGO SCALE: 1:150 DRAWN BY: GOURLY BY DUNNIN



Lee Preston Design  
 MOB. 0215520130  
 leepreston@design@juno.co.nz

ALL CONSTRUCTION TO COMPLY WITH NZBC REGULATIONS. ALL MATERIALS TO BE FIXED IN STRICT ACCORDANCE WITH MANUFACTURERS SPECIFICATIONS. THE DRAWINGS SHOW THE EXTENT OF THE WORK BUT THERE IS NO WARRANTY FOR THE ACCURACY OF THE INFORMATION PROVIDED. IF THERE IS ANY DOUBT OR AMBIGUITY AS TO THE MEANING OF ANY PART OF THE DRAWINGS & SPECIFICATIONS, CONTACT THE DESIGNER BEFORE CONTINUING FURTHER WORK.

COORDED WITH NZBC REGULATIONS  
 ALL DIMENSIONS ON SITE

**5 X NEW DWELLINGS FOR CC OTAGO**

DATE: 14/12/2014  
 DRAWN BY: DUNSDEN

PROJECT: FLOOR PLAN  
 DATE: 1997  
 SCALE: 1:150  
 SHEET: 9