



PLEASE FILL IN ALL THE FIELDS

Application Form for a Resource Consent

50 The Octagon, PO Box 5045, Moray Place Dunedin 9058, New Zealand Ph 477 4000 www.dunedin.govt.nz

Application Details

LA Shewan & OND Trustees Ltd & I/We RW Olsen & Clarke Craw and Partners Nominees Ltd (must be the FULL name(s) of an individual or an entity registered with the New Zealand Companies Office. Family Trust names and unofficial trading names are not acceptable: in those situations, use the trustee(s) and director(s) names instead) hereby apply for: Land Use Consent Subdivision Consent
Brief description of the proposed activity: Subdivide 35 & 35A Musselburgh Rise into three residential allotments.
35 & 35A Musselburgh Rise contain existing residential activities on 'Cross Lease' titles proposed to be
freeholded on subdivision. A new residential activity is proposed to be established on the third allotment in
breach of the Residential 1 zone rules of the Dunedin City District Plan.
Have you applied for a Building Consent?
Site location/description
I am/We are the: (owner, occupier, lessee, prospective purchaser etc) of the site
Street Address of Site: 35 & 35A Musselburgh Rise, Dunedin
Legal Description: Lot 1 DP 11751 (Cross Lease Plan DP 432747)
Certificate of Title: _525450 (Shewan) & 525449 (Olsen)
Address for correspondence (this will be the first point of contact for all communications for this application)
Name: C/- Terramark Ltd Geoff Bates (applicant/agent (delete one))
Address: PO Box 235, Dunedin Postcode: 9054
Phone (daytime): 03 477 4783 Email: geoff@terramark.co.nz
Address for invoices or refunds (if different from above)
Name: As above
Address:
Bank details for refunds Bank Account Name Terramark Limited
Account Number: Bank Branch Bank Branch Account Number Account Number Suffix
Ownership of the site Who is the current owner of the site? As above
If the applicant is not the site owner, please provide the site owner's contact details:
Address:Postcode:
Phone (daytime): Email:

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

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

Detailed description of proposed activity

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

See attached application for specific detail				
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Description of site and existing activity

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

See attached application for specific detail	
	(Attach senarate sheets if necessary)

District plan zoning

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

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

See application		
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Breaches of district plan rules

See attached application for specific detail.

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

Affected persons' approvals
I/We have obtained the written approval of the following people/organisations and they have signed the plans of the proposal:
Name: See application
Address:
Name:
Address:
Please note: You must submit the completed written approval form(s), and any plans signed by affected persons, with this application, unless it is a fully notified application in which case affected persons' approvals need not be provided with the application. If a written approval is required, but not obtained from an affected person, it is likely that the application will be fully notified or limited notified.
Assessment of Effects on Environment (AEE)
In this section you need to consider what effects your proposal will have on the environment. You should discuss all actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effect. i.e. small effect equals small assessment.
You can refer to the Council's relevant checklist and brochure on preparing this assessment. If needed there is the Ministry for the Environment's publication "A Guide to Preparing a Basic Assessment of Environmental Effects" available on www.mfe.govt.nz. Schedule 4 of the Resource Management Act 1991(RMA) provides some guidance as to what to include.
See attached application for specific detail
(Attach separate sheets if necessary)
The following additional Resource Consents from the Otago Regional Council are required and have/have not (delete one) been applied for:
Water Permit Discharge Permit Coastal Permit Land Use Consent for certain uses of lake beds and rivers Not applicable
Declaration
I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.
I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.
Subject to my/our rights under section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Dunedin City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid.
Signature of Applicant/Agent (delete one): Date: 24 7/18
Privacy-Local Government Official Information and Meetings Act 1987
You should be aware that this document becomes a public record once submitted. Under the above Act, anyone can request to see copies of applications lodged with the Council. The Council is obliged to make available the information requested unless there are grounds under the above Act that justify withholding it. While you may request that it be withheld, the Council will make a decision following consultation with you. If the Council decides to withhold an application, or part of it, that decision can be reviewed by the Office of the Ombudsmen.
Please advise if you consider it necessary to withhold your application, or parts of it, from any persons (including the media) to (tick those that apply):
Avoid unreasonably prejudicing your commercial position
Protect information you have supplied to Council in confidence
Avoid serious offence to tikanga Maori or disclosing location of waahi tapu

What happens when further information is required?

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

Fees

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

Further assistance

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

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

City Planning Staff can be contacted as follows:

In Writing: Dunedin City Council, PO Box 5045, Moray Place, Dunedin 9058

In Person: Customer Services Centre, Ground Floor, Civic Centre, 50 The Octagon

By Phone: (03) 477 4000, Fax: (03) 474 3451

By Email: planning@dcc.govt.nz

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

Information requirements (two copies required)
Completed and Signed Application Form
Description of Activity and Assessment of Effects
Site Plan, Floor Plan and Elevations (where relevant)
Certificate of Title (less than 3 months old) including any relevant restrictions (such as consent notices, covenants, encumbrances,
building line restrictions)
Written Approvals
Forms and plans and any other relevant documentation signed and dated by Affected Persons
Application Fee (cash, cheque or EFTPOS only; no Credit Cards accepted)
In addition, subdivision applications also need the following information
Number of existing lots. Number of proposed lots. Total area of subdivision. Number of proposed lots. The position of all new boundaries.
Total area of subdivision. The position of all new boundaries.
In order to ensure your application is not rejected or delayed through requests for further information, please make sure you have included all of the necessary information. A full list of the information required for resource consent applications is in the Information Requirements Section of the District Plan.
OFFICE USE ONLY
Has the application been completed appropriately (including necessary information and adequate assessment of effects)?
Yes No
Application: Received Rejected
Received by: Counter Post Courier Other:
Comments:
(Include reasons for rejection and/or notes to handling officer)
Planning Officer:Date:

Resource Consent Application Subdivision & Land Use

35 & 35A Musselburgh Rise Musselburgh, Dunedin

Prepared by: Terramark Limited July 2018



RESOURCE CONSENT APPLICATION 35 & 35A MUSSELBURGH RISE DUNEDIN

1 APPLICANTS DETAILS

The applicant and site owners details are:

LA Shewan & OND Trustees Ltd RW Olsen & Clarke Craw and Partners Nominees Ltd

C/- Lyn Shewan C/- Russell Olsen
35A Musselburgh Rise 35 Musselburgh Rise

Dunedin Dunedin

All resource consent associated correspondence is to be directed via the writer; the applicant's agents, and our contact details are as follows:

Terramark Limited Attention: Geoff Bates

P O Box 235 Phone: 03 477 4783

Dunedin 9054 Email: geoff@terramark.co.nz

2 SITE INFORMATION

Legal Details

The site is addressed as :-

35 & 35A Musselburgh Rise, Dunedin.

The subject site is legally described as :-

• Lot 1 DP 11751 with a total site area of 1110m² more or less.

The land is contained in :-

- Composite Computer Register 525450 in the name of OND Trustees Limited and Lynnette Shewan and
- Composite Computer Register 525449 in the name of Clarke Craw and Partners Nominees Limited and Russell William Olsen.

Description of Environs

The site is part of the Musselburgh Rise medium density residential neighbourhood, with access being off a no exit side road from the main Musselburgh Rise roadway. This side road is fully formed over its length and comprises a 5.0m wide carriageway with kerb & channel ending in a 15m wide turning head. A sealed footpath exists on the western side of this roadway.

Description of Site

The site as shown on the attached Terramark Ltd plans 11887/2 & 11887/3 is 99.65m in length orientated generally north-west and rises up 8.0m to a flat ridge top. The street frontage is 9.63m in width with the site widening to 15.83m at the northern end. The site is long and narrow. Two small attached dwelling units in the ownership of the applicants are located on the northern half of the site. The southern half of the site is bare land.

Whereas the site has direct frontage to Musselburgh Rise, physical access is by way of rights of way over the neighbouring driveway of 29, 31, & 33 Musselburgh Rise. A right of way over the applicants land also provides vehicle access to the rear of 36 Portobello Road.

The driveway over which the rights of way are created is hard surfaced and drained, and varies in width from 4.2m-5.5m.

3 DESCRIPTION OF ACTIVITY

The Residential 1 zone provisions are not met for the applicant's two existing units, but the current cross lease title structure has been lawfully established in June 1971 by cross lease plan DP 12435, copy attached. An alteration to the cross lease title structure was consented to by Council in June 2010 (SUB-2010-18) in order to legalise a conservatory added to Mrs Shewan's unit.

Although DP 12435 does not identify this cross lease development as being staged, it would appear that court C is separately defined for future residential activities.

The proposed lots on the attached Terramark Ltd Plan No. 11887/2 recognise both the existing residential activities and their associated curtilage area, leaving Lot 3 as a compliant 500m² residential site for the establishment of a residential activity thereon.

Mr Olsen occupies the 332m² area shown as Lot 1. This site contains his two-bedroom residence and exclusive curtilage area contained in a cross lease title 525443.

Mrs Shewan owns the neighbouring unit with the associated curtilage, shown contained on Lot 2, by way of cross lease title 525450.

The units are attached at a common wall that separates their single garages.

Mrs Shewan's cross lease title also includes covenant area C which comprises approximately 500m². In terms of the 278m² area associated with her dwelling unit, this site area has and will always be surplus to her living requirements.

It is this 500m² surplus land area (Lot 3) that Mrs Shewan now seeks to subdivide for the establishment of a single bedroom residential activity thereon for her mother.

This proposed new residential activity is shown on the attached architectural concept drawings. The narrow width of the site results in the new build breaching the 63° recession plane in relation to the western driveway boundary and eastern boundary common with 1 Rochester Terrace.

Whereas the site directly fronts Musselburgh Rise, physical access to the applicant's units is by way of right of way easements over adjoining residential properties, being 29, 31, & 33 Musselburgh Rise.

The driveway formation and associated rights of way is substandard in terms of the residential activities currently provided for, and as such, the additional unit proposed on Lot 3 will be an additional breach. All parties with an interest in the driveway and associated rights of way have provided their written consent for the residential activity proposed and the continued use of their driveway by the existing units.

At the road frontage, the right of way corridor is both legally and physically 4.4m wide. This widens to 5.9m where there is widening for turning before then reducing back to approximately 3.9m adjacent to Mrs Shewan's unit. The driveway then widens to 4.5m adjacent to the applicant's attached garaging before then leading to 33 Musselburgh Rise and the rear of 36 Portobello Road via a right of way over Mr Olsen's cross lease area.

Whereas the primary right of way is created by easement certificate 321303, this easement only directly fronts the applicant's land where the right of way to 36 Portobello Road leads off. The right of way is otherwise 0.3m separate from their title boundary. Right of way T363660 provides two small "bridges" across this separation, as shown on the attached plan 11887/3. This is adjacent to the southern end of each of the applicant's units. These easement bridges do not give the applicants vehicle access to their garaging.

Inherent to this application is the written consent from I.J. & L.Z. Griffin, the owners of No. 33 Musselburgh Rise who own half of the leg in driveway to extend the right of way across to the applicant's title boundary in order to secure legal access along its entire length.

As previously described the driveway is fully hard surfaced and drained, and although varied in width from a minimum of 4.4m to a maximum of 5.8m, all interested parties associated with the driveway and existing rights of way have given their written consent in support of this application.

Accordingly, this proposal seeks Subdivision consent for the conversion of the existing cross lease titles into three Lot freehold allotments in the Residential 1 zone with Land Use consent being sought to provide for the establishment of a residential activity on Lot 3 and for the continuation of the existing residential activities on Lots 1 & 2.

Lot 1

Lot 1 is an irregular shaped site of 332m² in size, albeit subject to also a right of way easement 343204 in favour of the owners of No. 36 Portobello Road.

This lot is more particularly shown on the attached Terramark Ltd Plan No. 11887/3. This site contains Mr Olsen's existing two-bedroom unit and attached garage.

The side yards and amenity open space shown are generally in accordance with the Residential 1 zone provisions, with the exception of the 1.10m side yard to the neighbouring 1 Rochester Terrace.

The garage has a common wall with Mrs Shewan's garage on Lot 2. This creates a side yard breach. This is an existing use situation as more recently consented on SUB-2010-18.

At 332m² Lot 1 is substandard in terms of the minimum 500m² requirement of the Residential 1 zone.

Lot 2

Lot 2 is a rectangular site of approximately 278m² with access off the adjoining right of way. This site contains Mrs Shewan's two-bedroom unit and attached garage.

The side yards and amenity open space shown are generally in accordance with the Residential 1 zone provisions, with the exception of the 1.10m side yard to the neighbouring 1 Rochester Terrace.

The garage has a common wall with Mr Olsen's garage on Lot 1. This creates a side yard breach. This is an existing use situation as more recently consented on SUB-2010-18.

At 278m² Lot 1 is substandard in terms of the minimum 500m² requirement of the Residential 1 zone.

Lot 3

Lot 3 will be a 500m² compliant site. A 1-bedroom unit and attached garage will be established on this site. The attached architectural concept drawings identify that height plane breaches will be likely.

Foul Waste & Stormwater Services

The applicant's existing units on Lots 1 & 2 commonly drain to Council's 150mm Ø main in the turning head of the Musselburgh Rise side road. On subdivision Mrs Shewan's unit will be disconnected and a new service connection laid to Council's main. A new service connection will be installed for the proposed unit to be established on Lot 3.

The same will apply with regard to stormwater disposal with new connections to be provided for Mrs Shewan's unit on Lot 2 and the proposed new unit on Lot 3.

Appropriate easements for both services will be defined as required.

• Water and Firefighting Supply Services

A Council 100mm \emptyset watermain exists in the Musselburgh Rise roadway at the street frontage of this subdivision.

Currently the applicants two units are serviced by a single water connection.

On subdivision two new connections will be installed to service Lots 2 & 3.

A fire hydrant is located at the driveway entrance to this property, with a second hydrant at the intersection of this Musselburgh Rise side lane and the main Musselburgh Rise thoroughfare.

4 ACTIVITY STATUS & REASONS FOR APPLICATION

The subject site is zoned **Residential 1** in the Dunedin City District Plan 1999, Map 50. There are no hazards recorded against the property in Council's records, and there are no designations for this land applicable to this application. Musselburgh Rise is classified as a District Road in the Plan's Roading Hierarchy, but the side road to this proposal is more representative of a Local Road.

Subdivision

Rule 18.5.1(iii) lists subdivision as a restricted discretionary activity where the proposal complies with Rules 18.5.3 to 18.5.6, 18.5.9 and 18.5.12, and either the sites created comply with the minimum area and frontage requirements for the zone, in this case 500m² & 3.50m respectively, or it is an existing or proposed multi-flat development that complies with the requirements of the respective zone including the overall density. While Lot 3 at 500m² will be a compliant site, Lots 1 & 2 will be non-compliant at 332m² & 278m² respectively.

Rule 18.5.3 requires every allotment to have both legal access and vehicle access to a formed road. Lots 1 & 2 do not have legal frontage and all three lots will rely on right of way access over adjoining land for physical access..

Rules 18.5.4, 18.5.5 and 18.5.9 - 18.5.12 are not applicable.

All three Lots will comply with Rule 18.5.6 regarding service connections.

Accordingly, this proposal is a **non-complying subdivision** pursuant to Rule 18.5.2.

Land use

Rule 8.7.1(i) lists residential activity at a density of not less than 500m^2 of site area per residential unit as being a permitted activity for this zone. There are two existing residential units and one proposed residential activity on a fee-simple site of $1,110\text{m}^2$. As such the proposed development at one unit per 370m^2 of site area does not comply with the overall density for the zone and the proposal is a non-complying activity pursuant to Rule 8.7.6(iii).

In assessing the performance criteria of Rule 8.7.2, the proposal will fail to comply with the following:

• Rule 8.7.2(i)(a) specifies side and rear yards of 2.0m for rear sites. The existing units on Lots 1 & 2 are approximately 1.1m from the eastern boundary, therefore having an existing encroachment of approximately 0.8m. The garages of each unit also share a common wall boundary therefore Lots 1 & 2 have an existing side yard breach of approximately 2.0m along the common wall.

- Rule 8.7.2(i)(a) specifies side and rear yards of 2.0m for front sites. The proposed unit on Lot 3 is approximately 1.25m from the western site boundary, therefore having a proposed encroachment of approximately 0.75m.
- Rule 8.7.2(ii) specifies a height plane angle of 63° measured from existing ground level at the boundary. The units and garaging will breach this height plane angle breach adjacent to the eastern site boundary with 1 Rochester Terrace, and along the shared garage wall boundary.
- The proposed unit on Lot 3 although 2.0m off the eastern boundary will likely to breach the height plane angle in terms of the boundary shared with 1 Rochester Terrace and the western boundary shared with 33 Musselburgh Rise depending on final build levels. The architectural concept plans of the new dwelling proposed on Lot 3 show potential breaches
- Rule 8.7.2(v) requires each unit to have at ground level an area of 35m2 of amenity open space that
 is capable of containing a 4.5m diameter circle. The northern yard of Lot 1 just fails to comply with
 this requirement.
- Rule 8.7.2(iv) specifies a maximum site coverage of 40%. The site coverage of Lot 1, less the right of way to 36 Portobello Rd, is approximately 53%. The site coverage of Lot 2 is approximately 49%.
- Rule 8,7.2(xii) specifies that minimum area for a site in this zone is 500m². Lots 1 & 2 are less than this minimum, but both are existing situations as occupied.
- Rule 8.7.2(viii) requires access to comply with the Transportation Section of the District Plan. Rule 20.5.7(v)(b) requires a minimum width of private ways and vehicle access to serve 7-12 units as being 6.0m (legal) and 5.0m (formed). The existing driveway varies in width from a minimum of 4.2m to a maximum of 5.5m.

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

The site is within the proposed General Residential 1 zone where the proposed minimum site size is $500m^2$.

Subdivision

The Proposed 2GP was notified on 26 September 2015, and some 2GP rules have immediate legal effect. Although the hearings have been completed, no decisions have yet been released to give effect or become operative. In this instance, there are no relevant 2GP rules to consider, as very little weight can be given to the provisions of the proposed plan.

Land Use

In this instance, there are no relevant 2GP rules to consider.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

Given the long established residential nature of the Musselburgh Rise area it is considered, more likely than not, that no activities will have been undertaken on the site that appear on the HAIL. A search however has been requested from the D.C.C. Archives to determine if any historical land use or activities are listed in the HAIL schedule. Comments will be provided upon receipt and review of the D.C.C. Archive search.

Overall Planning Status

Overall, the application is considered a **non-complying activity**.

Objectives and Policies

In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Dunedin City District Plan and the proposed 2GP have been taken into account in assessing this application.

Dunedin City District Plan (Operative Plan)

On the basis that this application is to freehold an existing lawfully established cross lease development and create a third residential allotment in compliance with the Residential 1 zone provisions but with minor bulk & location breaches the proposal is considered to be consistent with the following objectives and policies:

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)** seek to maintain and enhance the amenity values of Dunedin.
- Objective 8.2.1 and Policy 8.3.1 (Residential Section) seek to ensure that the adverse
 effects of activities on amenity values and the character of residential areas are avoided,
 remedied or mitigated.
- **Objective 18.2.1 and Policy 18.3.1 (Subdivision Section)** seek to ensure that subdivision activity takes place in a coordinated and sustainable manner.
- Objective 20.2.2 and Policy 20.3.5 (Transportation Section) seek to ensure that activities
 are undertaken in a manner which avoids, remedies or mitigates adverse effects on the
 transportation network.

Proposed 2GP

The objectives and policies of the 2GP must also be considered alongside the objectives and policies of the current district plan. Again, on the basis that this application is to freehold an existing lawfully established cross lease development and create a third residential allotment in compliance with the Residential 1 zone provisions the proposal but with minor bulk & location breaches the proposal is considered to be consistent with the following 2GP objectives and policies:

- Objective 6.2.3 and Policies 6.2.3.3, 6.2.3.4 and 6.2.3.9 (Transportation Section),
 which 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), which 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),** which seek to ensure that activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.

As the Proposed 2GP is going through the decision-making process, the objectives and policies of the Dunedin City District Plan have been given more consideration than those of the Proposed 2GP.

5 PLANNING ASSESSMENT

Affected Persons

The following adjoining owners/occupiers have been approached to obtain their written consent as potentially affected parties.

Property Address	Name	Owner	Occupier	Date Consent Provided
29 Musselburgh Rise	Johannus	Y	Y	17/6/2018
Dunedin 9013	Van Leeuwen			
31 Musselburgh Rise	Fiona White	Υ	Υ	19/6/2018
Dunedin 9013				
33 Musselburgh Rise	Leslie & Isla Griffin	Υ	Y	21/6/2018
Dunedin 9013				
36 Portobello Road	Clare Curran	Υ	Y	17/6/2018
Dunedin 9013				
1 Rochester Terrace	Werner & Kathryn	Y	Υ	Overseas attending to a family
Dunedin 9013	Van Harselaar			emergency

No other persons were considered to be adversely affected by this proposal.

Effects on the Environment

The following assessment of effects on the environment has been carried out in accordance with Section 104(1) of the Resource Management Act 1991 and those assessment matters listed in Sections 8.13 and 18.6.1 of the Dunedin City District Plan considered relevant to the proposed activity. The existing environment is characterised by medium density residential development of generally single dwellings on sites in excess of 500m².

Any actual or potential effects on the environment of allowing this proposal to proceed will be no more than minor for the following reasons:

Operative Dunedin City District Plan

1. Baseline Considerations

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 plan permits an activity with that effect. That is, an application can be assessed by comparing it to the existing environment and development that could take place on the site as of right, without a resource consent, but excluding development that is fanciful.

In this situation an existing cross lease subdivision consent exists, and the third allotment proposed complies generally with the provisions of the Residential 1 zone to provide a permitted baseline for this site.

2. Lot Design, Dimensions & Bulk and Location

This proposal is to freehold and existing cross lease development most recently defined on DP 432747 and the cross lease are altered to add a conservatory to Flat 2.

Lot 1 replicates Flat 1 on DP 432747 while Lot 2 generally reflects Flat 2 on DP 432747 with the exception that the southern yard of covenant area B has been reduced from 10.34m to 7.0m.

This is to provide a 500m² compliance site for Lot 3 and to enable the proposed residential activity to be established thereon to be sited so as to not compromise a large existing oak tree located in what is effectively the Musselburgh Rise front yard of this site. Although the net lot size will be less than 500m² for proposed Lots 1 & 2 (being 332m² and 278m² respectively). Both of these sites are an existing use situation as occupied.

When this site was first subdivided from what is now 33 Musselburgh Rise, the subsequent cross lease development identified Flat 1 with an exclusive covenant area, while Flat 2 was similarly identified with an exclusive covenant area but with also covenant area C, as shown on DP 12435 as an applied subsequent stage to the cross lease development.

In terms of dimensions and shape, proposed Lots 1 & 2 are effectively as occupied, while Lot 3 will provide for the proposed residential activity to be established as shown on the attached architectural concept drawings.

It is recognised that that the existing development does not meet all the performance criteria for the Residential 1 zone such as site coverage, yards, and height plane angles. However, as the development is existing and well established, there is no actual physical or actual change occurring to the property as a result of this subdivision. It can be expected that the residential activity onsite will continue to function exactly as it does at present.

Accordingly, there is no expectation that the proposed freehold subdivision will create any site having physical limitations rendering it unsuitable for future use.

The proposed subdivision will bring no changes to the physical development of the existing units on the site. Therefore, the bulk and location breaches of the existing development are considered to be acceptable.

The proposed residential activity to be established on Lot 3 will breach side yard and height plane performance criteria.

Whereas the side yard to the existing driveway of neighbouring properties over rights of way exists, compliance with the 1.0m separation, the breach of the 2.0m side yard is largely mitigated by the physical width of the existing driveway to neighbouring properties. All parties with an interest have given their written consent to the proposed built form and associated breaches as identified on the architectural drawings.

3. Infrastructure & Easements

As a consequence of the existing cross lease development, the applicants own an undivided share of the fee simple site and share drainage and water services. The title is subject to a right of way that provides vehicle access to the rear of 16 Portobello Road (Easement Certificate 321303). The title is also subject to appurtenant right of way easements over the adjoining driveway owned by neighbouring properties.

An anomaly exists in that the appurtenant rights of way only link to the applicant's land along small sections of their title boundary. A 0.30m separation otherwise exists. As the existing link easements don't correspond with the applicants on site garaging new right of way easements are proposed to rectify this situation such that access is formalised over the entire length of the site boundary adjacent to the driveway. This will formalise driveway access to the new Lot 3 also.

The applicant's units are attached at their garaging. Party wall easements are proposed over the common wall as part of the freehold subdivision.

The water and drainage services for Lots 1 & 2 will be separated, with new connections installed for Lot 2 and the new build proposed for Lot 3 with appropriate easements created thereover.

In terms of Council's existing infrastructure, it is considered that there are sufficient services available for this development and firefighting requirements can be met. As such any adverse effect of the proposal on the City's reticulated infrastructure is considered to be no more than minor.

4. Transportation

The side street of Musselburgh Rise that provides legal and physical frontage to this site has a road formation width of approximately 5m with kerb and channel and footpath on the western side. This side road ends in a small cul-de-sac head at the boundary of this proposal.

The driveway, over which right of way easements are created in favour of this site, varies in width from 4.2m to 5.5m with a turning area midway. The driveway is hard surfaced and drained.

Both of the existing units on Lots 1 & 2 have on-site garage parking. The right of way over the adjoining driveway provide adequate onsite manoeuvring.

The proposed new build on Lot 3 will provide a garaged onsite park. The existing driveway and right of way will provide an adequate onsite manoeuvring availability.

All parties with an interest in the driveway have consented to this proposal, and as such do not consider that the proposed development will exacerbate the already existing non-compliance with regard to the number of units being served from the driveway.

As such, it can be considered that any adverse effects of the proposal on the transportation network to be no more than minor.

5. Hazards

There are no known natural hazards for this site. The land use development for this cross lease conversion to a freehold subdivision is existing, however, the proposal will involve the construction on Lot 3.

This future site development and dwelling construction will require earthworks, however, those extents are undefined at present, and as such no consent for earthworks associated with the new build on Lot 3 is sought at this point in time.

6. Building Control

As mentioned previously the new boundary between Lots 1 & 2 is subject to a common wall.

A fire safety report has not been submitted as part of this application, as the subdivision consent SUB-2010-18 to alter the cross lease title structure should have addressed this matter and confirmed that the common wall complies with NZ Building Code to the extent required by Section 116A of the Building Act 2004.

7. Amenity Values and Character

This proposal involves an existing development on Lots 1 & 2 that is in breach of the Residential 1 zone performance criteria. The new development proposed on Lot 3 is on a compliant 500m² allotment. As such it is not expected to have any adverse effects on the amenity values and character of the surrounding area and will not compromise the integrity of the District Plan irrespective of the breach of the Residential 1 zone density rules. The existing units are lawfully established and any adverse effects are long established. It is considered that the future development being a new dwelling is sited so that adjoining properties are not affected by the breaches outlined earlier in this application.

It is recognised that the consent of the adjoining landowners at 1 Rochester Street has not been provided as they are attending a family emergency overseas. On the basis however that the Van Harselaar residence is adjacent to the two existing units on Lots 1 & 2, that are largely screened by vegetation on the common boundary, and the situation is existing this will not change as a consequence of this subdivision proposal.

With regard to the proposed new build on Lot 3, it is noted that this is adjacent to a single garage on the boundary and driveway of the Van Harselaar's. This combined with vegetation on the boundary will largely screened the new build. As such amenity values are not considered to be compromised, as the adjacent part of the Van Harselaar property has no real intrinsic amenity value.

The same can be said with regard to the driveway boundary where the driveway itself effectively provides a 4m-5m side yard from adjoining residential activities.

8. Cumulative & Precedent Affect

The increased density of residential development is the primary cumulative factor in relation to this application.

The proposed development on Lot 3 is consistent with the existing pattern of development on Lots 1 and 2, and will be contained on a 500m² compliant site. Lots 1 and 2 reflect an existing lawfully established cross lease development that is proposed to be converted to a freehold title structure.

This is considered to be particularly significant in the context of the local environment. The cumulative effect of this increase in density is considered to be no more than minor given the characteristics which make up this site to be a true exception and not easily re-creatable. That there are few, if any, other sites demonstrating similar circumstances, presents this proposal as an opportunity to be assessed as unique in that environment. In doing so, this provides the potential to allay any concern that the granting of a favourable decision would set an undesirable precedent.

Proposed 2GP

In this instance, there are no applicable assessment rules.

6 Conclusion

This application proposes to undertake a three-lot residential subdivision of a 1,110m² site in the Residential 1 zone, and to obtain land use consent for residential activities on each of the resultant sites.

While the application status is non-complying, our assessment has determined that it is not repugnant in terms of the District Plan Objectives and Policies and that the adverse effects on the environment are already existing or are less than minor. Furthermore, the risk of a precedent being set is remote given the exceptional and unique circumstances associated with the specific characteristics of the proposal.

Accordingly, we would now ask for you Council's favourable consideration to the approval of this application on a non-complying non-notified basis and we will look forward to your decision in due course.

Your faithfully **Terramark Ltd**

Geoff BatesSurveying Consultant

Encl:

- Application Plans 11887/2 & 11887/3
 Composite Computer Registers 525449 & 525450
 Application deposit fee \$1,850.00
 Affected Party Approvals in support
 Architectural Concept Build plans



COMPOSITE COMPUTER REGISTER **UNDER LAND TRANSFER ACT 1952**



Search Copy

Identifier

525449

Land Registration District Otago

Date Issued

02 March 2011

Prior References

OT4D/1093

OT4D/1427

Estate

Fee Simple - 1/3 share

1110 square metres more or less

Legal Description Lot 1 Deposited Plan 11751

Proprietors

Russell William Olsen and Clarke Craw and Partners Nominees Limited

Estate

Leasehold

Instrument

L 8687754.3

Term

999 years commencing 20.2.2011 (renewal

covenant)

Legal Description Area 1 Deposited Plan 432747

Russell William Olsen and Clarke Craw and Partners Nominees Limited

Appurtenant hereto is a right of way created by Easement Certificate 321303 - 1.1.1870 at 12:00 am (affects fee simple)

The rights of way created by Transfer 321303 are subject to the Council's conditions of consent endorsed on DP 11434 (affects fee simple)

The easements specified in Easement Certificate 321303 are subject to Section 351E (1) (a) Municipal Corporations Act 1954

338634 Variation of the conditions of the easement specified in Easement Certificate 321303 - 14.2.1969 at 2.26 pm (affects fee simple)

Subject to a right of way over part coloured yellow on DP 11751 created by Transfer and Grant of Easement 343204 - 17.7.1969 at 10:27 am (affects fee simple)

Appurtenant hereto are Rights of Way over parts Lot 1 DP 11570 (CT OT3B/1130) created by Transfer 363660 -25.11.1970 at 12.07 pm (affects fee simple)

The rights of way created by Transfer 363660 are subject to the Council's conditions of consent endorsed on the said Transfer (affects fee simple)

8687754.3 Lease of Area 1 DP 432747 Term 999 years commencing 20.2.2011 (renewal covenant) Composite CT525449 issued - 2.3.2011 at 11:29 am (affects fee simple)

8687754.4 Lease of Area 2 DP 432747 Term 999 years commencing 20.2.2011 (renewal covenant) Composite CT 525450 issued - 2.3.2011 at 11:29 am (affects fee simple)





Title Plan - DP 432747

Survey Number

DP 432747

Surveyor Reference

09174 - Flat Plan Musselburgh Rise

Surveyor

Steven Mark Copson

Survey Firm

TL Survey Services Ltd

Surveyor Declaration I Steven Mark Copson, being a licensed cadastral surveyor, certify that:

(a) this dataset provided by me and its related survey are accurate, correct and in accordance with the Cadastral Survey Act 2002 and the Rules for Cadastral Survey 2010, and (b)the survey was undertaken by me or under my personal direction Declared on 14 Dec $2010\,05\,13~\mathrm{PM}$

Survey Details

Dataset Description Area 2 over Lot 1 DP 11751

Status

Deposited

Land District

Otago

Survey Class

Class A Cadastral Survey

Submitted Date

14/12/2010

Survey Approval Date 15/12/2010

Deposit Date

02/03/2011

Territorial Authorities

Dunedin City

Comprised In

CT OT4D 1427

CT OT4D:1093

Created Parcels

Parcels

Area 2 Deposited Plan 432747

Area 1 Deposited Plan 432747

Area A Deposited Plan 432747 Area B Deposited Plan 432747

Area C Deposited Plan 432747 Total Area

Parcel Intent

Cross Lease Building Cross Lease Building

Covenant Area Covenant Area

Covenant Area

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Area

CT Reference

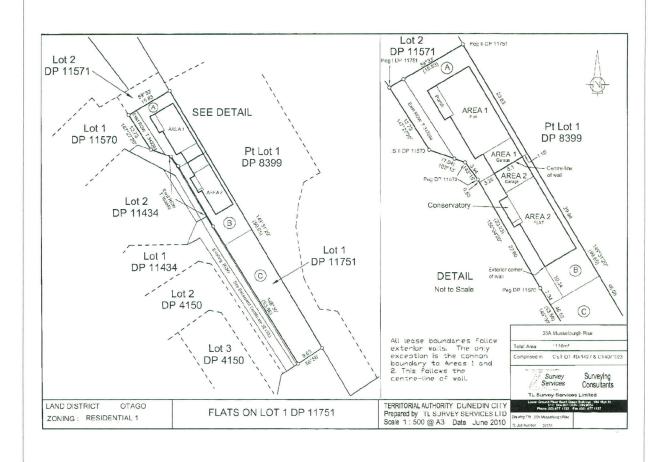
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DP 432747 - Title Plan

Generated on 11/04/2011 1:01pm

Page 1 of 3

Transaction Id: 54536476 Client Reference: 11887



Schedule / Memorandum

Easement Schedule - DP.432747

Schedule of Existing Subject Easement				
Purpose	Servient Ten	Created by		
Right of Way	Lot 1 DP 11751	T 343204		

Schedule of Existing Appurtenant Easement				
Purpose	Servient Ten	Greated by		
Right's of Way	Lot 2 DP 11434 & Lot 1 DP 11570	EC 321303		

DCC Reference - SUB-2010-18

DP 432747 - Title Plan

Generaled on 11/04/2011 1:01pm

Page 3 of 3



COMPOSITE COMPUTER REGISTER **UNDER LAND TRANSFER ACT 1952**



Search Copy

Identifier

525450

Land Registration District Otago

Date Issued

02 March 2011

Prior References

OT4D/1093

OT4D/1427

Estate

Fee Simple - 2/3 share

Area

1110 square metres more or less

Legal Description Lot 1 Deposited Plan 11751

Proprietors

Lynette Anne Shewan and OND Trustees Limited

Estate

Leasehold

Instrument

L 8687754.4

Term

999 years commencing 20.2.2011 (renewal

covenant)

Legal Description Area 2 Deposited Plan 432747

Proprietors

Lynette Anne Shewan and OND Trustees Limited

Appurtenant hereto is a right of way created by Easement Certificate 321303 - 1.1.1870 at 12:00 am (affects fee simple)

The rights of way specified in Easement Certificate 321303 are subject to the Council's conditions of consent endorsed on DP 11434. (affects fee simple)

The easements specified in Easement Certificate 321303 are subject to Section 351E (1) (a) Municipal Corporations Act 1954

338634 Variation of the terms and conditions and restrictions of the easements referred to in Easement Certificate 321303 - 14.2.1969 at 2.26 pm (affects fee simple)

Subject to a right of way over part coloured yellow on DP 11751 created by Transfer and Grant of Easement 343204 - 17.7.1969 at 10:27 am (affects fee simple)

Appurtenant hereto is a right of way over part Lot 1 DP 11570 (CT OT3B/1130) created by Transfer 363660 -25.11.1970 at 12.07 pm (affects fee simple)

The right of way created by Transfer 363660 is subject to the Council's conditions of consent endorsed on Transfer 363660

8687754.3 Lease of Area 1 DP 432747 Term 999 years commencing 20.2.2011 (renewal covenant) Composite CT525449 issued - 2.3.2011 at 11:29 am (affects fee simple)

8687754.4 Lease of Area 2 DP 432747 Term 999 years commencing 20.2.2011 (renewal covenant) Composite CT 525450 issued - 2.3.2011 at 11:29 am (affects fee simple)

8853866.2 Mortgage to Westpac New Zealand Limited - 9.9.2011 at 3:47 pm

Transaction Id

Search Copy Dated 12/02/18 2:34 pm, Page 1 of 4 Register Only





Title Plan - DP 432747

Survey Number

DP 432747

Surveyor Reference

09174 - Flat Plan Musselburgh Rise

Surveyor

Steven Mark Copson TL Survey Services Ltd

Survey Firm

Surveyor Declaration I Steven Mark Copson, being a licensed cadastral surveyor, certify that:

(a) this dataset provided by me and its related survey are accurate, correct and in accordance with the Cadastral Survey Act 2002 and the Rules for Cadastral Survey 2010, and

(b)the survey was undertaken by me or under my personal direction Declared on 14 Dec 2010 05:13 PM

Survey Details

Dataset Description Area 2 over Lot 1 DP 11751

Status

Deposited

Land District

Otago

Survey Class

Class A Cadastral Survey

Submitted Date

14/12/2010

Survey Approval Date 15/12/2010

Deposit Date

02/03/2011

Territorial Authorities

Dunedin City

Comprised In

CT OT4D 1427 CT OT4D:1093

Created Parcels

Parcels

Area 2 Deposited Plan 432747

Area 1 Deposited Plan 432747 Area A Deposited Plan 432747

Area B Deposited Plan 432747 Area C Deposited Plan 432747

Total Area

Parcel Intent

Cross Lease Building Cross Lease Building

Covenant Area Covenant Area

Covenant Area

CT Reference Area

> 525450 525449

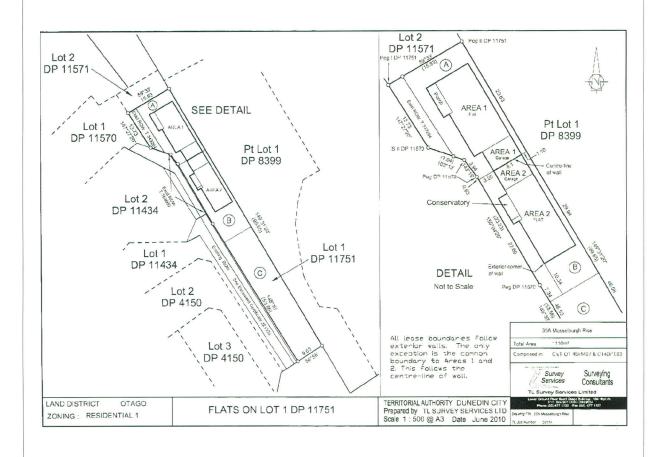
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DP 432747 - Title Plan

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Page 1 of 3

Transaction Id: 52941470 Client Reference: 9999 Shewan



Schedule / Memorandum

Easement Schedule - DP.432747

Schedule of Existing Subject Easement			
Purpose	Servient Ten Created by		
Right of Way	Lot 1 DP 11751	T 343204	

Schedule of Existing Appurtenant Easement				
Purpose	Servient Ten	Greated by		
Right's of Way	Lot 2 DP 11434 & Lot 1 DP 11570	EC 321303		

DCC Reference - SUB-2010-18

DP 432747 - Title Plan

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Page 3 of 3

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Lots 1-3 being a Proposed Subdivision of Lot 1 DP 11751

Comprised in : CR 525450 Owner: LA Shewan Family Trust

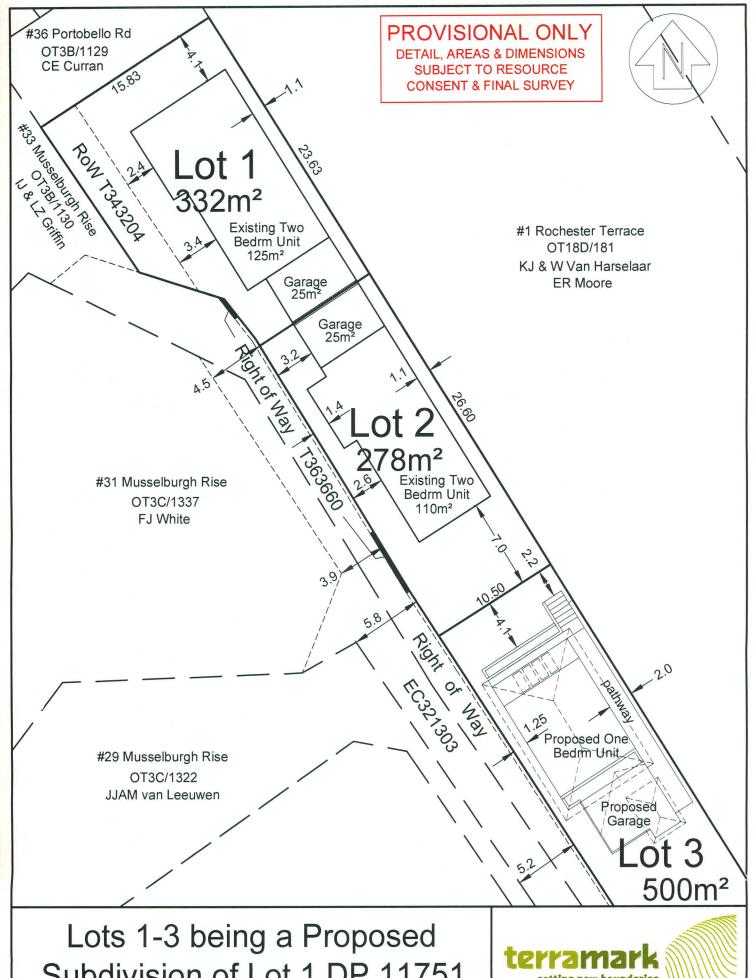
: CR 525449 Owner: RW Olsen Family Trust

Address: 35 & 35A Musselburgh Rise Total Area: 1110m²



Dunedin 03-4774783 Mosgiel 03-4897107 Balclutha 03-4180470

Job No: 11887 | Scale: 1:600 @ A4 |
Date: June 2018 | Plan #: 11887-2



Subdivision of Lot 1 DP 11751

Comprised in: CR 525450 Owner: LA Shewan Family Trust

: CR 525449 Owner: RW Olsen Family Trust

Address: 35 & 35A Musselburgh Rise Total Area: 1110m²

setting new boundaries Surveying, Resource Management & Engineering Dunedin 03-4774783 Mosgiel 03-4897107 Balclutha 03-4180470

Job No: 11887 Scale: 1:300 @ A4

Date: July 2018 Plan #: 11887-3







PROJECT

Dunedin Apartment

35c Musselburgh Rise Dunedin

DESIGNED DRAWN

P.S. & G.L.R. 0.L.R. 3/5/18

DATE JOBNO 18.239

Perspectives

A3





PROJECT

Dunedin Apartment

350 Musselburgh Rise Dunedin

DESIGNED DRAWN:

designer G.L.R. 3/5/18

DATE JOBNO

18.239

Perspectives

ORIGINAL SHEET SIZE







PROJECT

Punedin Apartment

35c Musselburgh Rise Dunedin

DESIGNED:

designer G.L.R. 3/5/18

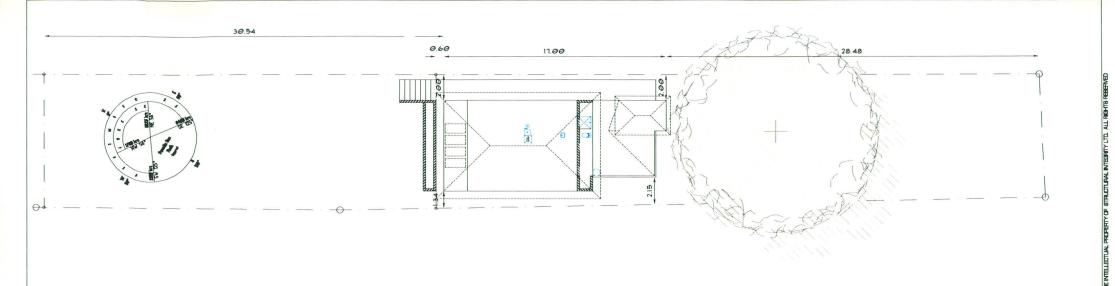
DATE JOBNO

18.239

Perspectives

ORIGINAL SHEET SIZE

REVISION



GENERAL NOTES

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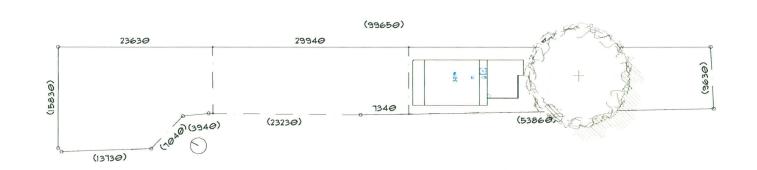
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STRUCTURAL

Structural Integrity Limited P.D. Box 2078 Gueenstown 6348 N.P. Phy (03) 442 9455 Mox 027 414 2288 emelt designitistructurellnitegrity.co.rx violt online: www.structurellnitegrity.co.rx

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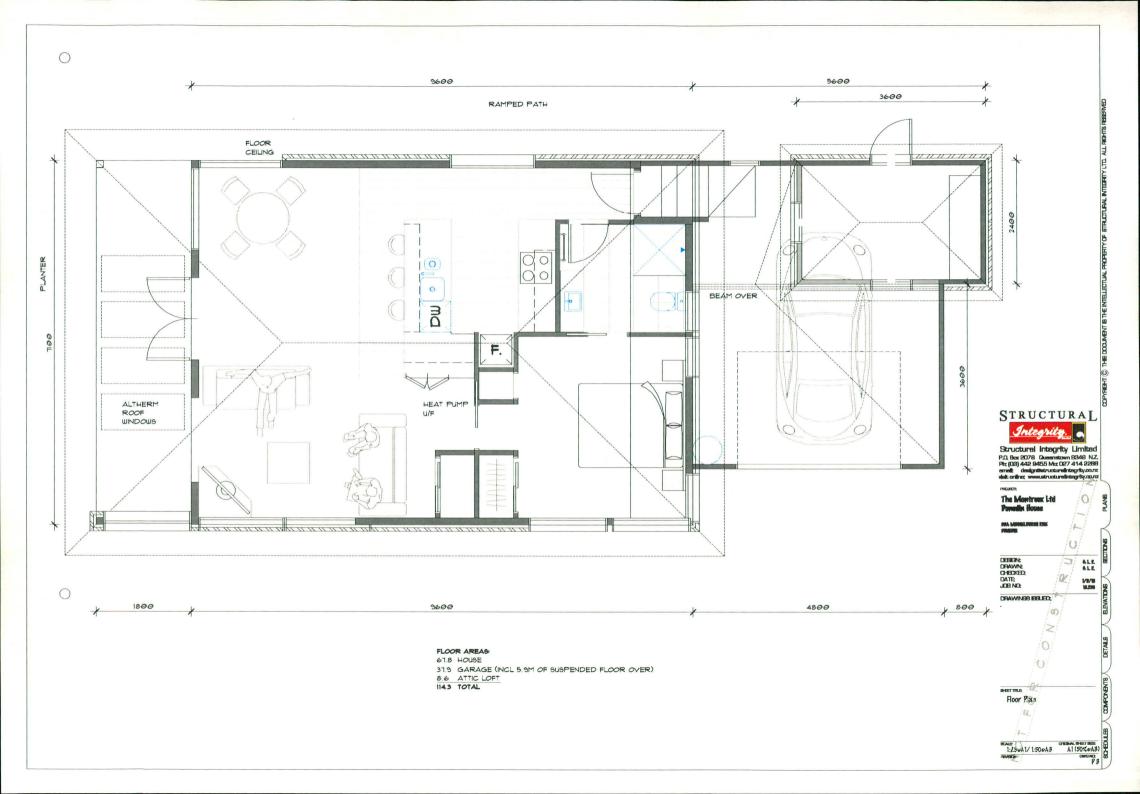
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STRUCTURAL



P.O. Box 2078 Queenstown 9349 N.Z. Ph:+643 442 9455 Fax:+643 442 9454 email: design@structuralintegrity.co.nz online: www.structuralintegrity.co.nz

PROJECT

Dunedin Apartment

35c Musselburgh Rise Dunedin

DESIGNED: P.S. & O.L.R.
DRAWN O.L.R.

JOB NO

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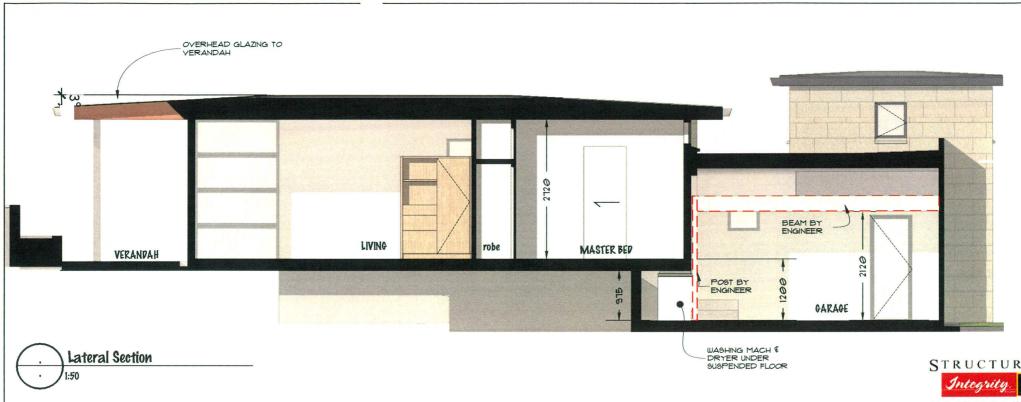
3/5/18 18.239

SHEET NO

Roof Plan

SCALES ORIGINAL SHEET SIZE
1:100 A3

REVISION



STRUCTURAL



P.O. Box 2078 Queenstown 9349 N.Z. Ph:+643 442 9455 Fax:+643 442 9454 email: design@structuralintegrity.co.nz online: www.structuralintegrity.co.nz

PROJECT

Dunedin Apartment

350 MUSSELBURGH RISE PUNEDIN

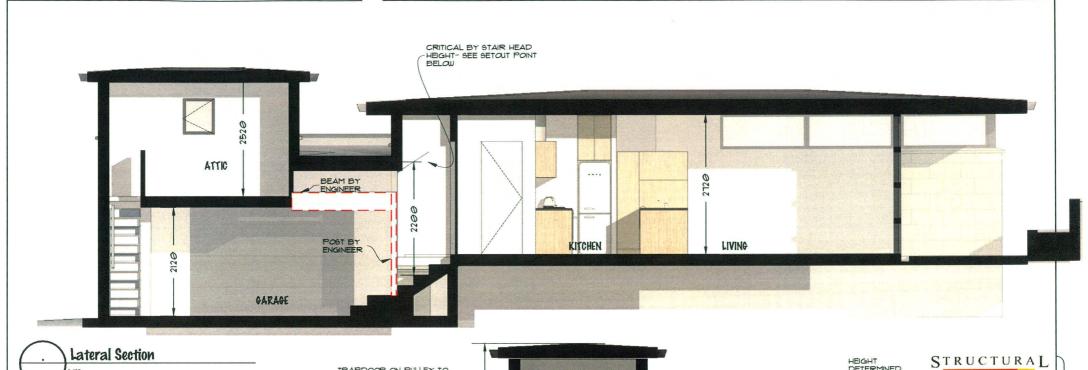
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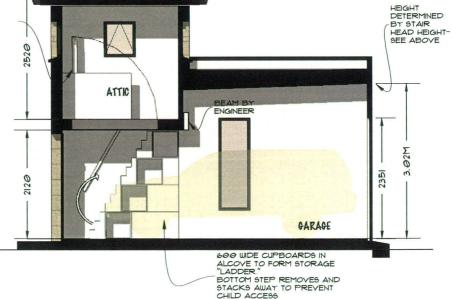
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REVISION	SHEET NO
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TRAPDOOR ON PULLEY TO SEAL OPENING



Lateral Section



Ph:+643 442 9455 Fax:+643 442 9454 email: design@structuralintegrity.co.nz online: www.structuralintegrity.co.nz

P.S. & O.L.R.

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3/5/18

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PROJECT

Dunedin Apartment

35e Musselburgh Rise Punepin

DESIGNED DRAWN DATE

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