

TO: Consent Hearings Committee

FROM: Lianne Darby, Planner

DATE: 29 January 2019

SUBJECT: **RESOURCE CONSENT APPLICATIONS:**
SUBDIVISION SUB-2018-67
LAND USE LUC-2018-357
46 DISTRICT ROAD
ROSENEATH

1. INTRODUCTION

- [1] This report has been prepared on the basis of information available on 29 January 2019. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

2. DESCRIPTION OF ACTIVITY

- [2] Council is considering an application to subdivide the land of 46 District Road, Roseneath, into two new lots, with residential activity to be established on both new sites. The subject site is legally described as Lot 1 Deposited Plan 23139, held in Record of Title OT15B/52, and having an area of 4.9000ha.
- [3] The subject site is a small rural property situated on the coastal edge of the Roseneath promontory. It has an irregular boundary along its southwest and southeast sides which follows legal road or esplanade reserve along the coastal edge. There is no road in this location. The residential area of Roseneath is situated immediately to the site's north. The site is situated almost at the bend where District Road turns 90° into Clyde Street. There is an existing gravel driveway more or less opposite Clyde Street which leads to the existing residential dwelling on-site, approximately 225m from the road. The site slopes steeply upwards from the coastal edge, with the house being situated on the ridgeline in the most advanced (seaward) position available on gently sloping ground.
- [4] The proposal is to subdivide the site into two lots. Proposed Lot 1 will be a parcel of 3.4ha containing the existing house and access. It will be comprised of the southeast portion of the subject site. Crossing the new lot from northwest to southeast will be a pedestrian right of way in favour of Lot 2 to provide access to the beach.
- [5] Proposed Lot 2 will be a rear site of 1.50ha. It will have no frontage and will obtain access via right of way over the existing access through Lot 1. The southwest boundary will be a coastal boundary. There is currently no residential dwelling on this land, so the applicant proposes a building platform which scales at approximately 20.0m by 25.0m although it is not dimensioned on the plan. The application states that it will be situated approximately 15.0m from the new boundary between Lots 1 and 2.

- [6] Further information regarding the existing vegetation and plantings on the subject site was received at Council on 8 September 2018.

3. ACTIVITY STATUS

- [7] 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.
- [8] 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.
- [9] The Proposed Plan was notified on 26 September 2015, and some Proposed Plan rules had immediate legal effect from this date. Additional rules came into legal effect upon the release of decisions on 7 November 2018. These rules will become fully operative if no appeals are lodged or once any appeals have been resolved. This report is being written during, and following the close of, the appeal period. While the operative rules are still uncertain, the rules of both Plans have been taken into account during the assessment of the proposal, with the weighting lying predominantly with the District Plan.
- [10] The relevant rules of the two district plans for this application are as follows:

The Dunedin City District Plan.

The subject site is zoned **Rural** in the Dunedin City District Plan. The Hazards Register shows the land as being at risk of **10499 – Land movement**. The middle of the property and the land near the roadside are shown as **High Class Soils**. District Road is a **Local** Road in the District Plan roading hierarchy.

Subdivision Activity:

- [11] Rule 18.5.1(i) lists subdivision as a restricted discretionary activity in the Rural zone where the application complies with Rules 18.5.3 – 18.5.6, 18.5.9 and 18.5.10, and each resulting site is 15.0ha or greater. The proposed subdivision will create two Rural-zoned lots of less than 15.0ha. Accordingly, the proposed subdivision is considered to be a **non-complying** activity.

Land Use Activity:

- [12] Rule 6.5.2(iii) lists residential activity at a density of one residential unit per site as being a permitted activity, provided that the minimum area of the site is no less than 15ha. The existing residential dwelling of proposed Lot 1 and the future residential dwelling of proposed Lot 2 will be on sites of less than 15.0ha and are considered to be **non-complying** activities pursuant to Rule 6.5.7(iii).
- [13] While not strictly applicable to a non-complying activity, the performance criteria of the Rural zone provide guidance as to acceptable use of the new sites. The building platform for the future residential unit on Lot 2 will fail to comply with the following:
- Rule 6.5.3(i) requires residential activities to have 40.0m yards in terms of side and rear boundaries. The proposed building platform will be 15.0m from the new boundary between Lots 1 and 2, therefore breaching the yard space by 25.0m.

The Proposed Plan

- [14] The subject site is zoned **Rural Residential 1** and is subject to an **Archaeological Alert Layer**. The middle of the property is subject to **High Class Soils Mapped**

Area. Land within 20.0m of the water's edge is part of the **Wahi Tupuna Mapped Area 23 – Otakou Harbour**; this will affected a strip of land approximately 10.0m wide along the coastal edge of proposed Lot 2 only.

Subdivision Activity:

- [15] Rule 17.3.5.2 specifies that general subdivision is a restricted discretionary activity in the Rural-Residential 1 zone, subject to compliance with the performance standards. The proposed subdivision will fail to comply with the following:
- Rule 17.7.5.1(g) sets the minimum site size for the Rural-Residential zone at 2.0ha. However, the proposal will comply with the specifications of Rule 17.7.5.2 in that both sites are at least 75% of minimum site size, and the average area is over 2.0ha.

The proposed subdivision is considered to be a **discretionary** activity pursuant to Rule 17.7.5.2.

Land Use Activity:

- [16] Under the rules of the Proposed Plan, activities have both a land use activity and a development activity component.

Land Use Activity:

- [17] Rule 17.3.3.12 specifies that residential activity is permitted in the Rural-Residential zones, subject to the performance standards. Rule 17.5.2.1(a) specifies a minimum site size per residential unit of 2.0ha, but Rule 17.5.2.1(a)(ii) will allows a single residential unit on a site created by Rule 17.7.5.2 provided all other performance standards area met.
- [18] The proposal will meet all the other performance standards of Rule 17.5, and accordingly, the residential use of the new lots is considered to be a **permitted** activity subject to Rule 17.5.2.1(a)(ii).

Development Activity:

- [19] Lot 1 is already developed and a new residential activity is anticipated in the location of the proposed building platform on Lot 2. Rule 17.3.4.5 lists the construction of new buildings greater than 60m² as being a permitted activity in the Rural-Residential zones, subject to the performance standards. On the basis of the information available, it is anticipated that the development of a proposed dwelling on Lot 2 will be a **permitted** activity as the bulk and location rules can be achieved by a dwelling of conventional size and scale located within the defined building platform.

Overall Proposed Plan Status:

- [20] Having regard to both the land use and development activity components under the Proposed Plan, the future residential activity of Lot 1 and the existing residential activity of Lot 2 are considered to be **permitted** activities.
- [21] The rezoning of Rural land is currently under appeal and affects the proposed rezoning of this site as Rural Residential 1. While the zoning is under appeal, the rules of the Proposed Plan for the Rural Residential 1 will carry less weight than the operative District Plan which zones this land as Rural. Furthermore, Rule 17.7.5 – Minimum Site Size, which determines that the subdivision is a discretionary activity under the Proposed Plan rules, is also under appeal, and it cannot be presumed that the lot sizes of the proposed lots will be acceptable. Some of the land use rules for the Rural Residential 1 zone are also under appeal. Of particular relevance to this proposal is Rule 17.5.2 regarding density.

NES Soil Contamination Considerations:

- [22] 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.
- [23] The applicant's agent has had a search of Council records undertaken (HAIL-2018-76). The search did not identify any known HAIL land uses for the subject land. The applicant's agent notes: *'The site is not a HAIL site, and the NES do not apply'*.

Overall Status

- [24] 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.
- [25] In this case, the proposal is for separate, unlinked activities that do not overlap, subdivision and residential activity. 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.
- [26] The activity status of the proposed subdivision is determined by the Dunedin City District Plan, and it is therefore considered to be a **non-complying** activity. The activity status of the land use activity for Lots 1 and 2 is also determined by the Dunedin City District Plan and is considered to be a **non-complying** activity.

4. NOTIFICATION AND SUBMISSIONS

- [27] Section 95A of the Act directs that a consent authority may notify an application if the effects on the environment are likely to be more than minor, the applicant requests public notification, or special circumstances may apply. In this case, the applicant requested notification when the application was lodged, and the Council accordingly notified the application.
- [28] No affected party written consents were submitted with the application. The application was therefore publicly notified in the Otago Daily Times on 22 September 2018, and a sign was erected at the property's front gate. Copies of the application were sent to those parties whom the Council considered could be directly affected by the proposal.
- [29] Two submissions were received following notification, both neutral in their stance. Copies of the submissions are appended to this report in Appendix C.

Submitter	Support/ Oppose	Reasons for submission	Wish to be heard?
1. Fire and Emergency New Zealand (Fire and Emergency NZ)	Neutral	• The submission is concerned with the provision of sufficient water supply for fire-fighting purposes which might impact on the operations of the Fire and Emergency NZ. • The decision makers have a duty to avoid, remedy or mitigate actual or potential adverse effects on the environment. • The risk of fire represents a potential adverse effect of low probability but high potential impact.	Yes.

		• Fire and Emergency NZ has a responsibility under the Fire and Emergency New Zealand Act 2017 ('the Act') to reduce the incidence of unwanted fire and the associated risk to life and property. • Water supply for fire-fighting is best achieved through compliance with the <i>New Zealand Fire Services Water Supplies Code of Practice SNZ PAS 4509:2008</i> (Code of Practice). • The proposed development should take into account the operational requirements of Fire and Emergency Nz to adequately provide for fire-fighting activities to all parts of the building in a safe, effective and efficient manner as required under the Act. • The site is not serviced by reticulated water supply. Applicant has proposed a condition requiring the provision of fire-fighting water supply for Lots 1 and 2. Fire and Emergency NZ commend the applicant for the condition, subject to amendments in accordance with the Code of Practice. • Any water supply needs to be accessible by Fire and Emergency NZ. • The width of the current access is not given, and photos indicated it is narrow with a lot of vegetation on either side. Fire appliances require a minimum access width and clearance height of 4.0m (appendix A). • Submitter seeks conditions to be placed on new titles via consent notice regarding supply of water supply, connection to tank/s, position of tank/s, and access width. • Submitter seeks condition for land use consent regarding requirements for access.	
2. Peter Petchey	Neutral	• Site has spectacular views, but is located on the shady side of Roseneath hill. • The row of mature trees along the hillside above the subdivision will shade the site during winter; however, trees provide essential shelter from prevailing southerly winds for houses on District Road including submitter's own house. • Risk that new property owner will seek to have trees removed due to shading. • Removal of trees would have extreme negative effects for existing residents. • Requests condition that existing and future owners of new lots not seek redress for the shading of their property from these trees.	Yes.

5. ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[30] Section 104(1)(a) of the Act requires that the consent authority have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in the section 3 as including-

- a) Any positive or adverse effect; and
- b) Any temporary or permanent effect; and
- c) Any past, present, or future effect; and
- d) Any cumulative effect which arises over time or in combination with other effects-

regardless of the scale, intensity, duration or frequency of the effect, and also includes –

- e) Any potential effect of high probability; and*
- f) Any potential effect of low probability which has a high potential impact.*

- [31] An important consideration in the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. Rule 104(2)(b) allows a consent authority to disregard the effects of an activity if a rule permits an activity with that affect. The Council may choose to apply this process. This requires the establishment of what can occur as of right on the site (permitted activity), and overlays the existing lawfully established development of the site (*Bayley v Manukau City Council, Smith Chilcott Ltd v Auckland City Council, Arrigato Investments Ltd v Auckland Regional Council*). Any effect from an activity that is equivalent to that generated by an activity permitted by the District Plan need not be regarded.
- [32] 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 Council is assessing whether or not the subdivision should proceed.
- [33] In this case, the proposed subdivision is a non-complying activity under the rules of the District Plan because of the undersized nature of the Rural-zoned lots. No subdivision of this land into lots of the sizes proposed is anticipated under the rules of the District Plan. The zoning in the Proposed Plan is quite different. While proposed Lot 2 will be undersized, the overall density of proposed development is compliant and in accordance with the expectations for the new zoning. While the subdivision still requires consent, it is assessed as a discretionary activity. Because of the timing of the application in respect to the processing of the Proposed Plan, the weighting of the two District Plans has changed from the time the application was lodged, and is likely to change again prior to the hearing and final decision. This report has been written while the Operative District Plan carries the greater weight.
- [34] Again, the Operative District Plan and the Proposed Plan have very different permitted baselines in respect of the proposed land use. The subject site is too small for any residential activity under the Operative District Plan and the existing residential activity is lawfully established under RMA 2004-0516 (now renumbered RMA-2004-367940). The subdivision of the site will create two significantly undersized lots where both the existing residential unit on-site and a future residential unit will be non-complying activities. No residential development of this land, nor the placement of the existing residential unit on a new undersized site, forms part of the permitted baseline.
- [35] Under the rules of the Proposed Plan, a single residential unit is permitted on both the new lots.
- [36] The District Plan requires residential activity to maintain a 20.0m front yard and 40.0m side and rear yards within the Rural zone. A house constructed on the building platform for proposed Lot 2 is therefore in position compliant with the bulk and location requirements of the Operative District Plan except in regards to the new boundary between Lots 1 and 2. The building platform is approximately 15.0m from this boundary, and any dwelling built in this position will only maintain 38% of the required yard space.

- [37] The District Plan allows a farm shed of any size to be built on the subject site in any position clear of yard spaces. Accordingly, a structure the size of a typical house could be built in the location of the proposed building platform. The building of any structure on a Rural Residential 1 site is permitted by the Proposed Plan subject to compliance with the performance standards.
- [38] In summary, there is no permitted baseline to apply for subdivision, although it is likely a discretionary subdivision proposal of this nature would be granted consent on a non-notified basis. While the existing dwelling is lawfully established on the subject site under resource consent, the consent does not authorise its establishment on a new, smaller site. No residential activity for the proposed lots is permitted. The construction of farm buildings, however, in the location proposed by the building platform or elsewhere on the un-subdivided site would be permitted.
- [39] This section of the report assesses the following environmental effects in terms of the relevant assessment matters of sections 6.7, 17.8, 18.6.1, and 20.6 of the District Plan, and Rule 17.7 of the Proposed Plan:
- Lot Size and Dimensions
 - Easements & Encumbrances
 - Infrastructure
 - Hazards
 - Building Platforms, Bulk and Location, Residential Units & High Class Soils
 - Landscape
 - Transportation
 - Earthworks
 - Physical Limitations
 - Amenity Values
 - Conflict and Reverse Sensitivity
 - Cumulative Effects
 - Sustainability
- [40] The following parts of this report represent my views on the effects of the proposal, having regard to the application, the submissions, and my visit to the site.

Lot Size and Dimensions (Assessment Matter 18.6.1(q) [District Plan] and Rule 17.11.3.2 [Proposed Plan])

- [41] The proposed subdivision will create two lots from a site of 4.9000ha. The site is only 32% of minimum site size for the Rural zone to start with, so any subdivision of this land is going to create significantly undersized lots. Proposed Lot 1, at 3.40ha, will be approximately 22% of minimum site size, and proposed Lot 2 at 1.5ha, only 10%.
- [42] The subject site is zoned Rural, but is in an isolated pocket of rural land situated between the residential settlement of Roseneath and the Otago Harbour. There are three Rural-zone properties to the northeast of the subject site, and two to the northwest, all of which are considerably undersized under the rules of the Operative District Plan. The other properties range in size from 6584m² to 1.5859ha, and all have established residential dwellings on-site or on an associated site. None are used actively for farming of any scale. The subject site is the largest property by a scale of at least three. If the subdivision is to proceed, the new lots will be similar in scale to the other existing Rural-zoned properties in the vicinity, and will not be out of character for the immediate area.
- [43] The land to the north is zoned Residential 1, and is developed with residential housing consistent with its zoning. The proposed subdivision does not relate to this zone or development in any way except in respect of proximity. While proposed Lots 1 and 2 are too small to be compliant with the Rural-zone rules, they will still be considerably larger than the Residential 1-zoned properties next door. This should not be

considered as a blurring of the zones, as there is no compliant Rural-zoned properties in the area and the proposed lots are not a stepping stone between small and large sites.

- [44] The land is zoned Rural Residential 1 in the Proposed Plan, which allows subdivision down to sites of 2.0ha as a restricted discretionary activity. However, if all lots are at least 75% of minimum site size, and at least half are not smaller than 2.0ha, with an overall average of 2.0ha or greater, then the subdivision proposal is considered to be a discretionary activity. This is a less onerous activity status than non-complying in that the Proposed Plan anticipates discretionary activities but seeks to retain the full scope of assessment matters when considering such activities.
- [45] The subject site is larger than 4.0ha, and two compliant 2.0ha sites could be created. In this case, one of the proposed lots will be 1.5ha which is 75% of minimum site size, and the average site size is 2.45ha overall, so the subdivision is considered to be a discretionary activity under the Proposed Plan rules. Although the proposed zoning of this land anticipates much smaller lots than the zoning of the Operative District Plan, the minimum site size is still larger than the other existing properties. The proposed subdivision of the subject site into two lots of the sizes proposed is not considered to be inconsistent with the expectations of the Proposed Plan for this zone.
- [46] The proposed undersized lots are not what the District Plan seeks for the Rural zone, but nevertheless, the new lots are consistent with the existing land tenure and the development of the adjoining Rural-zoned properties. The application has been publically notified, and no submitters oppose the subdivision or the future development of proposed Lot 2. There is very little, if any, active farming of this land and no fragmentation of productive land occurring. Accordingly, the proposed lot sizing is not considered to have adverse effects on the Rural zone, or the proposed Rural Residential 1 zone, which are more than minor.

Easements (18.6.1(i)) and Encumbrances

- [47] There are no existing easements registered on the title of the subject site.
- [48] The application plan shows two new easements. The existing driveway from District Road will serve both new lots. It is to be owned by Lot 1, with proposed Lot 2 having right of way access over the first 110m or so. This easement is shown as having a varying width (not specified) and will be approximately 15.0m wide at the roadside. The application plan indicates that it will narrow as it progresses into the property. The proposed right of way as drawn will be adequate for residential and farming use.
- [49] The District Plan specifies that a right of way serving two residential unit is to have a minimum legal width of 3.5m in residential areas, or 4.0m if situated in a rural area. For non-residential uses, the right of way should have a minimum legal width of 6.0m. In this case, the subject site is zoned Rural, but there is very little rural land use taking place that would generate large or heavy vehicles coming to the site, so the narrower residential requirements for residential activity in a Rural area are probably adequate.
- [50] The Proposed Plan requires a minimum legal width of 4.0m for two residential units in the Rural-Residential 1 zone. This will be met by a right of way dimensioned for residential activity in a rural area under the Operative District Plan rules, so there is no inconsistency between the two Plans.
- [51] The Fire and Emergency NZ has submitted on the application and has requested that a 4.0m width and 4.0m height clearance be provided for any access that a fire appliance might need to use. This 4.0m width is in respect of the formed width of the access and not the legal width which is generally wider. While a right of way of 4.0m width will satisfy this request, it should really be at least 0.5m wider legally in order to

accommodate a 4.0m of formation width. If the applicant dimensions the right of way as shown on the application plan, this will not be an issue. However, the Council needs to set a minimum requirement for legal and physical width as consent conditions (should the consent be granted) to ensure a suitable width is provided, so an appropriate minimum width needs to be determined. It is my view that the main right of way should have a minimum legal width of at least 4.5m, if the Fire and Emergency NZ submission is to be accommodated.

- [52] The second proposed easement is a pedestrian right of way over Lot 1 in favour of Lot 2. It will extend from the end of the first right of way and will allow pedestrians from proposed Lot 2 to walk across Lot 1 and down to a small beach. While Lot 1 does not own the beach, there is no other easy means of obtaining access to the beach across land, and the beach is effectively private. It is not necessary to create this right of way, but if the applicant is willing to propose such an easement, then Council should support this proposal.
- [53] There is no requirement for service easements as both the residential units on Lots 1 and 2 will be self-serviced.

Infrastructure (8.13.10 & 18.6.2(d), (e), (i), (j), (n), (o), and (p) Operative Plan & Rule 17.9.5.4 Proposed Plan)

- [54] The existing dwelling of proposed Lot 1 is already fully self-serviced. The applicant states that the future dwelling of proposed Lot 2 will be self-serviced for water supply, with the inference being that it will also be self-serviced for wastewater and stormwater disposal. This is in accordance with the expectations of the Rural or Rural Residential 1 zoning. Rainwater storage tanks are to be used for domestic and fire-fighting supply. Wastewater is to go to a septic tank.
- [55] The Consents and Compliance Officer, Water and Waste Services Business Unit, has considered the application. She notes that the subject site is located in the Rural zone under the District Plan, and her comments are focussed accordingly.

Water Services

- [56] The proposed subdivision is located within the Rural zone and within the *Port Chalmers Water Supply Area* boundary as shown in Appendix B of the *Dunedin City Council Water Bylaw 2011*. As the underlying zone of the property is Rural, and if a connection to the urban supply is desired, then the property owner must apply to Three Waters for an 'extraordinary supply'. If granted, the connection must be metered and have an RPA backflow prevention device installed.
- [57] The application states that rainwater in tanks is to be used for the domestic supply and for fire-fighting. The Consents and Compliance Officer notes that stormwater collected from roof surfaces should be stored in suitably sized tank/s with a minimum of 25 000 litres per lot.

Fire Fighting Requirements

- [58] All aspects relating to the availability of the water for firefighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies. The submission by Fire and Emergency NZ details some of these requirements, such as supply, access, and the need for adequate coupling connections.

- [59] *Wastewater Services*

As the proposed subdivision is located within the Rural zone, there are no reticulated wastewater services available for connection. Any effluent disposal is to be to a septic tank and effluent disposal system, which is to be designed by an approved septic tank and effluent disposal system designer.

Stormwater Services

- [60] As the proposed subdivision is located within the Rural zone, there is no stormwater infrastructure or kerb and channel discharge points. Disposal of stormwater will need to be to water tables and/or watercourses on-site, or to suitably designed on-site soak-away infiltration system or rainwater harvesting system. Stormwater is not to cause a nuisance to neighbouring properties or cause any adverse downstream effects.

Private Drainage

- [61] Lot 1 has an existing dwelling which is serviced with a septic tank. Stormwater is taken from the road to storage tanks, and is used for domestic supply. On the basis that the subject site is zoned Rural in the Operative District Plan, the Consents and Compliance Office advises that the same service requirements are suitable for the new development on Lot 2 i.e. wastewater is to go to a septic tank and rainwater is to be used for domestic water supply.

Hazards (18.6.1(t))

- [62] The Hazards Register shows the entire subject site, and only the subject site, to be at risk of land instability – land movement. As such, Council's Consulting Engineer, Stantec, has considered the application in relation to the Hazards Register, street files, and available aerial photography. He notes that the underlying geology consists of Plagioclase-augite-olivine-basalt of the first main eruptive phase. The majority of the site consists of slopes less than 20°, dropping off more steeply towards the coastal edge. The proposed building platform for Lot 2 is on land with less than 12° fall.
- [63] The Consulting Engineer notes that no significant earthworks are proposed as part of this application. The subdivision is not expected to increase the risks for the property, and the Consulting Engineer accepted the suitability of the proposed building platform on Lot 2. If there is to be any proposal to build away from the building platform on ground steeper than 15° slope, then the building site should be subject to a site specific assessment to determine that the ground is suitably stable for development, and that any earthworks will not create any instability.
- [64] It is my view that, if the Committee is of a mind to grant consent, the proposed subdivision is unlikely to be compromised by the natural hazards affecting this land. A consent notice should be placed on the title of the vacant site for the control of future development on slopes steeper than 15°.

Building Platforms (18.6.1(h)); Bulk and Location (6.7.9 Operative Plan & 17.9.4.1 Proposed Plan); Residential Units (6.7.15): High Class Soils (6.7.11 Operative Plan & 8A.6.4.1 Proposed Plan)

- [65] Proposed Lot 1 is already developed, and no further development of this land is anticipated.
- [66] The application plan shows a building platform on proposed Lot 2. This is not dimensioned, but scales at about 20.0m by 25.0m, giving it an area of 500m². The application states that this is to be positioned 15.0m from the new boundary between Lots 1 and 2. The building platform will be partially positioned over high class soils as shown on the maps for the Operative District Plan and the Proposed Plan.
- [67] The purpose of the building platform appears to be to facilitate the encroachment of a new house on the yard space next to proposed Lot 1. The subject site is not within a landscape area and does not serve as a 'landscape building platform' for the purpose of controlling future development. Nor has Council's Engineer identified any geotechnical reasons to confine the future house to this area, and in fact, anticipates that the house might be elsewhere on-site, with controls on building for those areas of

the site sloping steeper than 15°. The land use consent is for the development of an undersized Rural-zoned site, and the position of the house within that undersized site is of limited relevance compared to the proposed breach of density. The building platform has not been sited to stay clear of high class soils. Therefore, none of the usual reasons for applying a building platform to a new lot apply in this case.

- [68] The only purpose of the building platform appears to be to facilitate the building of a building up to 15.0m from the new boundary, therefore breaching the yard space. This is certainly an appropriate means of achieving this goal, but by making the platform a defined rectangle, the applicant has effectively confined the future building on this site to a very specific location. From experience, I am aware that new property owners often do not wish to build within an assigned building platform, and if there is no reason to confine building to a particular location, then it is probably better not to impose a building platform at all. In this case, if consent is to be granted, then it is my view that the building platform should be used to allow construction within the yard space in the position promoted only, but building should not be confined to that location. If a new property owner wishes to build elsewhere on-site, then that is acceptable provided all yard spaces are maintained and the appropriate geotechnical controls are employed.
- [69] Not-so-helpfully, the Proposed Plan then complicates the situation. In brief, if the Proposed Plan rules and zoning are the relevant planning provisions, then the building of a house on proposed Lot 2 is a permitted activity, and the house can be built within 10.0m of the boundary. No consent is required for the residential activity on proposed Lot 2, and the proposed building platform breaches no setbacks. The building platform is effectively redundant.
- [70] The status of the application is determined by the planning document in effect or operative at the time of lodging, which means in this case that the Operative District Plan determines the activity status i.e. consent is needed, and the rules are the more onerous of the two Plans. If consent for subdivision is granted, it might be that the Proposed Plan is the operative plan at the time of building on proposed Lot 2 i.e. no consent is needed, and a house can be built closer to the boundary in any location as a permitted activity.
- [71] While consent is needed currently under the Operative District Plan, it is my view that the conditions in relation to the building platform should be as relaxed as possible in view of the incoming Proposed Plan. There is no real reason to fix building to this location, and the more permissive the conditions, the less likely it is that there will be a need to vary the consent in the future. Council does not want to be in the position of trying to enforce controls on the position of a new dwelling which are not supported by the provisions of a new District Plan now in effect and possibly operative in the near future. If the scale of the new development is to be restricted, this can be done by alternative means such as making development a maximum percentage of site coverage, or assigning a maximum floor area.
- [72] Assessment Matter 6.7.15 of the District Plan directs Council to consider the effects of residential units in the Rural zone in terms of cumulative effects, potential conflict, the covering of soils by hard surfaces, the effects on neighbours' amenity and economic well-being, the effects on the open nature of the environment, and the degree to which the productive potential of the site and future sustainable use is compromised. These subjects are discussed in greater detail elsewhere in this report. In summary, I do not consider that one additional dwelling will have a significant presence in this location, and the effects will be less than minor accordingly.
- [73] The subject site is also partly comprised of high class soils. While the development proposal does not remove high class soils from the site, the building platform will cover a portion of the soils and supposedly remove them from production. In fact, there is very little productive worth associated with these high class soils except in

regards to landscaping and vegetation. There is also the possibility of a future house being placed on Lot 2 in a position clear of high class soils. If this issue is considered important, the Committee has scope to require a house to be placed clear of high class soils under the Operative District Plan (because of the non-complying activity status of the subdivision and land use), but less scope to do so once the Proposed Plan rules become operative or carry the greater weight during assessment of applications.

Landscape (6.7.25)

- [74] The subject site is not in a recognised landscape, and therefore the Landscape Section of the District Plan is not relevant to this subdivision proposal. The Council does not control the position of buildings outside of landscape areas, nor the appearance or colour of the buildings. The general provisions of the Rural zone in respect of rural character and visual impact do apply, however, and need to be considered, particularly as the proposed density of development is over and above that anticipated for the Rural zone.
- [75] The application notes that the present dwelling on-site was highly visible when originally built, but screen planting has, over time, reduced its visibility considerably. The existing house is difficult to see from District Road or the adjoining residential properties. Likewise, it is not prominent when viewed from State Highway 88. It is more visible from Portobello Road, but only over a significant distance of at least 1.6km and with the urban Roseneath development as a backdrop. It is perhaps most visible from the southern end of Port Chalmers, but again, over a distance of at least 1.3km. As such, in my opinion, the existing house is either not prominent on the landscape, or plantings have mitigated its effects.
- [76] The applicant has not provided an assessment of the effects on the landscape of a future house on Lot 2 except to state: *'... provided suitable visual mitigation is included, a new dwelling the position shown of the attached plan will not disturb or disrupt any public view of the site or immediate environment. This has been proved by the management of the vegetation surrounding the existing dwelling.'* The application recommends as a consent condition:
- 'That a landscape design and management program to visually shield the new dwelling platform from SH 88 be provided to Council for approval and that the program be implemented prior to any construction of any buildings within Lot 2.'*
- [77] Further information received at Council on 10 September 2018 provides some more detail as to what is to be intended for the development of Lot 2. It advises that there will be no real changes to the access and no need for earthworks to form a driveway. Water tanks are to be sited underground. No sheds are anticipated and any fences will only be visible from within the site. No existing vegetation will need to be removed in order to build the dwelling. The applicant also states that because the site is more or less level, no earthworks consent will be required, and any excavated material will be retained on-site.
- [78] Also forming part of the further information is a letter and two plans prepared by A-ZTEC Associates Limited. It is slightly less definitive about vegetation removal and advises that any vegetation affected by the location and design of the dwelling will be relocated if possible, or recycled in the compost bin and replaced once the building has been completed. Further plantings will be established at 2.0m spacing *'... this spring and autumn'*. The two plans attached detail the planting plan for the original development of 2004 which has already been implemented.
- [79] Council's Urban Designer has considered the proposal for a new dwelling within the proposed building platform, and the likely effects on the streetscape and amenity values arising from the new development. He notes that the existing house on-site

overlooks the harbour with sweeping views to the northeast and south. The proposed house platform will be elevated above the existing house by approximately 5.0m, with similar coastal views available. It is unlikely that a future house in this position will alter the outlook of the existing house. He notes that there are to be no additional sheds, utility buildings or water tanks visible on-site.

- [80] The Urban Designer comments that there are existing tall trees along the northern boundary of the property which provide good screening between the subject site and the back yards of housing along District Road. Further to this, there is a separation distance of about 190m between the existing house and its closest neighbouring property and about 130m between the proposed platform and housing along the southern edge of District road. District Road housing is generally about 10m to 15m elevated above the proposed site while the subject site is about 40m above the coast line.

- [81] Other views into the site are from SH 88 (the Dunedin to Port Chalmers Road) and Blanket Bay Road and properties adjoining these roads. The existing house can be seen from SH 88 but from distances more than 500m. While the house forms part of the skyline; however, it is not visually dominant from the state highway. In comparison, the proposed house will also be visible from SH 88. As the proposed house is to be located further west, it will have the benefit of the existing tall trees providing a backdrop, and the Council's Urban Designer considers that the current skyline is unlikely to change further while these trees are in place.

- [82] The Urban Designer comments:

'In my view, the proposed subdivision would not significantly alter the amenity of neighbouring properties or significantly alter the natural character of the site and surrounds. Because of this, I believe negative effects on streetscape and amenity values would be less than minor.'

'I note that a condition protecting screening along the northern boundary, between 46 District Road and existing R1 properties on District Road, should be considered to preserve the amenity values of existing residents.'

- [83] In conclusion, a proposed house on Lot 2 is likely to be quite visible, particularly immediately following construction, but will become less so as vegetation matures around it. The mature trees, predominantly eucalyptus and pines, will provide a green background, while existing shrubbery will provide some screening of the proposed house. While no specific assessment of effects on landscape has been undertaken for a dwelling in any other position on-site (should a house not be confined to the building platform), the outcome is likely to be much the same i.e. prominent at first, particularly when viewed while heading northeast on SH 88, but diminishing over time. If, however, screen planting is to be undertaken prior to building on the basis of a house being constructed on the building platform then either the screen planting requirements need to be flexible enough to serve a dwelling in an alternative location, or it will be necessary to confine the new dwelling to the building platform for this reason alone.

Transportation (6.7.24, 18.6.1(c), & 20.6)

- [84] The proposed subdivision will result in one additional residential activity using the existing entranceway to the subject site. There will be no change to the formation of District Road or the present entranceway, and very limited change to the use of District Road. Inside the site, there is already a driveway in a suitable position for the new dwelling.
- [85] Council's Graduate Planner - Transport has considered the application. He notes that legal and physical access to both lots will be via the existing vehicle crossing to District Road. Right of Way A will be established over the existing metalled driveway formation

in order to provide legal vehicular access to both lots. Transport considers that the full length of Right of Way A should be a minimum 3.0m formed width, adequately drained, and hard surfaced from the edge of the carriageway of District Road to a distance of not less than 5.0m inside the property boundary.

- [86] The submission from Fire and Emergency New Zealand (Fire and Emergency NZ), requests that the driveway be not less than 4.0m wide. It is unclear whether the Service requires a 4.0m wide formation or merely 4.0m clearance. A 4.0m formation is not consistent with the requirements of Transport, but as a non-complying subdivision proposal, the Council has the scope to impose a 4.0m wide formation.

- [87] As the subject site is zoned Rural, and has frontage to a Local road, there is no minimum parking requirement to apply. Transport notes that there is ample space on both lots to provide for parking and manoeuvring. Transport also considers that the impacts of the proposed development on the transportation network will be no more than minor.

Earthworks (17.8)

- [88] No consent for earthworks has been made with the subdivision application, and no earthworks are required for the subdivision itself. Possibly earthworks will be required at the time of forming a building platform for the house site on Lot 2. However, the subject site in the location of the proposed building platform is more or less level, and any earthworks are unlikely to be significant. Should future earthworks on-site breach the performance standards of Section 17 of the District Plan, or the relevant rules of the Proposed Plan if in effect or operative, 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.

- [89] It is noted that any material excavated from the site as part of the development of Lot 2 will be respread on-site. Accordingly, although the proposed house might be built over high class soils, no rule will be breached under the rules of either District Plan.

Physical Limitations (18.6.1(k))

- [90] Regarding the question as to whether or not the subdivision will produce lots having physical limitations rendering them unsuitable for future use, I note that the new lots will have areas of 3.4ha and 1.5ha. From a purely practical view point, the proposed lots are each of suitable size and shape for a residential dwelling and generous curtilage, with there being no need to breach yard spaces. Proposed Lot 1 is already developed with the existing buildings. There are no known geotechnical issues affecting Lot 2 which are expected to compromise its development potential. Accordingly, there is no expectation that the proposed subdivision will create any site having physical limitations rendering the site unsuitable for future use.

Amenity Values (8.13.5)

- [91] The Resource Management Act 1991 defines 'amenity values' as:

"... those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes"

- [92] The existing environment and character of an area largely determines the amenity values of any site, but amenity values are also expressed by the District Plan through the zoning provisions. In this case, the Operative District Plan and the Proposed Plan have quite different zones for this land, so the amenity values for this land as anticipated by the Proposed Plan will be inconsistent with those of the Operative District Plan.

- [93] The District Plan identifies the amenity values of the Rural zone as being a low density of development and a sense of openness. This particular Rural zone is not typical in

that it is a relatively small area of land contained between the harbour and existing residential development. All the sites in this zone are significantly undersized for rural properties. Any 'openness' in the area is primarily provided by the harbour.

- [94] The present land tenure and development of this Rural zone more closely resembles Rural-Residential zoning although, even then, the existing sites (except for the subject site) are smaller than the 2.0ha minimum site size for rural-residential development in the Operative District Plan. In this case, the existing environment is the greater influencer of the amenity values for this area than the Operative District Plan zoning.
- [95] The Proposed Plan intends that this zone be Rural-Residential 1. This zone specifies a minimum site size of 2.0ha. As such, apart from the subject site, all the surrounding Rural Residential 1-zoned sites are undersized. Nevertheless, the existing neighbouring development more accurately reflects the expectations of the new zoning compared to the Operative District Plan zoning.
- [96] While the subject site has more than 4.0ha and could be subdivided into two lots compliant with minimum site size, the proposal will create one undersized lot of 1.5ha. The physical changes to the subject site will be largely confined to the establishment of an additional house on this undersized site, and probably the establishment of curtilage and screen plantings. Lot 1 is already developed and, under the Proposed Plan rules, Lot 2 can be developed with a new residential unit as a permitted activity despite the fact it is undersized. The density of development, therefore, is anticipated by the Proposed Plan, and is considered to be consistent with the amenity values of the zone and area.
- [97] Therefore, regardless of whether the zoning is considered to be Rural or Rural-Residential 1, the existing development of the adjoining land of the same zoning sets the character of the location. The proposed new lots will be similar in size to the other properties of the same zoning elsewhere in this location. One additional house, at a density similar to the existing development, is not expected to have adverse effects on the amenity values and character of the area.
- [98] If the Committee has concerns about the visual appearance of a future house on Lot 2 and the adverse effects on amenity that this might create, then the Committee has the ability to impose conditions on the future development of Lot 2. These might include controls on position, sizing and height of the future house, controls on colour and cladding, and the requirement for screen planting. Again, should the zoning and rules of the Proposed Plan become operative prior to the building of the house, then the building of a dwelling on new Lot 2 will be a permitted activity, and any such controls will have limited weight, if any. This land use consent, if granted, will effectively become redundant but the conditions will still continue to apply unless the consent is surrendered. The Committee can place conditions on the title through the use of a consent notice. Such conditions will apply regardless of the zoning, but if too onerous, can easily be challenged once the Proposed Plan is operative or given the greater weight.

Conflict and Reverse Sensitivity

- [99] The proposed subdivision will result in one additional residential unit on Rural-zoned land, situated within 40.0m of the new side boundary. Houses are an expected component of the rural areas, and residential activity and farming often coexist with minimal conflict. In this case, there is no active farming of this subject site or any of the other 'rural' properties, so the residential activity on Lot 2 will not introduce any potential conflict or reverse sensitivity for rural farming activity. While it is to be built within the new side yard, the adjoining property will be the existing residential activity on the subject site. This party is well aware of any potential conflict or reverse sensitivity issues for their property arising from the position of the proposed house.

- [100] One submitter has made a neutral submission but has expressed concern about conflict between the proposed residential activity of Lot 2 and the existing trees on the northeast boundary behind the houses of 36, 38, 40 and 42 District Road. The trees are mature and approximately twice as high as the District Road housing. As such, they will cast shadow across proposed Lot 2 during morning hours. The submitter states that the trees provide essential shelter from prevailing southerly winds and their removal would have '*... extreme negative effects for existing residents*'. The submitter considers that there is a risk the residents of the proposed lots will seek to have the trees removed or seek redress for shading of their properties.
- [101] If the trees are contained within the subject site, then they can be removed as a permitted activity by the owner of the site at any time. This might be inconvenient for the neighbours, but cannot be stopped. If the trees are in the neighbouring properties, then there is no risk of their being felled, lawfully, without the owner's permission. The submitter states that they are in the process of purchasing the lots to the rear of 34, 36 and 38 District Plan which contain a number of these trees, and it is likely that all of the trees are actually in neighbouring sites. If so, then the future owners of proposed Lots 1 and/or 2 cannot cut them down simply because they want them gone.
- [102] Having noted that, section 333 of the Property Law Act 2007 provides the means for a property owner to apply to the Court to have trees on neighbouring properties trimmed or removed. Therefore, there is potential for matters to proceed to Court and for the trees to be removed as a result. I am not a lawyer and do not know how such an application would be received by the Court, but I do note that any dwelling built on proposed Lot 2 will be a new structure near mature trees; this is not a case of trees outgrowing their location next to existing buildings. Therefore, I would expect the developer of Lot 2, in particular, to have to take responsibility for building near the large trees.
- [103] If the Committee is of a mind to grant consent but considers that there is the potential for conflict over the trees, then confining to the building site to a building platform well clear of the trees might be advisable. This, however, only works while the zoning of the land is Rural and becomes difficult to enforce should the zoning become Rural Residential 1.
- [104] The submitter has requested that a condition be placed on consent so that '*... existing and future owners of the proposed subdivision are not able to seek redress for the shading of their property by these trees*'. This is more of a civil matter between neighbours than a Council concern, and it is unlikely the Council would want to mediate between neighbours or enforce such a condition should conflict arise. The most effective means of achieving such a condition would be through private covenant between the parties. Council cannot require this as a condition of consent (it involves a third party) but does have the option of declining consent if the risk of conflict is considered to have more than minor effects. This might have the effect of motivating the applicant to reach an agreement with the neighbour so that this risk is mitigated.
- [105] While the zoning of the site is Rural, the Council has control over the position of the housing and the subdivision. Consent can be declined. Once the zoning changes to Rural Residential 1 and the relevant rules are operative or carry the greater weight, then there is very little means for Council to control these matters.

Cumulative Effects

- [106] The nature of cumulative effects is defined in *Dye v Auckland Regional Council* I [2002] 1 NZLR 337, as the '*... gradual build up of consequences. The concept of combination with other effects is one of effect A combining with effects B and C to create an overall composite effect D. All of these are effects which are going to happen as a result of the activity which is under consideration*'.

- [107] The application does not discuss cumulative effects in respect of this subdivision and development proposal. The result of the proposal, should it be granted, will be one additional dwelling in an area of Rural zoning with rural-residential characteristics, next to a residential area. The effects of the residential activity, including noise, lighting and the general comings and goings of the occupants will have little impact on the wider environment. The access to the subject site is via a suburban residential street where the extra traffic generated will be minor in terms of vehicle movements overall and will have very little cumulative effect on the transportation network.
- [108] Looking at the proposal more closely in terms of its Rural zoning, the character of this particular zone is more rural residential than rural. The subject site is the largest property at Roseneath, and should it be subdivided, the two new lots will still be the largest in the vicinity. The proposed subdivision will not create any cumulative effects as the existing development of the area has already changed the Rural-zone nature of the zone.

Sustainability (6.7.1)

- [109] The District Plan seeks to enhance the amenity values of Dunedin and to provide a comprehensive planning framework to manage the effects of use and development of resources. It also seeks to suitably manage infrastructure.
- [110] It is my opinion that the proposed subdivision will have effects on the amenity values and character of this area which are less than minor, given the position of the proposed site and the existing vegetation on-site. Any additional residential effects will be minimal in the context of the nearby residential development and the properties which are zoned Rural but are rural residential in nature.
- [111] The proposed subdivision will utilise existing roading, and does not require any new roading development. The existing roads, being urban streets up to road standard, will accommodate the additional traffic generated by the proposed subdivision without issue. Accordingly, the proposal is considered to be sustainable use of the transportation network.
- [112] The Consents and Compliance Officer, Water and Waste Services Business Unit, has not identified any concerns about the sustainability of the existing service infrastructure. Proposed Lot 2 will need to be self-serviced and, as such, there are no water or sewage disposal demands on Council's infrastructure. The servicing of the existing house on Lot 1 is already established and not changing.
- [113] Council's Consulting Engineer, MWH, did not identify any natural hazards of concern when developing Lot 2 subject to controls on the development of land steeper than 15°. The proposed development of Lot 2 is not anticipated to exacerbate any natural hazards in this location.
- [114] Overall, I am of the opinion that the proposed subdivision is not sustainable use of Dunedin City's physical and natural resources in respect of rural land productivity. It is sustainable use of Council infrastructure and roading.

Summary

- [115] The proposed subdivision and residential development of Lot 2 will have limited adverse effects as it will introduce one additional house into an area which is zoned Rural in the Operative District Plan but has few rural characteristics. The subject site and surrounding area is more consistent with the proposed Rural Residential 1 zoning, and therefore, the subdivision and development of the subject site will have adverse effects on the environment which are less than minor regardless of whether the zoning is considered to be Rural or Rural Residential 1.

[116] A new dwelling on proposed Lot 2 might be easily seen from a number of locations but will be seen against a green back drop and in the context of other rural-residential properties. The planting of shrubbery and trees is anticipated to reduce the visual effects over time.

[117] The proposal is considered to have no adverse effects on the transportation network or the Council's infrastructure. Likewise, it will have less than minor effects on high class soils as no soils are to be removed from the site, and few such soils will be covered by new development. There is no productive use of the soils currently, and little likelihood that this will change.

6. OBJECTIVES AND POLICIES ASSESSMENT (Section 104(1)(b))

[118] Section 104(1)(b) requires the consent authority to have regard to any relevant objectives, policies and rules of a plan or proposed plan. The Dunedin City Council is currently operating under the provisions of both the Dunedin City District Plan and Proposed Plan. As such, the objectives and policies of both Plans have been taken into account. The following section of the report assesses the proposal against the relevant objectives and policies of both plans.

Dunedin City District Plan

Sustainability

	Objective/Policy	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 4.2.1	Enhance the amenity values of Dunedin.	It is my opinion that the proposed subdivision and development of one additional residential dwelling will maintain the amenity values of Dunedin although there will be a period where the house is visually prominent. Landscaping will mitigate any adverse visual effects in time. The proposal is considered to be generally consistent with this objective and policy.
Policy 4.3.1	Maintain and enhance amenity values.	
Objective 4.2.2	Ensure that the level of infrastructural services provided is appropriate to the potential density and intensity of development and amenity values.	The new lot will be self-serviced, and will utilise existing roading infrastructure. Accordingly, I consider that the proposed subdivision is consistent with these objectives and policies.
Policy 4.3.2	Avoid developments which will result in the unsustainable expansion of infrastructure services.	
Objective 4.2.3	Sustainably manage infrastructure.	
Policy 4.3.5	Require the provision of infrastructure at an appropriate standard.	There are no significant natural or physical resources applying to this site. While it is zoned Rural, it is a very small rural property with no productive rural use. It is not in a recognise landscape area. Any high class soils are to remain on-site. The proposal is considered to be inconsistent with this objective and policy.
Objective 4.2.4	Ensure that significant natural and physical resources are appropriately protected.	
Policy 4.2.4	Provide for the protection of the natural and physical resources of the City commensurate with their local, regional and national significance.	
Policy 4.3.7	Use zoning to provide for uses and development which are compatible within identified areas.	This land is zoned Rural, but the site and adjacent properties are not typical of rural properties and are very small in respect of the minimum site sizing for the Rural zone. The zoning is not reflective of the actual character of this area. The rural residential use of this land is not in incompatible with the adjoining residential zoning or the rural use of the subject land. The proposal is considered to be consistent with these policies.
Policy 4.3.8	Avoid the indiscriminate mixing of incompatible uses and developments.	
Policy	Require consideration of those uses and	This is a policy concerned with process. The

4.3.9	developments which: a. Could give rise to adverse effects. b. Give rise to effects that cannot be identified or are not sufficiently understood at the time of preparing or changing the District Plan.	application has been considered in terms of these matters during the writing of this report. The issue of consistency with the policy has little meaning beyond this.
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Manawhenua

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 5.2.1	Take into account the principles of the Treaty of Waitangi in the management of the City's natural and physical resources.	The proposal has been assessed using the protocol established between Kai Tahu ki Otago and the Dunedin City Council. The proposal is considered to be consistent with this objective and policy.
Policy 5.3.2	Advise Manawhenua of application for notified resource consents, plan changes and designations.	

Rural/ Rural Residential

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 6.2.1	Maintain the ability of the land resource to meet the needs of future generations.	The proposed subdivision will fragment the land resource, and is not focussed on the productive worth of the land. There is currently very little productive use of the subject site which is small for a rural site and has sloping topography. The subdivision, however, will reduce any ability for the land to be used for productive purposes. The proposal is considered to be inconsistent with this objective and these policies.
Policy 6.3.1	Provide for activities based on the productive use of rural land.	
Policy 6.3.2	Sustain the productive capacity of the Rural zone by controlling the adverse effects of activities	
Policy 6.3.3	To discourage land fragmentation and the establishment of non-productive uses of rural land and to avoid potential conflict between incompatible and sensitive land uses by limiting the density of residential development in the Rural zone.	The proposed subdivision will fragment an existing undersized Rural site, and will create two rural residential properties where residential activity is the primary activity. The residential activity is unlikely to conflict with surrounding activities as the area is generally used for residential or rural residential purposes. The proposal is considered to be inconsistent with this policy.
Policy 6.3.10	Protect areas that contain 'high class soils', as shown on the District Plan Maps 75, 76, and 77, in a way which sustains the productive capacity of the land.	The high class soils will be retained on-site but will not be used for productive purposes. This is the case currently, so there is no real change occurring. Nevertheless, the proposal is considered to be inconsistent with this policy.
Objective 6.2.2	Maintain and enhance the amenity values associated with the character of the rural area.	The proposed subdivision is considered to be inconsistent with this objective and policy. The subdivision will create two undersized

Policy 6.3.5	Require rural subdivision and activities to be of a nature, scale, intensity and location consistent with maintaining the character of the rural area and to be undertaken in a manner that avoids, remedies or mitigates adverse effects on rural character. Elements of the rural character of the district include, but are not limited to: a) a predominance of natural features over human made features; b) high ratio of open space relative to the built environment; c) significant areas of vegetation in pasture, crops, forestry and indigenous vegetation; d) presence of large numbers of farmed animals; e) ... f) Low population densities relative to urban areas; g) Generally unsealed roads; h) Absence of urban infrastructure.	sites from an existing undersize Rural-zoned site which, while not of the nature, scale and intensity anticipated by the Rural zoning, reflect the rural character of this particular Rural zone. The Rural zone in this case is at the urban edge of Roseneath, and the subject site makes use of the urban transportation network but not the services. The additional residential dwelling on this land will be situated in a position of quite pronounced visibility, particularly for northeast-travelling traffic on SH 88, but will not significantly impact on the ratio of open space relative to the built environment. The proposed residential building is unlikely to adversely impact on the amenity of adjoining properties as most will be unable to even see the house.
Policy 6.3.6	Avoid, remedy or mitigate the adverse effects of buildings, structures and vegetation on the amenity of adjoining properties.	
Objective 6.2.4	Ensure that development in the rural area takes place in a way which provides for the sustainable management of roading and other public infrastructure.	The proposed subdivision and development will sustainably manage the roading network and services infrastructure. No new roading is required and traffic generated by the additional house is within the capacity of the existing urban roading. There will be no demand of urban services. Accordingly, the proposal is considered to be consistent with this objective and policy.
Policy 6.3.8	Ensure development in the Rural and Rural Residential zones promotes the sustainable management of public services and infrastructure and the safety and efficiency of the roading network.	
Objective 6.2.5	Avoid or minimise conflict between different land use activities in rural areas.	The proposals are considered to be consistent with this objective. The proposed residential activity is not expected to conflict with any of the adjoining rural activities.
Policy 6.3.9	Ensure residential activity in the rural area occurs at a scale enabling self-sufficiency in water supply and on-site effluent disposal.	The proposed subdivision will create one additional lot and residential dwelling site that can be self-sufficient for water supply and on-site effluent disposal. The proposal is considered to be consistent with this policy.
Policy 6.3.11	Provide for the establishment of activities that are appropriate in the Rural Zone if their adverse effects can be avoided, remedied or mitigated.	Residential activity is an expected component in the Rural Zone, although not on such small sites. The issue is not so much whether the residential activity is inappropriate for the zone, but rather whether it is appropriate for this location, and at this density. It is my opinion that the development proposed is appropriate for this site and in this location which is not a typical Rural zone as it is similar to the other Rural-zoned sites in this location. The proposal is considered to be consistent for this subdivision proposal.
Policy 6.3.12	Avoid or minimise conflict between differing land uses which may adversely affect rural amenity, the ability of rural land to be used for productive purposes, or the viability of productive rural activities.	Although zoned Rural, there is no real rural productive use of the subject site or any of the other Rural-zoned properties in this location. There is unlikely to be any conflict between land uses and no real loss in productive potential for this land. The proposal is considered to be consistent with this policy.

Policy 6.3.14	Subdivision or land use activities should not occur where this may result in cumulative adverse effects in relation to: (a) amenity values. (b) rural character (c) natural hazards, (d) the provision of infrastructure, roading, traffic and safety, or (e)	It is my view that the subdivision of the subject site will not result in adverse cumulative effect on the Rural zone. This has already occurred as the subject site is the largest Rural-zoned property in this location, and even after subdivision will still be larger than the adjoining rural properties. The proposal is therefore consistent with this policy.
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Hazards

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 17.2.1	Ensure that the effects on the environment of natural and technological hazards are avoided, remedied or mitigated.	Council's Consulting Engineer has not identified any concerns about the development of the proposed building platform subject to specific foundation design on slopes steeper than 15°. Very little vegetation is to be removed, and the proposed building platform is located on the flatter land of proposed Lot 2. The proposal is expected to be consistent with this objective and policy.
Policy 17.3.2	Control building and the removal of established vegetation from sites or from areas which have been identified as being, or likely to be, prone to erosion, falling debris, subsidence or slippage.	
Objective 17.2.3	Earthworks in Dunedin are undertaken in a manner that does not put the safety of people or property at risk and that minimises adverse effects on the environment.	No earthworks have been applied for as part of this subdivision and land use proposal, but it is likely earthworks will be required to form the new building platform on Lot 2. There will be no risk to people or property as a result of these earthworks. The proposal is considered to be consistent with this objective and policy.
Policy 17.3.9	Control earthworks in Dunedin according to their location and scale.	

Subdivision

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 18.2.1	Ensure that subdivision activity takes place in a coordinated and sustainable manner throughout the City.	The proposal seeks to subdivide land an already undersized Rural-zoned site into two smaller rural blocks. This is not considered to be sustainable subdivision of the Rural zone as it does not create rural properties consistent with the expectations of the District Plan. Nevertheless, the proposed subdivision is in character with the other Rural-zoned properties in this location. The proposal is inconsistent to this objective and policy.
Policy 18.3.1	Avoid subdivisions that inhibit further subdivision activity and development.	
Policy 18.3.3	Allow the creation of special allotments that do not comply with the subdivision standards for special purposes.	There are no special allotments to be created.
Policy 18.3.5	Require subdividers to provide information to satisfy the Council that the land to be subdivided is suitable for subdivision and that the physical limitations are identified and will be managed in a sustainable manner.	There are no indications that this land is unsuitable for subdivision. This policy is concerned with process.
Policy 18.3.6	Control foul effluent disposal and adequately dispose of stormwater to avoid adversely affecting adjoining land.	The Water and Waste Services Business Unit has not identified any issues with the self-servicing of Lot 2. This site will be large enough for effluent disposal, and there are no adjoining properties between the site and the harbour which could be adversely affected by stormwater discharge. The proposal is considered to be consistent with this policy.
Objective	Ensure that the physical limitations of	No physical limitations preventing subdivision

18.2.2	land and water are taken into account at the time of the subdivision activity.	or development have been identified for this land. The proposal is expected to be consistent with this objective.
Objective 18.2.3	Ensure that the potential uses of land and water are recognised at the time of the subdivision activity.	This subdivision proposal is not concerned about maintaining or enhancing the potential use of the rural land resource. The proposal is considered to be inconsistent to this objective.
Policy 18.3.4	Subdivision activity consents should be considered together with appropriate land use consent and be heard jointly.	The subdivision consent application is being heard with the associated land use application for residential activity and technical breaches.
Objective 18.2.6	Ensure that the adverse effects of subdivision activities and subsequent land use activities on the City's natural, physical and heritage resources are avoided, remedied or mitigated.	The proposed subdivision is not expected to have any adverse effects on the City's natural, physical or heritage resources. The proposal is considered to be consistent with this objective.
Objective 18.2.7	Ensure that subdividers provide the necessary infrastructure to and within subdivisions to avoid, remedy or mitigate all adverse effects of the land use at no cost to the community while ensuring that the future potential of the infrastructure is sustained.	The proposal is a relatively simple one in terms of infrastructural needs. The subdivision will create one vacant site suitable for development with one house. The house is to be self-serviced and will have no impact on Dunedin's infrastructure. There is no need for additional roading or accesses onto the road. The proposal is considered to be consistent with this objective and policy.
Policy 18.3.7	Require the provision of all necessary access, infrastructure and services to every allotment to meet the reasonably foreseeable needs of both current and future development.	
Policy 18.3.8	Control foul effluent disposal and adequately dispose of stormwater to avoid adversely affecting adjoining land.	There are no concerns that the disposal of effluent and stormwater will adversely affect neighbouring land. The proposal is considered to be consistent with this policy.

Transportation

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 20.2.1	Avoid, remedy, or mitigate adverse effects on the environment arising from the establishment, maintenance, improvement and use of the transportation network.	The proposed subdivision will create only one additional lot and one additional residential activity. The subject site is accessed via a residential street where one extra residential dwelling will generate minimal traffic compared to the existing traffic use. There is no need to form a new access to proposed Lot 2, and the proposed subdivision will have no real effect on the transportation network. The proposal is considered to be consistent with these objectives and policies.
Policy 20.3.1	Avoid, remedy or mitigate the adverse effects on the environment of establishing, maintaining, improving or using transport infrastructure.	
Policy 20.3.2	Provide for the maintenance, improvement and use of public roads.	
Objective 20.2.2	Ensure that land use activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.	
Policy 20.3.4	Ensure traffic generating activities do not adversely affect the safe, efficient and effective operation of the roading network.	
Objective 20.2.4	Maintain and enhance a safe, efficient and effective transportation network.	

Proposed Plan

The objectives and policies of the Proposed Plan must be considered alongside the objectives and policies of the current district plan. The following Proposed Plan objectives and policies are considered relevant to the proposal:

Strategic Directions

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 2.2.1	The risk to people, communities, and property from natural hazards, and from the potential effects of climate change, is minimised so that the risk is no more than low.	There are no natural hazards identified for this subject site. The proposed subdivision is not expected to increase the risk of to people, communities or property from natural hazards. The proposal is considered to be consistent with this objective and policy.
Policy 2.2.1.1	Manage land use, development and subdivision based on: 1. the sensitivity of activities, by identifying them as: a sensitive activity, a potentially sensitive activity, or a least sensitive activity; 2. the risk from natural hazards to people, communities and property, considering both the likelihood and consequences of natural hazards, as shown in Table 11.1 in Section 11.	
Objective 2.2.2	Dunedin is well equipped to manage and adapt to any changes that may result from volatile energy markets or diminishing energy sources by having: 1. increased local electricity generation; 2. reduced reliance on private motor cars for transportation; and 3. increased capacity for local food production.	The proposal does not increase capacity for local food production as it takes land with high class soils in close proximity to Dunedin, fragments it by subdivision, and introduces an additional residential activity to the land. However, the Rural Residential 1 zoning is not primarily concerned with food production, and the proposed subdivision is not inconsistent with the expectations of the zoning. The proposal is considered to be consistent with this objective and policy.
Policy 2.2.2.1	Identify areas important for food production and protect them from activities or subdivision (such as conversion to residential-oriented development) that may diminish food production capacity through: 1. use of zoning and rules that limit subdivision and residential activity, based on the nature and scale of productive rural activities in different parts of the rural environment; 2. consideration of rural productive values in identifying appropriate areas for urban expansion; and 3. identification of areas where high class soils are present (high class soils mapped area); and 4. use rules that require these soils to be retained on site.	
Policy 2.2.3.4	Encourage conservation activity in all zones through: a) rules that enable conservation activity; and b) assessment rules that encourage the consideration of the positive effects of conservation (protection, restoration or enhancement of indigenous biodiversity) as part of consent applications.	The applicant proposes that vegetation on-site be preserved and enhanced. While there is no specific conservation activity proposed as part of the subdivision, the proposed development will include screen plantings, mostly native. The proposal is considered to be consistent with this policy.
Objective 2.2.5	Development in the city is designed to reduce environmental costs and adverse effects on the environment as much as practicable, including energy consumption, water use, and the quality and quantity of stormwater discharge	The proposed lots will both involve on-site effluent and stormwater drainage, and will use rain water for domestic supply. There will be no connections to the public reticulated supply. The proposal is considered to be consistent with this object and policy.
Policy 2.2.5.2	Enable and encourage on-site stormwater and wastewater management, where this would not endanger groundwater and is	

	not in conflict with the efficient use of existing public, wastewater and stormwater infrastructure, through rules that provide for an alternative to connecting to public water supply, wastewater and stormwater infrastructure.	
Objective 2.3.1	Land and facilities that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities; and productive rural land are: a) protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and b) in the case of facilities, able to operate efficiently and effectively.	The proposal does not involve any land important for economic or social prosperity. The use of the land for rural residential activity is not considered to have any reverse sensitivity issues. The proposal is considered to be consistent with this objective.
Policy 2.3.1.10	Identify areas of high class soils and promote the protection of these through a high class soils mapped area. Identify areas which have all of the following criteria: a) slope at most rolling (15° or less); b) at most, moderate erosion susceptibility; c) water available; d) mean annual temperature greater than 8°C; e) not subject to severe winds; f) not very gravelly horizon at surface; g) not peaty or fragmental; h) drainage adequate or readily improved; i) pans, if present, capable of amelioration; j) 25mm or more readily available water to 60cm depth; k) 100mm or more total available water to 1m depth; and l) pH greater than 4.8 and less than 7.5.	The high class soils of this site have been identified on the Proposed Plan maps. The proposed development of Lot 2 will not remove any high class soils from use although there will be no productive farming use of these soils. The proposed development, however, is in accordance with the zoning. The proposal is considered to be consistent with this policy.
Objective 2.6.1	There is a range of housing choices in Dunedin that provides for the community's needs and supports social well-being.	This is an objective concerned with process and the creation of new zones for residential purposes.
Policy 2.6.1.3	Apply rural residential zoning to clusters of sites in separate land tenure already developed or mostly developed for rural residential activity before 7 November 2018, and that meet the criteria in Policy 2.6.1.5, as follows: a) where the cluster comprises sites already subdivided, or which have consent to subdivide, to an average density of greater than 2ha and less than 4ha, and are either already being used for rural residential activity or there is a high degree of likelihood they will be developed for rural residential activity in the short term, Rural Residential 1 zoning is appropriate; and b) where the cluster comprises sites each under 15ha with an average site size of generally between 4ha and 10ha, Rural Residential 2 zoning is appropriate.	The new Rural Residential 1 zone proposed for this previously Rural area is consistent with the existing land tenure and development. The subject site will have two new lots with an average area of over 2.0ha, which is consistent with Rural Residential 1 expectations for development and subdivision.

Transportation

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 6.2.1	Transport infrastructure is designed and located to ensure the safety and efficient of the transport network for all travel methods while a) minimising, as far as practicable, any adverse effects on the amenity and character of the zone; and b) meeting the relevant objectives and policies for any overlay zone, scheduled site, or mapped area in which it is located.	The new lot will utilise the existing transportation infrastructure and will not place additional demand on this at a level which creates adverse effects on the network. The access road is a residential street, and will be used for one additional residential unit. The proposal is considered to be consistent with this objective.
Policy 6.2.1.1	Enable the operation, repair and maintenance of the roading network.	There are no changes proposed for the roading network and no new accesses created.
Objective 6.2.3	Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods.	The proposed subdivision and development will not change the safety and efficiency of the transport network of District Road and the other suburban streets in the area. There is no alterations being made to the transportation network, and very little additional traffic generated in comparison to the existing use of the roads. The proposal does not require the creation of a new access, or the upgrading of the existing access. The proposal is considered to be consistent with this objective and policy.
Policy 6.2.3.3	Require land use activities to provide adequate vehicle loading and manoeuvring space to support their operations and to avoid or, if avoidance is not possible, adequately mitigate adverse effects on the safety and efficiency of the transport network.	
Policy 6.2.3.9	Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where: a) adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and b) any associated changes to the transportation network will be affordable to the public in the long term.	
Objective 6.2.4	a) Parking areas, loading areas and vehicle accesses are designed and located to: provide for the safe and efficient operation of both the parking or loading area and the transport network; and b) facilitate the safe and efficient functioning of the transport network and connectivity for all travel modes.	The subdivision will result in one additional lot and house but no new vehicle access onto District Road. The new lot will utilise the existing vehicle crossing and the first 110m or so of driveway. This driveway is already in use, and operates safely and efficiently. The width of the driveway is considered adequate for its use, including potential use by emergency vehicles. The proposal is considered to be consistent with this objective and policies.
Policy 6.2.4.2	Require driveways to be designed to ensure that: a) the surfacing and gradient of the driveway allows it to be used safely and efficiently; b) mud, stone, gravel or other materials are unlikely to be carried onto hard surface public roads or footpaths; c) the width of the driveway is sufficient to allow the type and number of vehicles (including emergency vehicles), likely to be using it to do so safely and efficiently; and d) sufficient distance is provided between shared driveways and dwellings.	
Policy 6.2.4.4	Require vehicle accesses to be limited in number and width, in order to avoid or, if	

	avoidance is not practicable, adequately mitigate adverse effects on: a) pedestrian and cyclist safety and ease of movement; and b) the safety and efficiency of the multi-modal transport network.	
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Public Health and Safety

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 9.2.1	Land use, development and subdivision activities maintain or enhance the efficiency and affordability of water supply, wastewater and stormwater public infrastructure.	The subject site is a Rural Residential zoned property at the edge of suburban Roseneath. The existing dwelling is fully self-serviced, as will be the proposed dwelling on Lot 2. While there is no intent to have the dwellings connected to reticulated services, there is a foul sewer passing through the subject site, and water supply in District Road at the entrance to the property. Should the dwellings be connected to reticulated services in the future, they will not require the extension of public infrastructure. I consider the proposal to be consistent with this objective and policy.
Policy 9.2.1.1	Only allow land use or subdivision activities that may result in land use or development activities where: a) in an area with water supply and/or wastewater public infrastructure, it will not exceed the current or planned capacity of that public infrastructure or compromise its ability to service any activities permitted within the zone; and b) in an area without water supply and/or wastewater public infrastructure, it will not lead to future pressure for unplanned expansion of that public infrastructure.	
Objective 9.2.2	Land use, development and subdivision activities maintain or enhance people's health and safety.	The proposed development proposal is considered to maintain people's health and safety. There will be minimal effects on neighbours resulting from the proposed subdivision and new house. The proposal is considered to be consistent with this objective.
Policy 9.2.2.7	Only allow land use, development, or subdivision activities that may lead to land use and development activities, in areas without public infrastructure where the land use, development or the size and shape of resultant sites from a subdivision, ensure wastewater and stormwater can be disposed of in such a way that avoids adverse effects on the health of people on the site or on surrounding sites or, if avoidance is not possible, ensure any adverse effects would be insignificant.	Proposed Lot 2 will be of a size and shape where the new residential dwelling can be fully self-serviced without having adverse effects on the health of the residents or any adjoining neighbour. The proposal is considered to be consistent with this policy.
Policy 9.2.2.9	Require all new residential buildings, or subdivisions that may result in new residential buildings, to have access to suitable water supply for fire-fighting purposes.	The proposed dwelling will need to be self-serviced for fire-fighting. The proposal is considered to be consistent with this policy.

Natural Hazards

	<u>Objective/Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 11.2.1	The risk from natural hazards, including climate change, is minimised, in the short to long term.	There is no reason to suppose that the proposed subdivision and development will increase the risk from natural hazards. The proposal is considered to be consistent with this objective.
Policy 11.2.1.12	In all hazard overlay zones, or in any other area that the DCC has good cause	No future earthworks have been identified as part of this application, but some earthworks

	to suspect may be at risk from a natural hazard (including but not limited to a geologically sensitive mapped area (GSA)), only allow earthworks - large scale or subdivision activities where the risk from natural hazards, including on any future land use or development, will be avoided, or no more than low.	will be required to develop new Lot 2. The proposed building site is on gently sloping ground, and it is unlikely that the future earthworks will impact on surface flows of water. The risks are considered to be low. On the basis of known information, the proposal is considered to be consistent with these policies.
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Rural Residential Zones

	Objective/Policy	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 17.2.1	The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities.	The proposed subdivision and development of Lot 2 is considered to be an appropriate development for this zone and this location. The residential activity is at a compliant density. The proposal is considered to be consistent with this objective and policy.
Policy 17.2.1.2	Require residential activity in the rural residential zones to be at a density that enables lifestyle blocks and hobby farms.	
Objective 17.2.2	The potential for conflict between activities within the rural residential zones, and between activities within the rural residential zones and adjoining residential zones, is minimised through measures that ensure: a) the potential for reverse sensitivity is minimised; and b) a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces.	A submitter has identified the mature trees along the northeast boundary as being a potential source of conflict. Proposed Lot 2 will be large enough for a dwelling to be built some distance from the trees, although shading might still occur. A building platform can be identified so as to require a house to be built in a certain location so as to avoid conflict, although this is more enforceable under the Operative District Plan rules, and the Proposed Plan rules do not give much scope for such an action. The proposal is considered to be consistent with this objective and policy.
Policy 17.2.2.3	Require all new buildings to be located an adequate distance from site boundaries to ensure a good level of amenity for residential activities on adjoining sites.	
Policy 17.2.2.8	Require subdivisions to deliver resultant sites that will achieve a high quality of on-site amenity through being large enough and of a shape that is capable of supporting rural residential development.	The proposal is considered to be consistent with this policy. One lot will be smaller than minimum site size, but is still acceptable for size in light of the overall density.
Objective 17.2.3	The character and amenity of the rural residential zones are maintained, elements of which include: a) a high presence of natural features such as trees, bush, gully systems and water bodies; b) a semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas; and c) land maintained and managed for farming, grazing, conservation and rural residential activities.	The proposed subdivision and development of Lot 2 will be consistent with the expectations of the Rural Residential 1 zone. The character and amenity of the zone will be maintained. The proposal will be consistent with this objective.
Policy 17.2.3.1	Require buildings and structures to be set back from boundaries and of a height that maintains the character and visual amenity of the rural residential zones.	The proposed building site for Lot 2 will be a compliant distance from all boundaries. The visual amenity of the site will be adversely impacted upon in the short term because of the visibility of the site from SH 88 and other public locations, but will still maintain the character of the rural residential zone. Overall, the proposal is considered to be consistent with this policy.
Policy 17.2.3.5	Only allow general subdivision where the subdivision is designed to ensure any associated future land use and	The overall density of proposed development is consistent with the Rural Residential 1 zone expectations, although one site is smaller than

	development will maintain or enhance the character and amenity of the rural residential zones.	2.0ha. The proposal is consistent with this policy.
Objective 17.2.4	The productive potential of the rural residential zones for lifestyle blocks or hobby farms is maintained.	The subject site is not used for productive farming in any way. The new lots are in accordance with the Rural Residential 1 zone expectations and will maintain whatever productive potential the land might have. The proposal is consistent with this objective.
Policy 17.2.4.1	Require earthworks in a high class soils mapped area to retain soils on the site.	The soils are to be retained on-site. The proposal is consistent with this policy.
Policy 17.2.4.2	Only allow land use, development, or subdivision activities that may lead to land use and development in a high class soils mapped area where any adverse effects on high class soils are avoided or, if avoidance is not practicable, are no more than minor.	The effects on the high class soils by the subdivision and development of Lot 2 are considered to be no more than minor. The proposal is consistent with this policy.
Policy 17.2.4.3	Only allow general subdivision where resultant sites are of a shape and size that will enable lifestyle blocks or hobby farms, including the keeping of livestock, and avoid use purely as large lot residential living.	The new lots will be used primarily as large lot residential living. The proposal is considered to be contrary to this policy.

[119] As the zoning and rules of the Proposed Plan are subject to appeal, the objectives and policies of the Dunedin City District Plan have been given more consideration than those of the Proposed Plan.

[120] It is my view that the proposal is consistent with many of the objectives and policies of the Dunedin City District Plan and the Proposed Plan to do with manawhenua, infrastructure and servicing, amenity, sustainability, conflict and reverse sensitivity, natural resources. However, it is inconsistent with those to do with rural productive worth, natural and physical resources, and the subdivision of Rural-zoned land. It is considered to be contrary to the subdivision of Rural Residential zoned land into large lot residential sites under the Proposed Plan objectives and policies.

Assessment of Regional Policy Statement and Plans

[121] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. The Regional Policy Statement for Otago was made operative in October 1998. It is currently under review and the Proposed Regional Policy Statement was notified on 23 May 2015. The Hearing Panel decisions on the Proposed Regional Policy Statement were released on 1 October 2016. 26 notices of appeal were then received and mediation between the parties commenced. Any issues not resolved through mediation will become the subject of an Environment Court hearing.

[122] On 12 December 2018, several appeals were resolved, and most sections of the Proposed Regional Policy Statement are to become operative from 14 January 2019. While, at the time of writing this report, these sections are not operative, they will be by the time of consideration by the Committee. Accordingly, they have been treated as 'operative' during the processing of this consent.

[123] The application is considered to be **consistent** with the following relevant objectives and policies of the **operative** portions of the Proposed Regional Policy Statement:

- Objective 1.1: Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago.
- Policy 1.1.2: Economic wellbeing.
- Policy 1.1.3 Social and cultural wellbeing and health and safety.
- Objective 4.3: Infrastructure is managed and developed in a sustainable way.

- Policy 4.3.1: Managing infrastructure activities.

[124] The proposal is considered to be **consistent** with the following objectives and policies of the **non-operative** sections of the Proposed Regional Policy Statement.

- Objective 3.1: Otago's natural resources are recognised, maintained and enhanced.
- Policy 3.1.7: Soil values.
- Objective 3.2: Otago's significant and highly values natural resource are identified and protected or enhanced.
- Policy 3.2.17: Identifying significant soil.
- Policy 3.2.18: Managing significant soil.

[125] The proposal is considered to be **inconsistent** with the following **operative** objectives and policies of the Proposed Regional Policy Statement:

- Objective 5.3: Sufficient land is managed and protected for economic production.
- Policy 5.3.1: Rural activities.

[126] Although much of the 1998 Otago Regional Policy Statement is no longer operative, the proposal is still considered to be consistent with the relevant objectives and policies of the following chapters of the Regional Policy Statement for Otago: 4: Manawhenua, 5: Land, 9: Built Environment, and 11: Natural Hazards.

7. DECISION MAKING FRAMEWORK

Part II Matters

[127] Although it may not be necessary to go back to Part II Matters of the Resource Management Act 1991, I have undertaken an assessment of Part II below, and in my opinion, there is no inconsistency with Part II.

[128] Consideration is given to the ability of the proposal to meet the purpose of the Act, which is to promote sustainable management of natural and physical resources. Other resource management issues require consideration when exercising functions under the Act. The relevant sections are:

- 5(2)(a) "Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations;
- 5(2)(c) "avoiding, remedying or mitigating any adverse effects of activities on the environment",
- 7(b) "The efficient use and development of natural and physical resources";
- 7(c) "The maintenance and enhancement of amenity values";
- 7(f) "Maintenance and enhancement of the quality of the environment"; and
- 7(g) "Any finite characteristics of natural and physical resources".

[129] With regard to Section 5(2)(a), it is considered that the proposed subdivision will not maintain the potential for rural use of the natural and physical land resource. It does not preserve the farmland in a single parcel but will fragment it between the two residential activities on what will become two lifestyle properties.

[130] With regard to Section 5(2)(c), it is considered that the proposed subdivision and development will have few adverse effects on rural productivity as there is no real productive use of the land. There will be some visual impact of a new house on proposed Lot 2, but this will reduce with the growth of screen planting.

[131] With regard to Section 7(b), it is considered that the proposed subdivision will fragment Rural-zoned land into significantly undersized Rural-zone sites, but this is

consistent with the adjoining Rural-zoned development, and there is no real loss of productive farm land occurring.

- [132] With regard to Section 7(c), it is considered that the proposed subdivision and development with a single additional residential unit will have few effects on the amenity values of the area. Few residential neighbours will be able to see the new house although it will be visible from SH 88.
- [133] With regard to Section 7(f), it is considered that the proposed subdivision will change the quality of the environment to that of a different zoning, in conflict with the District Plan provisions but consistent with the surrounding Rural-zoned development and in accordance with the proposed zoning for this land.
- [134] With regard to Section 7(g), it is considered that the proposed subdivision and development of Lot 2 will respect the natural and physical land resource as it will reflect the existing environment and the proposed zoning.

Section 104

- [135] Section 104(1)(a) states that the Council shall have regard to any actual and potential effects on the environment of allowing the activity. Section 5.0 of this report assessed the environmental effects of the proposed development and concluded that the effects on the environment of the subdivision and development proposal will have some limited adverse effects visually but, as the development is in accordance with the existing environment and the proposed zoning, and the site is not in a landscape overlay the effects are acceptable and reducing over time. The proposal is considered to have no adverse effects on the transportation network or the Council's infrastructure. Likewise, it will have less than minor effects on high class soils as no soils are to be removed from the site, and few such soils will be covered by new development.
- [136] Section 104(1)(b) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. Section 6.0 concluded that the subdivision and development proposal is considered to be objectives and policies of the Dunedin City District Plan and the Proposed Plan to do with manawhenua, infrastructure and servicing, amenity, sustainability, conflict and reverse sensitivity, natural resources. However, it is inconsistent with those to do with rural productive worth, natural and physical resources, and the subdivision of Rural-zoned land. It is considered to be contrary to the subdivision of Rural Residential zoned land into large lot residential sites under the Proposed Plan objectives and policies. Overall, I consider the proposal to be consistent with the objectives and policies of both the Operative District Plan and the Proposed Plan.
- [137] Section 104(1)(b) requires the Council to have regard to any relevant regional policy statement or regional plan. In paragraphs [121] to [126] of this report it was concluded that the application is consistent with the bulk of the relevant objectives and policies of the Regional Policy Statement for Otago and the Proposed Regional Policy Statement for Otago.
- [138] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application. Consistent administration and interpretation of the Plans by the Council is a desired outcome for consents.

True exception (s104(1)(c))

- [139] Another matter relevant to the Committee is the consistent administration and interpretation of the District Plan. Further, the application is a non-complying activity and case law gives guidance as to how non-complying activities should be assessed in this regard.

- [140] Early case law from the Planning Tribunal reinforces the relevance of considering District Plan integrity and maintaining public confidence in the document. In *Batchelor v Tauranga District Council* [1992] 2 NZLR 84, (1992) 1A ELRNZ 100, (1992) 1 NZRMA 266 the then Planning Tribunal made the following comments:

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

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

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

- [142] These matters have been considered by the Environment Court when sitting in Dunedin. Case law starting with *A K Russell v DCC* (C92/2003) has demonstrated that when considering a non-complying activity as identified by the Dunedin City Council District Plan the Council will apply the 'true exception test'.

- [143] In paragraph 11 of the decision Judge Smith stated:

"... we have concluded that there must be something about the application which constitutes it as a true exception, taking it outside the generality of the provisions of the plan and the zone, although it need not be unique."

This was added to in paragraph 20 where the Judge stated, *"... therefore, examining this application in accordance with general principles, we have concluded that the application must be shown to be a true exception to the requirements of the zone."*

- [144] More recently, the matter of Plan integrity was considered in the Environment Court case *Berry v Gisborne District Council* (C71/2010), which offered the following comment:

"Only in the clearest of cases, involving an irreconcilable clash with the important provisions, when read overall, of the Plan and a clear proposition that there will be materially indistinguishable and equally clashing further applications to follow, will it be that Plan integrity will be imperilled to the point of dictating that the instant application should be declined."

- [145] In this case, the true exception argument only applies to the subdivision and development proposal under the Operative District Plan. Under the zoning of the Proposed Plan, the subdivision is a discretionary activity, and the development of Lot 2 a permitted activity. This proposal poses no challenge to the integrity of the Proposed Plan. Possibly by the time this application is considered by the Committee, the proposed zoning will have been determined as operative making this discussion redundant but, at the time of writing this report, this is not the case.

- [146] The applicant has not specifically provided a 'true exception' argument for this proposal, although the Assessment of Environmental Effects provides arguments why the application should be granted, being much the same thing in this case. The subject site is small for a Rural-zoned property, and is physically constrained by the natural coastline. It is recognised by the Proposed Plan as being suitable for life-style use.
- [147] I agree that this Rural-zoned property is not typical of rural farming properties, and is very small for the Rural zone. It is physically constrained between the Residential 1 zone and the coastline, and there are no compliant Rural-zoned properties within this particular zone. In fact, the subject site is the largest of the Rural-zoned properties by a factor of about three. The subdivision will create two smaller lots, but these will still be larger than all of the neighbouring Rural-zoned properties. Because of the subject site's size, its topography, and its position at the end of residential streets unsuitable for heavy farming vehicles, it is not ideal for any intensive farming use or even the grazing of a few stock.
- [148] The site's position is also unusual. Residential development in coastal locations tends to hug the water's edge, with the farmland being further inland. In this case, the rural land sits between the residential area of Roseneath and the coastline. There is no possibility of the small subject site being incorporated with a larger farm and a more productive operation. The subject site is, in essence, a lifestyle property, and the subdivision will create an additional lifestyle property. There is no real loss of productive or potentially productive farm land occurring. While the above arguments might not be entirely unique, or even unusual, I do not consider that the granting of consent will present any real challenge to the provisions of the Operative District Plan, particularly in light of the proposed rezoning of the land.

Non complying status (s104D)

- [149] Section 104D of the Act establishes a test whereby a proposal must be able to pass through at least one of two gateways. The test requires that effects are no more than minor or the proposal is not contrary to the relevant objectives and policies.
- [150] It is my opinion that the subdivision will have adverse effects which are less than minor in that the proposed subdivision and development will be in accordance with the existing environment. The proposal is consistent with most of the objectives and policies of the Operative District Plan but contrary to one policy of the Proposed Plan in respect to the large residential use of a rural-residential property. While the weighting of the two Plans currently lies with the operative District Plan, the provisions of the Proposed Plan regarding Rural-Residential 1 subdivision are in effect, and are less onerous in their requirements and activity status.
- [151] The Section 104D test only applies to the proposal when considered under the provisions of the Operative District Plan. I consider that the proposed subdivision and development will have effects that will be less than minor. Section 104D requires the objectives and policies of both Plans to be considered. The proposal is contrary to one policy regarding the residential use of rural-residential land, but overall is consistent with the objectives and policies of both the Operative District Plan and the Proposed Plan. As such, I consider that the proposal will meet both Section 104D tests and the Committee is in a position to grant consent.

8. RECOMMENDATION

Subdivision SUB-2018-67

*That pursuant to section 34A(1) and 104B and after having regard to sections 104 and 104D of the Resource Management Act 1991, and the District Plan and Proposed Plan, the Dunedin City Council **grants** consent to the **non-complying** activity for the subdivision of the land legally described as Lot 1 DP 23139 (ROT OT15B/52) into two lots at 46 District Road,*

Roseneath, subject to the conditions imposed under sections 108 and 220 of the Act, as shown on the attached certificate.

Land Use LUC-2018-357

*That pursuant to section 34A(1) and 104B and after having regard to sections 104 and 104D of the Resource Management Act 1991, and the District Plan and the Proposed Plan, the Dunedin City Council **grants** consent to a **non-complying** activity being the establishment of new and existing residential activity on the under-sized Lots 1 and 2 SUB-2018-67 at 46 District Road, Roseneath, subject to conditions imposed under section 108 of the Act, as shown on the attached certificate.*

Should the Committee be of a mind to grant consent, I have recommended conditions for consent as Appendix 1 of this report.

9. REASONS FOR RECOMMENDATION

1. It is my opinion that any actual or potential adverse effects on the environment from the subdivision and development of 46 District Road will be less than minor for the following reasons:
 - a) The subject site is zoned Rural in the Operative District Plan, but is not representative of the District Plan expectations for Rural-zoned land. The subject site is already significantly undersized, and is not used for rural productive purposes. There is no farming use of this land, and no really viable farming use possible given its size, topography and location immediately next to residential development with the only access road being a narrow residential street. The proposed subdivision will not remove rural land from the City's natural and physical resources.
 - b) The subject site is the largest of the Rural-zoned properties in this location. None of the Rural-zoned properties are representative of the District Plan expectations for this zone as all are significantly undersized, and none are used for rural productive purposes. The proposed new lots will be consistent with the existing environment and the rural-residential land use of the Rural-zoned properties.
 - c) The Proposed Plan intends to rezone this land as Rural-Residential 1. Although at the time of writing, the rezoning is not operative, it is in effect and might be considered operative by the time the Committee considers this application. Under the Rural-Residential 1 zoning, the proposed subdivision will create one undersized lot, but the overall density of development will be compliant and the subdivision will be considered a discretionary activity. The development of the undersized lot will be considered a permitted activity. This is a far less challenging proposition for the Council to consider, and it is unlikely that the proposal would have been notified if only the Proposed Plan zoning were relevant.
 - d) The proposed development of Lot 2 will introduce a residential dwelling in a position easily seen from SH 88. This is currently a 'green' view, with few built elements in it. The proposed house will be seen in the context of mature trees to its rear, and shrubbery in front. While the initial visual impact is likely to be quite significant, it will reduce over time as the screen planting matures.
 - e) The subject site is not in a landscape overlay under either District Plan. The landscape effects of the proposal are therefore less of a concern than would be the case otherwise. A residential dwelling in a rural location is not an unexpected element of the landscape, and with controls on the house size, location and/or colours and cladding, the proposed house is not expected to have an adverse effect on the landscape. Again, if the proposed zoning becomes the operative

zoning, then the construction of a house in any location, of any cladding and colour, is considered to be a permitted activity where the landscape effects would not be considered by Council at all.

- f) There will be no adverse impact or demands on Council's infrastructure. The residential dwellings on the new lots will both be fully self-serviced although water supply and wastewater drainage is available in close proximity. The new lots will each be large enough to dispose of effluent on-site, and can utilise rainwater for water supply. There will be no changes to the roading infrastructure or site access, and only one additional residential dwelling utilising the urban roading of Roseneath. There will be no adverse effects on Council's infrastructure.
- g) The proposed building platform allows the developer of proposed Lot 2 to build within the 40.0m yard space in relation to the new boundary between Lots 1 and 2. The effects of this yard encroachment will be confined to the subject site, and is therefore acceptable. There is no setback contravention if the Rural-Residential 1 zoning of the Proposed Plan is the relevant zoning.
- h) A future dwelling on proposed Lot 2 is to be located within the building platform. This allows there to be a yard breach but serves little other purpose, and the building platform is, in effect, completely redundant if considered under the proposed zoning. If the Committee is to grant consent and is desirous of confining the future development of Lot 2 to the building platform, then there will need to be solid reasoning and implementation of the conditions or the developer will be able to challenge this condition, particularly if the Proposed Plan zoning becomes operative. It is my view that the proposed building platform achieves little purpose, and as a means of managing effects on the landscape, is ineffective when the entire Lot 2 is very visible from SH 88. I do not consider that the development of Lot 2 should be confined to the proposed building platform, although it can be retained as part of the land use consent to allow the yard breach if so desired.
- i) There is no productive use of the high class soils on the subject site. The proposed subdivision and development will not result in the loss or removal of high class soils, but will not utilise their productive worth either. This is largely an existing situation which is not made worse with the proposed subdivision and development.
- j) No earthworks are promoted as part of this application, but earthworks will be required during the development of Lot 2. The application notes that the house of Lot 2 will utilise the existing driveway, and that the building site (of the proposed building platform) is relatively level. Any earthworks needed to develop the land are expected to be minor, and will be temporary in effects in any case.
- k) The proposed subdivision and development of Lot 2 is expected to have adverse effects on the amenity values of the area which are less than minor. The development will be consistent with the existing environment and the proposed zoning. The adjacent residential properties are unlikely to be aware of the new dwelling because of the topography and existing vegetation, and any view of the proposed dwelling from public viewpoints will be over some distance.
- l) The presence of the large trees on the northeast boundary of Lot 2 has the potential for reverse sensitivity issues in respect of the residential use of Lot 2 due to shading. These trees are most likely on neighbouring land, so cannot be cut down by the owner of Lot 2 as a matter of course. Any pressure on neighbours to cut these trees down could cause conflict. Lot 2 is, however, large enough to provide a variety of building sites well away from the trees, and the Committee has the option of imposing a building platform for this reason.

provided the reasoning for the building platform is clearly detailed in the consent notice on the property title.

- m) The proposed development will not have cumulative effects on the zoning or area as the character of the area is not rural now. The proposed subdivision will create sites that reflect the present development of the Rural zone. Any cumulative effects of undersized sites and over-dense development in this particular zone are already established.
2. The subject site is in an unusual Rural zone in that it is confined between residential land and the harbour edge. The Rural-zone is already development in a manner consistent with rural-residential land use. While the proposal might not be exceptional, the proposed development of this land in the manner proposed is not expected to challenge the integrity of the Operative District Plan. There is no requirement for a true exception argument in respect of the Proposed Plan and its zoning.
3. The proposal is considered to be consistent with most of the objectives and policies of both District Plans. It is contrary to one policy of the Proposed Plan in respect of purely residential use of a rural-residential property. This is, however, the current situation as the subject site is a large residential site with no farming use. The proposed subdivision and development of Lot 2 does not create this situation.
4. Overall, it is considered that the proposal meets both branches of the Section 104D test of the Act when assessed against the provisions of both the District and Proposed Plans. Accordingly, I consider that the Committee is able to consider granting consent.

Report prepared by:



Lianne Darby
Planner

28.01.2019

Date

Report checked by:



John Sule
Senior Planner

28/01/2019

Date

Should the Committee be of a mind to grant consent, I recommend the following conditions for consent:

DRAFT RECOMMENDED CONDITIONS: Subject to change.

SUB-2018-67

1. *The proposal shall be given effect to generally in accordance with the plan prepared by Simon Jenkin entitled, 'Lots 1 & 2 Being Subdivision of Lot 1 DP 23139 46 District Road, Roseneath, Dunedin,' attached to this consent as Appendix One, and the accompanying information submitted as part of SUB-2018-67 received by Council on 29 June 2018, except where modified by the following:*
2. *Prior to certification of the survey plan pursuant to section 223 of the Resource Management Act 1991, the applicant shall ensure the following:*
 - a) *If a requirement for any easements for services is incurred during the survey then those easements shall be granted or reserved and included in a Memorandum of Easements on the survey plan.*
 - b) *That Right of Way A must be duly created or reserved over the existing driveway of Lot 1 in favour of Lot 2, and must be shown on the application plan in a Memorandum of Easements. The right of way must have a legal width of at least 4.5m.*
 - c) *That Pedestrian Right of Way B must be duly created or reserved over Lot 1 in favour of Lot 2, and must be shown on the application plan in a Memorandum of Easements. The pedestrian right of way must have a legal width of at least 2.0m.*
3. *Prior to certification pursuant to section 224(c) of the Resource Management Act 1991, the applicant shall complete the following:*
 - a) *That a planting plan prepared by a suitably qualified landscape architect must be prepared for the purpose of screening views of the future house on Lot 2 from public viewpoints. The planting plan is to clearly show how views of the house will be screened by regularly spaced, medium-sized trees and shrubbery along the southern edge of the property. The planting plan must be submitted to rcmonitoring@dcc.govt.nz for approval, and the approved planting plan attached to the consent notice of condition 3(b) below.*
 - b) *That a consent notice must be prepared for registration on the title of Lot 2 for the following on-going conditions:*

'That, if it is proposed to build on land steeper than 15° to the horizontal, a favourable site-specific geotechnical assessment prepared by a suitably qualified person, noting that the ground is stable and the associated earthworks will not cause instability, must be submitted to the Council with the building consent application.'

'That the residential dwelling on this site must be screened by vegetation from public viewpoints on an on-going basis in accordance with the attached planting plan. The screen planting must be established by the end of the first growing season following the construction of the dwelling, and must be maintained in perpetuity. With the exception of weed species,

minimal vegetation should be removed from this site as part of, and following, its development.'

'Prior to the occupation of any building, on-site fire-fighting water supply must be provided in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. The Code of Practice provides for a range of options for the provision of firefighting water supply and therefore evidence of agreement with the New Zealand Fire Service on the firefighting water supply to be provided to meet the Code of Practice shall be provided to Council at the time of building consent application.'

'A firefighting connection in accordance with the New Zealand Fire Service Fire-fighting Water Supplies Code of Practice SNZ PAS 4509:2008 is to be located within 90m of the buildings on this site. In order to ensure that connections are compatible with New Zealand Fire Service equipment the fittings are to comply with the following standards:

- a) Either: For flooded sources - 70mm Instantaneous Couplings (Female) NZS 4505, or for suction sources - 100mm Suction Couplings (Female) NZFS 4505 must be provided.*
- b) Flooded and suction sources must be capable of providing a flow rate of 25litres/sec at the connection point/coupling. The Fire Service connection point/coupling must be located so that it is not compromised in the event of a fire.*
- c) The connection shall have a hardstand area adjacent to it to allow for a New Zealand Fire Service appliance to park on it. The hardstand area shall be located in the centre of a clear working space with a minimum width of 4.5m. Access must be maintained at all times to the hardstand area. '*

'Underground tanks or tanks that are partially buried (provided the top of the tank is no more than 1.0m above ground) may be accessed by an opening in the top of the tank whereby couplings are not required. A hardstand area adjacent to the tank is required in order to allow a fire service appliance to park on it and access to the hardstand area must be provided as above.'

'The minimum formed width of vehicular access to each future dwelling shall be not less than 4.0m wide and have a vertical clearance of no less than 4.0m high to ensure Fire and Emergency New Zealand appliances have sufficient vehicular access to the property.'

- c) That the full length of Right of Way A must be formed to a minimum width of 4.0m and be adequately drained. The right of way must be hard surfaced from the edge of the carriageway of District Road to a distance not less than 5.0m inside the property boundary.*

Land Use LUC-2018-357

1. The proposal shall be given effect to generally in accordance with the plan prepared by Simon Jenkin entitled, 'Lots 1 & 2 Being Subdivision of Lot 1 DP 23139 46 District Road, Roseneath, Dunedin,' attached to this consent as Appendix One, and the accompanying information submitted as part of LUC-2018-357 received by Council on 29 June 2018, except where modified by the following:

1. *That only one residential unit shall be established on each of Lots 1 and 2 SUB-2018-67*
2. *A dwelling in the position of the building platform (as shown on the application plan for LUC-2018-357) may encroach into the 40.0m side yard under the Operative District Plan to the degree provided for by, and only in the position of, the building platform. Building, however, is not confined to the building platform, and a dwelling may be constructed on Lot 2 in any position provided all bulk and location requirements, under the District Plan rules relevant at the time of building, are met or further resource consent is obtained.*
3. *Access to the building platform of Lot 1 shall be formed to a minimum width of 4.0m and a vertical clearance of not less than 4.0m high to ensure that the New Zealand Fire Service appliances have sufficient vehicular access to the property.*
4. *The new dwelling on Lot 1 shall have an adequate fire-fighting water supply available at all times in accordance with SNZ PAS 4509:2008 in order to reduce the fire risk to the property. This can be stored in underground tanks or tanks that are partially buried (provided the top of the tank is no more than 1.0m above ground level) which can be accessed by an opening in the top of the tank so that couplings are not required.*
5. *A hardstand area shall be formed beside the tanks of condition 3 above so that a fire service appliance can park on it, if so required.*
6. *Any additional planting required by the planting plan attached to the title of Lot 2 must be undertaken within the growing season following the completion of the new dwelling on this site. If the house is in a different position to that anticipated by the building platform, then the planting must be adjusted so as to still fulfil its purpose of screening the dwelling from public view i.e. the planting plan need not be rigorously applied in its approved form except for the species and spacing of plants and provided that the dwelling will be adequately screened.*

Building Platforms

1. The future dwelling of Lot 2 is not confined to the building platform as shown on the application plan, but must maintain all bulk and location requirements of the District Plan/s relevant at the time of building except in the location of the building platform where a yard breach is consented.

Transportation

2. It is advised that in the event of future development on Lot 2, Transport will assess provisions for access, parking and manoeuvring at the time of resource consent building or consent application.

Infrastructure

3. All aspects of this development shall be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
4. Private drainage issues and requirements (including any necessary works) are to be addressed via the Building Consent process.
5. Certain requirements for building on this site may be stipulated via the building consent process and are likely to include the following points:
 - Stormwater from driveways, sealed areas and drain coils is not to create a nuisance on any adjoining properties.

- Surface water is not to create a nuisance on any 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.

Earthworks

6. This consent does not address any earthworks associated with the development of the new lots, or the formation of any new access on legal road or within the new lots, manoeuvring areas, or retaining walls (should any be required). Should future earthworks on-site breach the performance standards of Section 17 of the District Plan or the provisions of the Proposed Plan for Earthworks – small scale, 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.

General

7. 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.
8. 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.
9. 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.
10. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
11. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.