

TO: Hearings Committee

FROM: Callum Riddle, Planner

DATE: March 2020

SUBJECT: **RESOURCE CONSENT APPLICATION**
LUC -2019-250
26 Centre Road, Ocean Grove
L M A McGinty and S A Dicey

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 9 March 2020. 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.

QUALIFICATIONS AND EXPERIENCE

- [2] My full name is Callum Tony Riddle. I am employed by WSP in Dunedin as Graduate Planner – Environment. I hold a Bachelor of Science in Geography and Statistics from the University of Otago and a Master of Planning from the University of Otago. I am currently a Graduate Member of the New Zealand Planning Institute. I have two years of professional experience in the field of Resource Management Planning. Prior to working at WSP, I worked as a Planning Officer at Queenstown-Lakes District Council.
- [3] I have visited the site, most recently on 5 March 2020.

SUMMARY OF RECOMMENDATION

- [4] For the reasons set out in paragraphs [128] – [133] below, I consider that, provided the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated and will be minor. The proposal is considered to not be contrary to the key relevant objectives and policies of Operative District Plan and the Proposed 2GP. The proposed development has been assessed as not being likely to give rise to more than minor adverse effects on those elements of the Rural Zone that the Operative District Plan and Proposed 2GP seeks to protect. Thus, I have concluded that the proposal should be granted.

DESCRIPTION OF PROPOSAL

- [5] Resource consent application is sought to construct a single storey residential dwelling (60m²) that will be used for both visitor accommodation and as a family flat to serve the main dwelling. The proposed building will be positioned 15m within the boundary setback of the north-eastern boundary.

- [6] The proposed building will be a self-contained two-bedroom unit that will have its own kitchen and laundry facility. The main living areas such as the living room, kitchen and porch will be located along the western side of the building. The two bedrooms will be positioned along the eastern boundary, with one window positioned along the eastern wall of the building.
- [7] The maximum height of the proposed building will be 4.4m, with an open gable roof and will be clad in weatherboard.
- [8] A copy of the application, including plans of the proposed building and landscaping is contained in Appendix 1 of this report.

DESCRIPTION OF SITE AND LOCATION

- [9] The subject site is legally described as Part Section 13 Block VII Otago Peninsula held in Record of Title OT387/222 and Part Section 852R Block VII Otago Peninsula Survey District held in Record of Title OT7D/997.
- [10] The site is 3.1661ha (combined area of land shown on the Record of Titles) in area. The property is situated at the neck of the Otago Peninsula, on a ridgeline separating Smaills and Tomahawk beaches. The property lies between Centre Road and Tomahawk Road, with a small section of the property situated on the coastal side of Tomahawk Road in the back dunes of Smaills Beach.
- [11] The site contains an existing residential dwelling located on a relatively flat area directly adjacent to Centre Road. The residential dwelling is accessed off an accessway from Centre Road along the north-eastern boundary of the property.
- [12] The remainder of the site is predominately sloping land. The site slopes downward to Tomahawk Road and Smaills Beach. There is an existing accessory building and access located at the southern end of the property off Tomahawk Road, however this appears to be unused. The upper portion of the slopes has recently been planted out with native vegetation. The applicant also supplied evidence in Appendix C of the application that demonstrates the property has been awarded two biodiversity grants from the Dunedin City Council to carry out the plantings on the subject site.
- [13] The surrounding environment of the subject site is a mixture of residential and rural activities. The location of the property is located on the urban fringe of Dunedin City. The size of the surrounding properties varies, with the adjacent properties being less than 15ha anticipated under the Operative District Plan.

ACTIVITY STATUS

- [14] Dunedin currently has two district plans: the operative Dunedin City District Plan, and the Proposed Second Generation Dunedin City District Plan (the "Proposed 2GP"). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
- [15] The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to Section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

Dunedin City District Plan

- [16] The subject site is zoned Rural in the Dunedin City District Plan. Centre Road is classified as a Local Road in the Plan's Roading Hierarchy.
- [17] The proposal is considered to fall within the definition of Residential and Commercial Residential Activity. Resource consent is required as the proposal does not meet the following rules in the District Plan:
- [18] Under Rule 6.5.3(i), the minimum yard requirements are 40m for residential units from side and rear yards. The location of the proposed building will be situated only 15m from the side yard along the north-eastern boundary. This is a **restricted discretionary** activity pursuant to Rule 6.5.5(i).
- [19] The proposed use of the building for visitor accommodation purposes falls under the definition of a commercial residential activity under the Dunedin City District Plan.

Commercial Residential Activity

The definition of a commercial residential activity means:

"a building or group of buildings used for the accommodation of people and which are or can be let on a daily tariff, including boarding houses for six guests or more, and home stays for six guests or more"

- [20] Under Rule 6.5.6(iii), the commercial residential activity that will occur in the proposed building is considered to be a **discretionary** activity.
- [21] Residential activity is permitted at a density of one residential unit per site, provided that the minimum area of the site is not less than 15ha. The area of the site is only 3.1661ha and already has a residential dwelling on the site. As such, the proposal will not comply with the requirements outlined in Rule 6.5.2, 6.5.4 or 6.5.6 and is a **non-complying** activity.

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

- [22] The Proposed 2GP was notified on 26 September 2015. The 2GP zoning maps zone the site as **Rural Peninsula Coast Zone**. A majority of the site is subject to the Outstanding Natural Landscape Overlay and a small portion is subject to the Archaeological Alert Layer. Neither of these overlays are present over the area which will be used for the construction of the proposed unit.
- [23] The Proposed 2GP was notified on 26 September 2015, and the decisions version of the 2GP was released on 7 November 2018. The application was lodged on 21 May 2019. Prior to the release of the decisions version, some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.
- [24] In regards to this application, the provisions relating to rural density, family flats and the site boundary setbacks of new residential dwellings within the Rural Zone are currently under appeal.

City-Wide Activities

- [25] A Consultant Transport Planner – Kirsten Tebbutt provided comments in regards to the proposed application at 26 Centre Road. The following specific non-compliances were identified.
- [26] Rule 6.6.1.5 which requires that parking areas provided for activities other than standard residential must be designed to manage water and stormwater appropriately, be hard-surfaced, and have individual spaces permanently marked (including mobility parks). In this instance, “working from home” is not considered to be standard residential, and as such these requirements apply.
- [27] Rule 6.6.3.3, which identifies the maximum width for a vehicle access for residential activities (“working from home” is considered to fall within the definition of residential activity, as per the nested table contained in section 1.3.2 of the proposed 2GP) to be 6 metres.
- [28] Rule 6.6.3.6, which requires that driveways adjoining a sealed legal road must be hard surfaced for five metres from the edge of the road
- [29] Rule 6.6.3.9, which requires that the minimum formed width for the driveway is 3.5 metres. It is noted that the application does not identify whether compliance with this standard is achieved.
- [30] These transportation breaches are assessed as **restricted discretionary** activities.

Land-use Activities

- [31] The proposed visitor accommodation falls under the definition of commercial activities
- [32] Under Rule 16.3.3.38, visitor accommodation outside of the airport noise inner control mapped area in the rural area is a **discretionary** activity. This rule is subject to an appeal; However, this relates to the BP Hazard Facility Mapped Area only. The subject site is not located in this mapped area.
- [33] The definition of Visitor Accommodation within the District Plan means:

Visitor Accommodation

“means the use of land and buildings for temporary accommodation (up to three months stay within any calendar year period per customer) on a commercial fee paying basis. For the sake of clarity, this definition includes the provision of facilities for resident guests (e.g. playgrounds, spa pools, swimming pools, gyms)

Examples are:

- *motels*
- *hotels*
- *homestays or bed and breakfasts*
- *serviced apartments; and*
- *backpackers and hostels.*

This definition excludes accommodation activities that meet the definitions of working from home or standard residential. Freedom camping is not managed by this Plan and is managed through a DCC by-law.

Campgrounds are managed as a sub-activity of visitor accommodation.

Visitor accommodation is an activity in the commercial activities category.”.

- [34] Under Rule 16.5.14.1, the tenancy of the family flat will be breached as the unit will be occupied by visitor accommodation activity for a number of days of the year. This activity contravenes this performance standard and is a **non-complying** activity.
- [35] Under Rule 16.5.14.2, the design of the family flat will contravene the performance standard for standard residential activity as the proposed unit will breach the density requirements of the Rural Zone. This is a **restricted discretionary** activity.

Development Activities

- [36] Under Rule 16.6.10.1, the proposed unit will be located within the minimum setback of the side boundary at 40 Centre Road held in a separate ownership. The proposed building is located 15m from the adjacent boundary. This contravenes this performance standard requirements under Rule 16.3.4.2.a and is a **restricted discretionary** activity.
- [37] Under Rule 16.5.2.2, one family flat is allowed per site in association with a standard residential activity that meets the performance standards for density. The subject site is only 3.1661ha in area and will not meet the minimum site size density performance standards for the Rural Peninsula Coast Zone. This is a **non-complying** activity.

Overall Activity Status under the Operative District Plan and Proposed 2GP

- [38] Section 88A of the Resource Management Act determines that when an application has been lodged, the activity status remains unaltered despite decisions on a proposed plan being notified. The application was lodged on 21 May 2019, after the decisions on the Proposed 2GP had been released.
- [39] Overall the activity status is **non-complying**.

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

- [40] 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.
- [41] It is considered, more likely than not, that no activities have been undertaken on the site that appear on the HAIL. As such, the National Environmental Standard is not applicable to the proposal.

NOTIFICATION AND SUBMISSIONS

- [42] No written approvals were submitted with the application.

[43] After initial consideration of the application, it is considered that the adverse effects of the proposal would be no more than minor, having regard to the surrounding environment and the mitigation measures proposed.

[44] It was therefore determined that the effects of the proposal would be restricted to the owners and occupiers of the properties at 40 Centre Road. This is because the proposed building that will be used for short-term accommodation will be located within the yard setback. The written affected party approval of this person(s) was not obtained and the application was, therefore, notified on a limited basis on 13 January 2020

[45] Copies of the application were sent to the following parties with submissions closing on 13 February 2020:

- Christopher Dean Valentine, 40 Centre Road

[46] The submission is summarised in the table below, and a full copy of the submissions is attached in Appendix 2.

Name of Submitter	Support / Oppose	Summary of Submission	Wish to be heard?
C Valentine	Oppose	▪ The noise effects from the visitor accommodation and unfamiliar users to the site will be detrimental to the welfare of horses located in an existing stable along the boundary of the property; ▪ Reverse sensitivity effects arising from location of the building in boundary setback and activity on productive rural uses on adjoining site; ▪ Impact the location of proposed building will have on ability to construct a residential dwelling on site as of right. ▪ Seeks further clarity on following points of application: ▪ Off set from boundary to 40 Centre Road; ▪ Road boundary setback of proposed dwelling; and ▪ Size and dimension of bund, particularly height and width of this.	Yes

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

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

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

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

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

Permitted Baseline

- [48] An important consideration for the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. The purpose of the permitted baseline assessment is to identify the non-fanciful effects of permitted activities and those effects authorised by resource consent in order to quantify the degree of effect of the proposed activity. Effects within the permitted baseline can be disregarded in the effects assessment of the activity.

Density

- [49] Under the Operative Dunedin City District Plan, residential activity at a density of one residential unit per site is allowed, provided that the minimum area of the site is not less than 15ha. Under the 2GP, the Rural Peninsula Coast zone anticipates one residential dwelling per 20ha. The subject site is 3.1661ha with an existing residential dwelling.
- [50] The receiving environment surrounding the property consists of a number of properties adjacent to the subject site that are also less than the minimum lot size of the property anticipated by the District Plan. To the north of the subject site, the area is zoned General Residential 1 and anticipates residential density significantly smaller than the Rural zone.
- [51] The applicant notes that the unit will also be used as a family flat to accommodate immediate family members. However, pursuant to Rule 16.11.1.4 of the 2GP, with respect to section 104(2), I do not consider family flats as part of the permitted baseline in considering residential density effects in the rural zone.
- [52] According to Council records, there is currently no unimplemented resource consents in the surrounding area that may influence the local environment.

Visitor accommodation

- [53] In regards to visitor accommodation, the 2GP anticipates some form of visitor accommodation within the Rural zone as a 'working from home' activity. The application suggests that the proposal to carry out visitor accommodation may be considered permitted under this provision.
- [54] The definition of 'working from home' under the 2GP means :

The use of land and buildings as a place of work, as part of an occupation, craft, profession, or service, ancillary to their use as a principal place of residence. For the sake of clarity, this means that the activity:

- can only be carried out by a person or persons living on the site as their principal place of residence; and*
- cannot employ any other person on-site, including by way of operating from the site (relying on equipment or vehicles stored on the site or making regular visits to the site).*

Working from home may include retail services but not direct retail sales except for goods produced on-site.

For the sake of clarity, this definition includes:

- *hosted visitor accommodation, in the form of homestays, bed and breakfast, or similar, for no more than five guests, provided the accommodation is contained within the same residential unit that is being used as the principal place of residence;*
- *early childhood education for five or fewer children; and*
- *animal breeding involving one breeding pair of dogs and/or cat*

[55] However, DCC Policy noted that the definition of 'working from home' refers to using the existing residential dwelling/property as a place of employment as an ancillary use to living there, e.g. it is not a primary activity but an ancillary one. The standards around working from home are, therefore, focused on limitations on what is allowed if this activity is carried out – it does not in any way imply an additional development right or the right to increase the density of use/occupation of a site if you want to also work at home.

[56] I agree with this advice and I do not consider that the proposal can be considered as a 'working from home' activity as the density of the site will increase in order to accommodate the proposed activity. Therefore, the proposed activity must be considered as 'visitor accommodation' instead.

[57] Visitor accommodation as an activity is anticipated within the Rural zone, if the proposed activity is for productive rural activities or a significant conservation activity.

Boundary setback

[58] Residential units are permitted to be up to 40m from side and rear yards of an adjacent property. The location of the proposed building will be located within 15m of the side boundary along the north-eastern boundary.

[59] It is noted that, due to the size of the subject site, complying with both plans with regards to residential unit side yard breaches is not able to be achieved given that the legal frontage of the property is only 68m.

Assessment of Effects

Dunedin City District Plan and Proposed 2GP

[60] This section of the report assesses the following environmental effects in terms of the relevant assessment matters. The assessment is guided by the relevant assessment matters in the Operative District Plan and 2GP. These are Sections 6.7 (Rural) and 20.6 (Transportation) of the Operative District Plan, and Sections 16 (Rural) and Section 6 (Transportation) of the 2GP. Accordingly, assessment is made of the following effects of the proposal:

- Visitor Accommodation;
- Bulk, Location, Design, Appearance and Amenity Values;
- Transportation;
- Infrastructure;
- Cumulative Effects;

- Positive Effects;

Visitor Accommodation (Assessment Matter 16.11.2.5)

[61] The visitor accommodation activity will be carried out within the proposed building located within the boundary setback of the adjoining neighbour at 40 Centre Road. Visitor accommodation has the potential to generate reverse sensitivity effects if not managed correctly. From the application provided, it is unclear how the applicant would manage this activity, particularly around noise, hours of operation and the use of outdoor living spaces by guests. Based on the application provided, the duration of stay for guests of the visitor accommodation is also not specified, and the applicant has not specified the total number of days of the year visitor accommodation will be carried out for.

[62] However, as the proposed building will only be two-bedrooms, it is anticipated that it can accommodate up to a maximum of four (4) guests to stay on site. This is similar in scale to residential activity anticipated within the Rural Zone, particularly in family flats. The difference of use between visitor accommodation and a family flat would not be overly noticeable if suitable conditions of consent are applied, particularly given the location of the building would be near the site boundary. As such, it is considered that several conditions would be required to mitigate any adverse effects this activity may have to ensure that the proposed activity will not change the character and amenity of the rural zone.

[63] The assessment matter outlined in the Proposed 2GP (16.11.2.5) note that visitor accommodation within the rural zone may be supported if the activity supports either a conservation activity that is associated with an ASBV, QEII covenant, a conservation covenant with the Department of Conservation or a local government agency, or a protected private land agreement under the Reserves Act 1971.

[64] The applicant has proposed that the use of the proposed building for visitor accommodation will be utilised to support the existing conservation works that has occurred on the site. The applicant has provided evidence in Appendix C of the application that demonstrates an agreement has been carried out in the past through a Biodiversity Grant from the Dunedin City Council that enabled funding to carry out plantings on the property. However, the final report of the project states that following:

"We have now planted all the plants that we outlined in our grant application, plus a few extras that we had raised ourselves.

The project has been successful in that all of these plants appear to be growing well...Overall, this has been another successful step in the project, and we look forward to continuing to plant in this area."

[65] Given the date of the evidence provided is from 2015/2016, and the small size of the property at 3.1661ha, it is unclear how this arrangement will be carried out in conjunction with the visitor accommodation activity if this is no longer associated with the Dunedin City Council Biodiversity funding. If the works associated with the planting on the site have already been completed, then it is unclear exactly how the arrangement will be carried out to ensure paying guests are able to actively participate in a conservation effort that is in accordance with the 2GP. As such, it is considered that, based on the evidence provided, that the site is not likely to support visitor accommodation appropriately.

Bulk, Density, Location, Design and Appearance and Amenity and Character Values (Assessment Matters 16.9.3.1, 16.9.4.2, 16.12.5.1)

- [66] The location of the proposed building will be located 15m from the side boundary of 40 Centre Road. The subject site differs to those anticipated within the rural zone as it is already significantly undersized and does not carry out productive rural activities due to the topography, soil type, and exposure to coastal conditions. The overall size of the site is only 68m wide which I do not considered to be large enough to establish any other activities anticipated within the zone. The size of the site means that the location of the building is unable to satisfy the yard requirements for the zone.
- [67] The location of the proposed building within the setback will minimise any changes to the topography of the site and is strategically positioned to minimise visibility from Centre Road, the adjacent Outstanding Natural Landscape and Smaills Beach. The building will only be 4.4m in height, 60m² in area and setback 42m from the road boundary. This distance from the road boundary will reduce any dominance effects on the rural outlook when observed from the road towards Smaills Beach. The location of the building is appropriate compared to other locations on the site that would require earthworks to establish a building platform due to the steep topography of the site, the removal of indigenous vegetation recently planted, and would likely be visible when observed from Tomahawk Road or Smaills Beach. As such, the location of the proposed building is positioned to minimise the effects of visual amenity on the surrounding environment. As discussed above, the nature of the surrounding area is also rural residential in nature, with the area across the road zoned General Residential 1 in the 2GP.
- [68] In regards to reverse sensitivity of the location of the building within the boundary setback, it is noted that the building immediately adjacent to the boundary of the property is used to house several horses that are utilised by the owners of 40 Centre Road. In the submission received, the submitter noted that they were concerned that the proximity of an occupied building for residential use is likely to impact on the amenity and rural use of the neighbouring site. However, the applicant states there was a general agreement with the submitter to screen the building and proposed activity via landscaped bund and to keep the keep the curtilage of the unit away from the adjoining neighbour. The bund will be setback approximately 4.5m from the proposed building. The use of bund between the property will be planted out to ensure potential for reverse sensitivity is minimised as far as practicable and maintain the amenity of the rural area.
- [69] However, from the application it is unclear exactly to what extent the proposed bund will mitigate any potential reverse sensitivity effects. The height of the bund or the type of vegetation that would be planted over the bund was not specified in the application. In addition to this, it is unclear whether any earthworks will be required in regards to fill to construct this bund that would comply with the provisions of both the District Plan. However, it is anticipated that the construction of the bund will help to mitigate any noise generated from the proposed visitor accommodation activity and place the building out of sight from the adjoining neighbour.
- [70] In regards to density, the subject site is already an existing undersized rural lot. The increased density of the site would be in general accordance with the existing character of the area which is more akin to rural residential rather than rural, due to the number of houses also situated on undersized rural lots that are also in close proximity and highly visible from Centre Road. Furthermore, the increased density of the site is not likely to alter the productive rural capacity of the site given that productive rural activities do not currently occur within the property.

- [71] Given the constraints of the size of the site and the performance standards around subdivision in the Rural Zone, the likelihood of the dwelling later being subdivided off in the foreseeable future is not likely to occur.
- [72] Council's Three Waters team has considered the proposal and notes that there is sufficient capacity for the proposed dwelling to be connected to Council's reticulated water services. The applicant notes that wastewater from the proposed dwelling will also be dealt with via an existing septic tank on site that has sufficient capacity to cope with this. These matters are assessed further below.

Infrastructure (Assessment Matters 9.5.3.12, 9.5.3.7, 9.8.2.2)

Water services

- [73] The proposed activity is located within the Rural zone and located outside the Rural Water Supply Areas as shown in Appendix B of the Dunedin City Council Water Bylaw 2011. A review of the rates database shows that the existing dwelling at the site is currently supplied with a reticulated water supply. For any change of use to an existing water connection, an "Application for Water Supply" is required.
- [74] Council's Three Waters team has assessed the addition of another residential dwelling onto the undersized rural lot. They note that a connection to Council's reticulated water supply for the new dwelling is possible. However, to mitigate the effects of the additional dwelling, this 'extraordinary' connection to the existing dwelling needs to be metered as this does not currently appear to be the case and a boundary RPZ backflow prevention device is necessary. Installation of an RPZ requires a building consent, or an exemption from a building consent. Details of the device and its proposed location will be approved through that process.
- [75] Council's Three Water team also noted that stormwater collected from roof surfaces may be used for domestic water supply and stored in suitably sized tank(s), with a minimum of 25,000L storage per lot. However, given that the new residential dwelling can be connected to the public reticulated water supply, I do not consider this to be necessary to impose a condition of this consent to install a water tank.

Firefighting provisions

- [76] In regards to the firefighting provisions required in the Rural zone, a condition has been imposed to ensure 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.

Wastewater

- [77] As the proposed activity is located within the Rural zone, there are no reticulated wastewater services available for connection. Any effluent disposal shall be to a septic tank and effluent disposal system which is to be designed by an approved septic tank and effluent disposal system designer.
- [78] The applicant notes that the existing septic tank on site and effluent disposal system has sufficient capacity to accommodate an additional two-bedroom dwelling on the site.

Stormwater

- [79] As the proposed activity is located within the Rural zone, there is no stormwater infrastructure or kerb and channel discharge points. Disposal of stormwater is to water tables and/or watercourses onsite, or to suitably designed onsite soak-away infiltration system or rainwater harvesting system. An advice note has been recommended to ensure that stormwater is not to cause a nuisance to neighbouring properties or cause any downstream effects.
- [80] To allow adequate pervious area for natural stormwater drainage, the maximum site coverage specified in the District Plan must be complied with.

Transportation (Assessment Matters-20.6.8, 20.6.10 and 2GP - 6.10.5.3)

- [81] A Consultant Planner - Kirsten Tebbutt of Mitchell Daysh - was engaged by Council to provide comments on the effects of the proposal on the surrounding transportation network and was provided on the 7 June 2019.

Access

- [82] The proposed activity will be serviced via the existing driveway for the residential activity on the site. The formation of the access is not particularly well maintained, and given the anticipated intensification of the use of this access in conjunction with this activity, it is appropriate that the non-compliances listed above are appropriately addressed. In this respect, it is noted that the formation of the driveway is showing signs of wear and edge break, and that gravel migration is impeding drainage along this portion of Centre Road
- [83] The application does not provide detail to enable a full assessment of all matters relating to access, and as such, the Consultant Planner recommended that additional conditions are recommended to address these deficiencies.
- [84] For the avoidance of doubt, the location of the bund has been noted to be suitably set back from the site's front boundary such that it avoids any impact on sight distances achieved.

Parking & Manoeuvring

- [85] Given the nature of the proposal, the District Plan does not include any specific requirements relating to the number of carparks required to be provided, however does include requirements relating to the manoeuvring areas provided for any parking required for activities on the site. In this instance, the existing driveway will form the parking area for the proposed activity and is not hard surfaced. As set out above, the formation of the site access is such that it does result in some drainage issues, coupled with the gravel migration highlighted above.
- [86] Should the site access be suitably formed as recommended above, it is considered that the parking area is appropriate within the semi-rural context of the site. The effects of gravel migration and poor drainage are addressed by the appropriate formation of the access, and the retention of a gravel surface on the parking/manoeuvring area will not result in any additional adverse effects.
- [87] Given the size of the site, and the relatively flat topography in the immediately vicinity of the proposed accommodation unit, should on-site parking be provided for more than 5 vehicles, adequate manoeuvring space can be provided for the 85th percentile motor vehicle contemplated within the residential zone. While the plans submitted do not demonstrate the provision of parking in conjunction with the activity, it is noted that a suitable condition can appropriately address this issue

Generated Traffic

- [88] It is considered that the effects of this proposal on the transportation network will be no more than minor. It is noted that additional vehicular traffic generated by a single accommodation unit for up to four persons is likely to generate additional traffic demand that is imperceptible within the wider vicinity.

Cumulative effects

- [89] The concept of cumulative effects, as defined in *Dye v Auckland Regional Council & Rodney District Council* [2001] NZRMA 513, is:

“... one of a gradual build up of consequences. The concept of combination with other effects is one of effect A combining with effects B and C to create an overall composite effect D. All of these are effects which are going to happen as a result of the activity which is under consideration”.

- [90] Similarly, some effects may not presently seem an issue, but after having continued over time those effects may have significant impact on the environment. In both scenarios, the effects can be considered to be ‘cumulative’.
- [91] The proposal, if granted, is not likely to give rise to cumulative adverse effects on the submitter or the environment through the appropriate mitigation measures proposed along the adjoining boundary and conditions imposed in this consent. The degree of this effect is, for reasons discussed above, no more than minor.

Positive effects

- [92] The proposal has positive effects through the provision of allowing the applicant to meet the social and economic needs on land otherwise considered to be unproductive rural land.
- [93] In addition to this, while it is unclear how the proposed visitor accommodation will tie into the planting work carried out on site, it is likely that this will have some factors that promote the enhancement of the rural amenity and biodiversity for the wider city.

Effects Assessment Conclusion

- [94] After considering the likely effects of this proposal above, overall, I consider the effects of the proposal can be appropriately mitigated by conditions of consent so as to be no more than minor

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

- [95] Section 104(1)(ab) of the Resource Management Act 1991 requires that the Council have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.
- [96] In this case, no offsetting or compensation measures have been proposed or agreed to by the applicant.

OBJECTIVES AND POLICIES ASSESSMENT

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

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

Dunedin City District Plan

- [98] The following objectives and policies of the Dunedin City District Plan were relevant to this application:

Sustainability Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 4.2.1 Enhance the amenity values of Dunedin. Policy 4.3.1 Maintain and enhance amenity values.	The proposal is considered to be consistent with this objective and policy. The proposal seeks to enhance the amenity of the rural area through the use of the visitor accommodation activity as a method to help carry out plantings carried out on the site. The planting of indigenous vegetation within the property is considered to be a better use for the site given that it is not suitable for productive rural activities.
Objective 4.2.5 Provide a comprehensive planning framework to manage the effects of use and development of resources.	
Policy 4.3.5 Require the provision of infrastructure services at an appropriate standard.	
Policy 4.3.8 Avoid the indiscriminate mixing of incompatible uses and developments.	
Policy 4.3.10 Adopt a holistic approach in assessing the effects of the use and development of natural and physical resources.	The proposal is consistent with these objectives and these policies. The applicant proposes to be self-sufficient, and conditions of consent will seek to ensure that suitable services and transportation matters are provided for in regards to the additional building and proposed visitor accommodation activity.

Rural Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 6.2.1 and Policy 6.3.1 Maintain the ability of the land resource to meet the needs of future generations.	The proposal is considered to be consistent with this objective and policy. The proposed building will be in close proximity to the existing residential dwelling and only be 60m ² . Given that the size of the property is less than that anticipated within the rural zone, it is considered that this limits the ability of the land to be used productively. The property has carried out some restorative conservation works along the northern slopes of the slope to maintain the land for conservation purposes.
Objective 6.2.2 Maintain and enhance the amenity values associated with the character of the rural area	The proposal is considered to be consistent with this objective. The proposed building will be screened by a landscaped bund and planted out with amenity plants from public view points. This is not considered to affect the ratio of open space relative to the built environment. The majority of the property along the property is open space that also has a significant amount of indigenous vegetation along the slopes of the property.

	The use of the building for visitor accommodation will enable the land-owners to provide for their economic well-being and could enable additional works to be carried out to support the plantings carried out on the property to improve the conservation value of the property.
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 proposal is considered to be consistent with this objective. The proposed activity will not affect roading or public infrastructure. A minor increase in the number of vehicle movements is anticipated to occur on the site. However, the visitor accommodation activity is expected to only occur for a limited number of days throughout the year. As such, it is anticipated this will still provide for the sustainable management of Centre Road. The property is only connected to Council's water reticulation services. The establishment of the proposed building to this water connection will not result in constraints on the existing water services. The property is serviced by a private septic tank and will also be connected to the proposed building which the applicant notes has sufficient capacity to deal with the additional demand.
Objective 6.2.5 Avoid or minimise conflict between different land use activities in rural areas.	The proposal is considered to be consistent with this objective. Residential activity is already carried out on the site. The use of part of the site to carry out a commercial residential activity for visitor accommodation is not expected to conflict with this existing use. The location of the bund along the north-eastern boundary is anticipated to mitigate any adverse effects on the rural use of the adjacent property to minimise any conflict with the rural land use activities occurring at the adjoining property. Furthermore, the land-use in the area surrounding the site is more akin to a rural-residential character as there a number of undersized lots with residential dwellings and accessory buildings on them. As such, this is likely to reduce the potential for conflict in the future.
Objective 6.2.6 Maintain and enhance the life-supporting capacity of land and water resources.	The proposal is consistent with this objective. The small size of the property limits the use from a productive perspective and the addition of another dwelling and the activity proposed is not likely to alter this. The area for the proposed building is currently used as a driveway/manoeuvring area for the existing residential dwelling. The applicant also notes that they have conducted significant work to regenerate native plant species on the sloping part of the property to enhance the life-supporting capacity of the land and water resources.
Policy 6.3.2 Sustain the productive capacity of the Rural Zone by controlling the adverse effects of activities	The proposal is consistent with this policy. The productive capacity of this property is already limited due to the small size of the property and the sandy soils that are dominant soil type of the property which is not suitable for heavy grazing. As such, the extra 60m² building taken up on the property will not have a significant impact on the productive capacity of the land.
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 proposal is not inconsistent with this policy. The application does not involve the fragmentation of land; however, it does seek to carry out the establishment of visitor accommodation which is considered to be a non-productive use. However, given the size of the property, the sandy, infertile soils and exposure to coastal winds, the likelihood of establishing a productive rural use on the site is not considered to be appropriate. The proposed activity will enable some commercial uses of the property, where otherwise there would be none. Given the existing pattern of development around the subject site, it is unlikely that this proposal will create conflict with surrounding land-uses as a result of increased density.
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	The proposal is considered to be consistent with this policy. The proposed building is only two bedrooms, small in scale, and will not be significantly visible from Centre Road or from nearby roads or suburbs looking out towards Centre Road as the building will be sufficiently setback and located appropriately. The screening proposed via a landscaped bund and amenity

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) noises, smells and effects associated with the use of rural land for a wide range of agricultural, horticultural and forestry purposes, (f) low population densities relative to urban areas, (g) generally unsealed roads, (h) absence of urban infrastructure.	plantings will help to mitigate and soften the overall effect of the building and maintain the open space character of the rural area. The site around the proposed building will still maintain a predominance of natural features in the area, and a relatively high ratio of open space relative to the built environment, notwithstanding the rural residential character of the surrounding area. Furthermore, the applicant has carried out significant revegetation of the site to maintain the rural amenity and bio-diversity values of the site. The visitor accommodation activity proposed may allow guests to participate in this activity to help maintain and enhance the amenity of the area mitigate the effect of the activity.
Policy 6.3.6 Avoid, remedy or mitigate the adverse effects of buildings, structures and vegetation on the amenity of adjoining properties.	The proposal is considered to be consistent with this policy. The applicant has carried out landscaping and amenity plantings around the location of the proposed building. This will be further enhanced via the establishment of a landscaped bund along the eastern side of the proposed building. This will mitigate any adverse effects of the proposed buildings and enhance the amenity for the adjoining property.
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.	The proposal is considered to be consistent with this policy. The proposed activity will not affect public services and infrastructure of the safety and efficiency of the roading network.
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 proposal is considered to be consistent with this policy. The existing house already has an existing septic tank that has sufficient capacity to accommodate the proposed building on the site. The property can be sufficiently serviced via an existing Council water connection.
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.	The proposal is considered to be consistent with this policy. The use of the building for visitor accommodation to help with conservation efforts to enhance the rural amenity of the site will mitigate any adverse effects of the activity in the area. Furthermore, residential activity already exists on the site and the visitor accommodation activity will not be highly visible from Centre Road. Furthermore, the additional dwelling on the site will not be out of character with the surrounding environment that consists of a similar pattern for development.
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.	The proposal is consistent with this policy. It is noted that the submission provided by the adjoining neighbour believes the establishment of a building within the setback will result in reverse sensitivity issues on their property, particularly with regards to the existing stables that house animals along the boundary of the property. The proposed bunding and landscaping along the north-eastern boundary between the proposed building and adjoining neighbour will mitigate the reverse sensitivity effects from the visitor accommodation activity. The operation of the activity will not occur daily and as such, the building is likely to remain unoccupied for a specific period throughout the year. As such, the adjoining neighbour will still be able to carry out productive rural activities and is not likely to detract from the rural amenity of their property.

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) landscape Management Areas or Areas of Significant Conservation Values. Irrespective of the ability of a site to mitigate adverse effects on the immediately surrounding environment.	The proposal is considered to be consistent with this policy. The increased density of the site is not likely to result in consequent cumulative effects on roading, traffic and safety on Centre Road, nor will it result in a significant increase in activity levels beyond that anticipated within the Rural Zone. The use of visitor accommodation to help with plantings on the site is likely to result in an improved amenity of the property and surrounding area. The proposed activity is in keeping with the character of the area, as there are several residential dwellings situated on smaller lots within the surrounding area.
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Transportation Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
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.	The Council's Transport Officer considers that the local transportation network can cope with the additional movements promoted by the visitor accommodation activity. Several conditions regarding the parking a vehicle access have been recommended to ensure that a safe, efficient and effective transportation network is achieved. The frequency of the use of the proposed building for visitor accommodation and size of this is likely to negate any comments from Transport regarding parking on the matter. The proposal is considered to be consistent with these objectives and policies.
Objective 20.2.4 Maintain and enhance a safe, efficient and effective transportation network.	
Policy 20.3.4 Ensure traffic generating activities do not adversely affect the safe, efficient and effective operation of the roading network.	
Policy 20.3.5 Ensure safe standards for vehicle access.	
Policy 20.3.8 Provide for the safe interaction of pedestrians and vehicles.	

Environmental Issues Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 21.2.2 Ensure that noise associated with the development of resources and the carrying out of activities does not affect public health and amenity values.	The proposal is considered to be consistent with this objective and policy subject to the conditions of consent. The applicant intends to comply with the noise limits that apply to the zone. However, it is considered necessary to include a review clause if environmental factors result in the inability to do so and to condition the hours of operation, particularly for the use of outdoor areas, to protect adjoining residents due to noise from guests staying in the proposed dwelling.
Policy 21.3.3 Protect people and communities from noise and glare which could impact upon health, safety and amenity.	

Proposed 2GP

- [99] The objectives and policies of the 2GP must be considered alongside the objectives and policies of the current district plan. The following 2GP objectives and policies were considered to be relevant to this application, with any outstanding appeals shown as 'underlined':

Strategic Directions

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 2.2.3. Indigenous Biodiversity Dunedin's significant indigenous biodiversity is protected or enhanced, and restored; and other indigenous biodiversity is maintained or enhanced, and restored; with all indigenous biodiversity having improved connections and improved resilience.	The proposal is consistent with this objective. The applicant has carried out a restorative works to enhance the indigenous biodiversity of the subject site and will continue to carry this out as part of the visitor accommodation activity proposed on the site.
Objective 2.2.4 Compact and accessible city Dunedin stays a compact and accessible city with resilient townships based on sustainably managed urban expansion. Urban expansion only occurs if required and in the most appropriate form and locations.	The proposal to be consistent with this policy. The proposed activity seeks to enable residential activity at a density manner that has not been envisaged in the Proposed 2GP. However, the site is located on the urban fringe of Dunedin City and is located adjacent to the General Residential 1 Zone. The properties surrounding the site currently exist in a similar form to the proposed activity, given there is several undersized rural lots in the vicinity of the site.
Objective 2.2.5 Environmental Performance 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 proposal is consistent with this objective. No issues have been identified regarding the servicing of the site being unsustainable.
Objective 2.3.1 Land and facilities important for economic productivity and social well-being. <u>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: protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and in the case of facilities, able to operate efficiently and effectively.</u>	The proposal is consistent with this objective. The subject site is not considered to be suitable for productive rural activities to enable the owners of the site to benefit economically from the activities anticipated within the rural zone. The establishment of a building for visitor accommodation purposes will allow the applicant to benefit financially through an alternative method that will not detract from the amenity of the rural zone. Neither the proposed building nor the visitor accommodation activity will result in reverse sensitivity effects on adjoining properties.
Policy 2.3.1.2 <u>Maintain or enhance the productivity of farming and other activities that support the rural economy through: rules that enable productive rural activities; rules that provide for rural industry and other activities that support the rural economy; 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; the location of highly productive land; and potential conflict with rural water resource requirements; rules that restrict residential activity within the rural environment to that which supports productive rural activities or that which is associated with papakāika; rules that require residential buildings to be set back from</u>	The proposal is not inconsistent with the policy. The proposed building will be located within the setback of the adjoining neighbour. However, several conditions promoted by this decision and mitigatory measures proposed between the building and the adjoining neighbour at 40 Centre Road will reduce the likelihood of reverse sensitivity issues arising.

<u>boundaries to minimise the potential for reverse sensitivity; rules that restrict subdivision that may lead to land fragmentation and create pressure for residential-oriented development; rules that prevent the loss of high class soils; and rules that restrict commercial and community activities in the rural zones to those activities that need a rural location or support rural activities.</u>	
Objective 2.4.6 Character of Rural Environment The character and visual amenity of Dunedin's rural environment is maintained or enhanced.	The proposal is considered to be consistent with this objective. The visual amenity of the site will be enhanced via the amenity plantings proposed between the proposed building and adjoining neighbour. Furthermore, the proposed visitor accommodation will continue to maintain the visual amenity of the site through additional plantings and possible maintenance work on the conservation works already carried out on the site.

Rural Zone

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 16.2.1 <u>Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment. Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika.</u>	The proposal is not inconsistent with this objective. The subject site is considered to be suitable to sustain productive rural activities and as such, can only support residential activity as a stand-alone activity. The development of an additional building will also be used for family flat and primarily residential activity that does not directly support farming activities on the site, nor will this enhance the surrounding natural environment. However, the applicant notes that they have carried out some restorative native plantings along the sloping portion of the site to enhance the amenity of the property. While the applicant notes that the use of the building for visitor accommodation purposes will allow guests to work on the property to help enhance the amenity of the site by participating in planting activities, given the size of the site and the lack of information provided around how this will be carried out, it is unclear how this activity will continue to function to continue to enhance the surrounding natural environment.
Policy 16.2.1.1 <u>Enable farming, grazing and conservation in the rural zones</u>	The proposal is not inconsistent with this policy. The proposal does not include any farming or grazing on the site. Some conservation efforts are proposed in conjunction with the visitor accommodation activity in the form of allowing guests to carry out plantings on the site. However, the scale or extent of this conservation efforts is unclear from the evidence submitted by the applicant.
Policy 16.2.1.4 Only allow visitor accommodation in the rural zones where it supports productive rural activities or a significant conservation activity on the same property.	The proposal is considered to be inconsistent to this policy. The subject site is not able to support any productive rural activities as the site is an existing lot that is under the minimum lot size anticipated within the Rural Peninsula Coast Zone under the 2GP. The subject site is primarily steep and sloping and has been planted out with dense native vegetation. Furthermore, the site is comprised of sandy, infertile soils and is situated in an exposed coastal location that does not favour productive rural activities. The question is raised whether the site has significant conservation activity occurring on the site. The applicant notes that they have carried out extensive restorative biodiversity works on the property. This has been funded by two separate biodiversity grants from the Dunedin City Council to carry out these works. However, it is unclear in the 2GP exactly what constitutes a 'significant' conservation effort as this depends on the scale and context. The policy framework does not place any restrictions on the size of a property within the rural environment must be in order for it to constitute as significant. However, it is noted that, given that a large proportion of the property has been overlaid with the Outstanding Natural

	Landscape overlay and the applicant has already carried out a number of amenity plantings of indigenous species on the site, it is acknowledged that an effort has been made to enhance the conservation values of the site to some degree. The application notes that the visitor accommodation intends to be marketed as an opportunity to become involved with the planting work on the property. They note that, at present, one of the biggest barriers to carrying out the biodiversity work on the subject site is time. The assistance that would be provided with the visitor accommodation would help to assist with the progress of the work. From the evidence provided in the application shown in Appendix 3 – Dunedin Biodiversity Fund Project Final Report is from 2016 and concludes that the plants funded as part of this stage have been carried out. Given the small size of the property, it would be reasonable to expect that the amount of planting required would eventually reach an equilibrium and would limit any guests utilising the property for visitor accommodation purposes to only activities relating to maintenance purposes. Based on the application provided, it is unclear how the visitor accommodation activity would support a conservation activity on the land that would enable short-term visitors to be occupied and engaged with the conservation efforts on the site. As such, I consider the proposal to be inconsistent to this policy based on the information provided with the application shown in Appendix 1.
Policy 16.2.1.5 <u>Require residential activity, with the exception of papakāika, in the rural zones to be at a level (density) that supports farming activity and achieves objectives 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies.</u>	The proposal is not inconsistent with this policy. The subject site is smaller than the minimum lot size anticipated by the Rural (Peninsula Coast) zone and is not used for productive rural activities given the soil type, topography and wind exposure of the site make this unsuitable. Furthermore, residential activity already exists on the site without supporting farming activity. The surrounding environment around the subject site also supports a higher density on smaller lot sizes that are not anticipated by the 2GP. The proposal is also considered to be still be able to achieve and be in general accordance with objectives 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies.
Policy 16.2.1.6 Restrict the tenancy and design of family flats to: avoid, as far as practicable, the risk they will be used for a separate, non-ancillary, residential activity; and avoid, as far as practicable, future pressure to subdivide off family flats.	The proposal is contrary to this policy. While the applicant notes that the proposed building will be used for family members occasionally, the building will also be used for non-ancillary residential activity visitor accommodation for a portion of time throughout the year. Given that the size of the site is already significantly less than the minimum lot size anticipated within the Rural zone, the close proximity of the building to the existing residential dwelling, and the topography of the site, it is unlikely that the establishment of the building will place future pressure to subdivide on the property.
Objective 16.2.2 <u>The potential for conflict between activities within the rural zones, and between activities within the rural zones and adjoining residential zones, is minimised through measures that ensure: a. the potential for reverse sensitivity in the rural zones is minimised; b. the residential character and amenity of adjoining residential zones is maintained; and a reasonable level of amenity for residential activities in the rural zones</u>	The proposal is consistent with this objective. The potential for reverse sensitivity to arise from the location of the proposed building within the boundary setback and its use as visitor accommodation will be minimised through the proposed bund and plantings that will be established between the building and the adjoining neighbour. The conditions promoted by this consent further minimises the potential for reverse sensitivity to occur by limiting the use of the outdoor areas and guest arrival times to limit noise levels from the activity. Furthermore, the floor plans provided for the proposed building demonstrate that the main living areas (lounge, kitchen, and deck) will be located along the western boundary to provide further separation from the adjoining neighbour.
Policy 16.2.2.1 <u>Require residential buildings and cemeteries to minimise, as far as</u>	The proposal is consistent with this policy. The residential building will be located within the boundary setback of the adjoining neighbour at 40 Centre Road. The potential for reverse

<u>practicable, the potential for reverse sensitivity by being set back an adequate distance from: a. site boundaries; and b. intensive farming, domestic animal boarding and breeding (including dogs), mining, landfills, wind-generators – large scale, and the Waitati Rifle Range.</u>	sensitivity is minimised through mitigation proposed via the establishment of a bund that will be located between the proposed building and adjoining neighbour. The bund will be planted out to improve the amenity of the site and reduce the likelihood of any adverse visual or noise effects on this adjoining property. Furthermore, the site is unique in that the legal frontage of the property is only 68m and only a small portion can be built on to minimise the visual impact on the public. As such, it is considered that the mitigatory measures proposed by the application for the building within the setback is not likely to result in reverse sensitivity effects on the adjoining neighbour in relation to the context of the site.
Policy 16.2.2.3 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.	The proposal is not inconsistent with this policy. The proposed building will be located 15m from the site boundary of the adjoining neighbour. However, the proposed building will be sufficiently setback from the residential activity occurring on the adjoining property to maintain a good level of amenity for the residential activity occurring on the site.
Policy 16.2.2.5 <u>Only allow rural tourism - large scale, rural research - large scale (outside the Invermay Farm mapped area), rural contractor and transport depots - large scale, community and leisure - large scale, sport and recreation, veterinary services, visitor accommodation, cemeteries, crematoriums, intensive farming, domestic animal boarding and breeding (including dogs), rural industry, mining, service stations, or landfills where adverse effects on the amenity of residential activities on surrounding properties will be avoided or, if avoidance is not practicable, adequately mitigated.</u>	The proposal is considered to be consistent with this policy. The conditions imposed as part of this proposal regarding the proposed visitor accommodation activity will adequately mitigate any adverse effects on the amenity of residential activities on surrounding properties.
Objective 16.2.3 The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include: a predominance of natural features over human made features; a high ratio of open space, low levels of artificial light, and a low density of buildings and structures; buildings that are rural in nature, scale and design, such as barns and sheds; a low density of residential activity, which is associated with rural activities; a high proportion of land containing farmed animals, pasture, crops, and forestry; extensive areas of indigenous vegetation and habitats for indigenous fauna; and other elements as described in the character descriptions of each rural zone located in Appendix A7.	The proposal is considered to be consistent with this objective. The proposed building is only two bedrooms, small in scale, and will not be significantly visible from Centre Road or from nearby roads or suburbs looking out towards Centre Road as the building will be sufficiently setback and located appropriately. The screening proposed via a landscaped bund and amenity plantings will help to mitigate and soften the overall effect of the building and maintain the open space character of the rural area. The site around the proposed building will still maintain a predominance of natural features in the area, and a relatively high ratio of open space relative to the built environment, notwithstanding the rural residential character of the surrounding area. Furthermore, the applicant has carried out significant revegetation of the site to maintain the rural amenity and biodiversity values of the site. The visitor accommodation activity proposed may allow guests to participate in this activity to help maintain and enhance the amenity of the area mitigate the effect of the activity.
Policy 16.2.3.1 Require buildings and structures to be set back from site boundaries and of a height that maintains the rural character values and visual amenity of the rural zones	The proposal is not inconsistent with this policy. The proposed building will be located within the setback of the site boundary of the adjoining neighbour at 40 Centre Road. However, the proposal will establish a landscaped bund between the proposed building and the infringed boundary to enhance the visual amenity of the development. The height of the building is only 5m and will maintain the rural character values and not be visually dominant from public viewing spaces such as Centre Road or Smaillys Beach.
Policy 16.2.3.2 Require residential activity to be at a density that maintains the rural	The proposal is consistent with this policy. The subject site is already significantly undersized from the minimum lot size anticipated by the 2GP within the Rural zone. The building will

character values and visual amenity of the rural zones	only be 60m ² , 5m in height and will have landscaping carried out between the building and the boundary of the property. The building will not be visually dominant from Centre Road, Tomahawk Road, or Smalls Beach. The establishment of an additional building on the site will not result in adverse effects on the rural character values and visual amenity of the rural zone.
Policy 16.2.3.6 <u>Only allow community and leisure - large scale, sport and recreation, early childhood education, service stations, and visitor accommodation where the adverse effects of development on rural character and visual amenity are avoided or, if avoidance is not practicable, no more than minor.</u>	The proposal is consistent with this policy. The conditions imposed as part of this proposal regarding the proposed visitor accommodation activity will adequately mitigate any adverse effects on the amenity of residential activities on surrounding properties.
Objective 16.2.4 The productivity of rural activities in the rural zones is maintained or enhanced.	The proposal is not inconsistent with this objective. The size of the site is not considered to be appropriate to carry out productive rural activities given its size, topography and unsuitable soils that are unable to sustain such activities.
Policy 16.2.4.4 <u>Require residential activity in the rural zones to be at a density that will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities</u>	The proposal is not inconsistent with this proposal. Residential activity already occurs on the subject site despite being an undersized lot. As discussed above, the site is not suitable for rural productive purposes. The addition of another building on the undersized lot will not result in a reduction of rural productivity, nor displace rural activities occurring on adjoining properties.

Transportation

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 6.2.3: <u>Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel modes and its affordability to the public.</u>	The Consultant Transport Planner considers that the local transportation network can cope with the additional movements promoted by the visitor accommodation activity. Several conditions regarding the parking and the upgrade for the vehicle access have been recommended to ensure that a safe, efficient and effective transportation network is achieved. The frequency of the use of the proposed building for visitor accommodation and size of this is likely to negate any comments from Transport regarding parking on the matter.
Policy 6.2.3.9 <u>Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where:</u> a. <u>adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and</u> b. <u>any associated changes to the transportation network will be affordable to the public in the long term.</u>	The proposal is consistent with these objectives and policies.
Objective 6.2.4 Parking areas, loading areas and vehicle accesses are designed and located to: a. 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.	
Policy 6.2.4.6 Require sufficient visibility to be available: a. at vehicle crossings, to minimise, as far as practicable, the likelihood of unsafe vehicle manoeuvres; and b. where a road or vehicle access crosses an operational rail network via a level crossing, to maintain the safety of the road and rail users.	

Natural Environment

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 10.2.1 Biodiversity values are maintained or enhanced, including by protecting areas of significant indigenous vegetation and the significant habitats of indigenous fauna.	The proposed activity will at least maintain biodiversity values. In the future, opportunities exist for enhancement of this through the use of paying guests staying in the proposed dwelling to carry out planting on the subject site.
Objective 10.2.2 <u>The biodiversity values and natural character of the coast and riparian margins are maintained and enhanced.</u>	The proposal is consistent with these objectives.

Overall Objectives and Policies Assessment

- [100] In terms of the above analysis of the objectives and policies of the Operative District Plan and the Proposed 2GP, weighting has been given to both the provisions of the Operative District Plan and the Proposed 2GP. The application was received after the decisions version of the 2GP was released and there are still some outstanding appeals that are applicable to this application that have not been resolved at the time of this report. As such, it is important to consider the provisions of both District Plans.
- [101] The appeals relating to the proposal under the Proposed 2GP relate to making the Rural Zone rules more permissive for changes to density on rural sites that already have existing undersized lots. Council's Senior Policy Planner – Jane Macleod - has outlined these appeals and noted that there is a consent memo in circulation at the time of writing that includes an agreement that resolves these appeals.
- [102] Another appeal relates to the changes to side boundary setbacks within the rural zone. However, Ms Macleod notes this is not likely to be resolved in the foreseeable future.
- [103] Having regard to the relevant objectives and policies individually, I consider the above assessment indicates that the application, whilst inconsistent in some areas, and contrary to a single policy, when considered in an overall manner is not contrary to the provisions of the Operative or Proposed District Plans.

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

- [104] 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 has been reviewed and the Proposed Regional Policy Statement was notified on 23 May 2015. On 12 December 2018, several appeals were resolved and most sections of the Proposed Regional Policy Statement became operative from 14 January 2019.
- [105] The application is considered to be generally consistent with the relevant objectives and policies of the Partially Operative Regional Policy Statement 2019, noting that Policy 4.5.1 seeks to "Provide for urban growth and development in a strategic and coordinated way", and Objective 5.3 and Policy 5.3.1.d refer to "Restricting the establishment of incompatible activities in rural areas that are likely to lead to reverse sensitivity effects" and Policy 5.3.1.f "Providing for other activities that have a functional need to locate in rural areas"
- [106] The proposal is not likely to result in reverse sensitivity issues as a result of the visitor accommodation activity nor will the building being positioned within the boundary

setback cause this, provided that the conditions of the consent and proposed mitigation measures are carried out.

[107] As such, the proposal is considered to be partially consistent and partially inconsistent with the relevant objectives and policies of the statement.

[108] Although much of the 1998 Otago Regional Policy Statement is no longer operative, the proposal is considered to be consistent with the relevant objectives and policies.

DECISION MAKING FRAMEWORK

Part 2 Matters

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

Section 104D

[110] Section 104D of the Act specifies that a resource consent for a non-complying activity must not be granted unless the proposal can meet one of two limbs. The limbs of Section 104D require either that the adverse effects on the environment will be no more than minor, or that the application is for an activity which will not be contrary to the objectives and policies of either the relevant plan or the relevant proposed plan.

[111] As discussed above in the assessment of effects, it is considered that the majority of effects on the environment are less than minor, and in terms of visual amenity values these are able to be mitigated to a degree they will be minor.

[112] Overall, I consider that the actual and potential effects associated with the proposed development will be able to be mitigated by imposing consent conditions, such that the effects are no more than minor. Therefore, the first 'gateway' test of Section 104D is met. Only one of the two tests outlined by Section 104D need be met in order for Council to be able to assess the application under Section 104 of the Act.

[113] In order for a proposal to fail the second test of Section 104D, it needs to be contrary to the objectives and policies of both the Dunedin City District Plan and the proposed 2GP. In order to be deemed contrary, an application needs to be repugnant to the intent of the District Plan and abhorrent to the values of the zone in which the activity was to be established.

[114] It should be noted that there is not the ability to 'weight' objectives and policies of plans against each other at the Section 104D gateway – the time for this is at assessment in terms of section 104.

Operative District Plan

[115] It is noted that in this instance, the proposal is assessed as being predominantly consistent to the objectives and policies of the Operative District Plan as they relate to the Rural Zone. The proposal is also consistent with the relevant objectives and policies of the Sustainability and Environmental Issues section and otherwise consistent with the relevant provisions of the plan. I consider that, the proposal is overall consistent with the Objectives and Policies of the Operative District Plan.

Proposed 2GP

- [116] As identified above, the proposal is inconsistent with some objectives and policies of the 2GP, particularly in regards to the use of the proposed building for visitor accommodation given that there is insufficient evidence around how this will be managed to ensure it is used for a significant conservation effort.
- [117] However, I consider the other objectives and policies relevant to this proposal within the Strategic Directions, Rural Zone, Transportation and Natural Environment to be consistent with these parts of the Proposed 2GP. As such, when considering the Proposed 2GP as a whole, I consider that the proposal is not contrary to the objectives and policies of the Proposed 2GP.
- [118] The proposed development is therefore considered to satisfy the second 'gateway' test outlined by Section 104D.
- [119] In summary, the application passes both the threshold tests in Section 104D of the Act and therefore, in my opinion, it is appropriate for the Committee to undertake a full assessment of the application in accordance with Section 104 of the Act. In turn, consideration can therefore be given to the granting of the consent.

Section 104

- [120] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall will be no more minor and can be adequately avoided remedied or mitigated provided recommended conditions of consent were adhered to.
- [121] Section 104(1)(ab) requires the Council to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects. No offsetting or compensation measures have been proposed or agreed to by the applicant.
- [122] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would not be contrary with the key objectives and policies relating to both the Dunedin City District Plan and the Proposed 2GP.
- [123] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report, it was concluded that the application is consistent with the relevant objectives and policies of the Regional Policy Statement for Otago, Policy 5.3.1.d and Policy 5.3.1.f.

Other Matters

- [124] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [125] Case law indicates that for the Council to grant consent to a non-complying activity, the application needs to be a 'true exception', otherwise an undesirable precedent may be set and the integrity of the District Plan may be undermined.
- [126] In this regard, I do not consider that the proposed activity represents a challenge to the integrity of the Dunedin City District Plan or the Proposed 2GP. The situation is relatively

unique in that the site is already significantly undersized to that anticipated within the rural zone, it is unable to support productive rural activities, and is in close proximity to the urban fringe of Dunedin City. As it is a relatively unique and confined proposal, I consider that its potential approval would be unlikely to undermine public confidence in the plan's provisions.

- [127] For the above reasons, I consider that approval of the proposal will not undermine the integrity of the Plan as the activity will produce only localised and minor effects, if any. I therefore do not consider that the Committee needs to be concerned about the potential for an undesirable precedent to be set in this regard.

CONCLUSION

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

RECOMMENDATION

Land Use LUC-2019-250

*That pursuant to Section 34A(1) and 104D and after having regard to Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and/or the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **non-complying activity** being the establishment of a building to carry out visitor accommodation and to be used as a family flat, that will be located within the site boundary setback and breach rural density provisions, subject to conditions imposed under Section 108 of the Act, as shown on the attached certificate.*

LAND-USE CONDITIONS

1. That the proposal shall be undertaken in general accordance with the application, site plans and the relevant details and information submitted with resource consent application, LUC-2019-250 received by Council on 21 May 2019; except where modified by the following conditions:

Operational conditions for visitor accommodation

2. The property may be used for visitor accommodation for up to 180 days per year.
3. The property (inclusive of the residential unit and residential flat) shall be rented to no more than one group of persons at any one time.
4. The residential flat shall only have a maximum number of four (4) guests staying overnight
5. Regarding the use of outdoor space:
 1. The use of any outdoor areas is prohibited by paying guests between the hours of 10.00pm to 8.00am, unless arriving to the unit.
 2. Two (2) signs (minimum A4 size) shall be erected on site to remind guests that they are in a quiet rural area, and that the use of outdoor areas is prohibited between the hours of 10.00pm to 8.00am. One sign shall be installed in the kitchen of the unit and a weatherproof sign (e.g. laminated) shall be installed within the outdoor area.

6. The consent holder shall ensure that all vehicles associated with the short-term Visitor Accommodation are parked within the designated spaces on site and shall ensure that no coaches are to service the authorised activity.
7. The consent holder shall maintain a record of all tenancies in the form of a register containing the number of occupants and the number of days/nights of occupancy. This register shall be made available for inspection by the Council at all times and be held for a minimum of 5 years after an occupancy is completed.

Please note: While the consent holder is responsible for there being an up to date register, the register may be completed by a letting agent / property manager.

8. All rubbish and recycling shall be disposed of appropriately. Where there is kerbside collection, rubbish and recycling shall only be placed on the street the day of or day prior to collection.
9. Large gatherings of non-tenants or parties are strictly prohibited.
10. No stereo system will be available in the house except for speakers with a maximum rating of 10 Watts

Transportation

11. Should parking for more than five vehicles be provided on the site, manoeuvring space shall be provided that is suitable for an 85th percentile design motorcar.
12. The vehicle access shall be a minimum 3.5 metres formed width, hard surfaced from the edge of the seal on Centre Road to a distance not less than 5.0m inside the property boundary, and be adequately drained for its duration.
13. Any damage to any part of the road formation as a result of the construction works shall be reinstated at the applicant's cost.
14. The maximum width of the vehicle crossing shall not exceed 6 metres.

Infrastructure

15. An "Application for Water Supply" shall be submitted to the Dunedin City Council for approval for change of use of the water supply to the property. Details of how this property is to be serviced for water shall accompany the "Application for Water Supply".
16. An RPZ boundary backflow prevention device shall be installed on the water connection, to the satisfaction of the 3 Waters (refer to advice note).

Advice Notes

1. The management plan may be updated from time to time, this shall be certified by Council's Planning and Development department prior to implementation and shall demonstrate the management techniques that will be used to ensure conditions (116 - 120) are met, and shall include the contact details of the property manager available for any complaints.
2. The vehicle crossing, between the road carriageway and the property boundary, is within legal road and will therefore require a separate Vehicle Entrance Approval from DCC Transport to ensure that the vehicle crossing is constructed/upgraded in accordance

with the Dunedin City Council Vehicle Entrance Specification (note: this approval is not included as part of the resource consent process).

3. All aspects of this development shall be compliant with Parts 4, 5 and 6 of the Dunedin Code of Subdivision and Development 2010.
4. Detail of the water supply application process can be found at <http://www.dunedin.govt.nz/services/water-supply/new-water-connections>.
5. Installation of a boundary backflow prevention device requires a building consent, or an exemption from a building consent. Further information is available at <http://www.dunedin.govt.nz/services/water-supply/backflow>.
6. All aspects relating to the availability of water for fire-fighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless otherwise approved by the New Zealand Fire Service.

REASONS FOR RECOMMENDATION

- [128] Provided that the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated and will be no more than minor.
- [129] The proposal is considered not be contrary to the key relevant objectives and policies of both the Dunedin City District Plan and the Proposed 2GP.
- [130] The proposal is considered to be consistent with the objectives and policies of the Regional Policy Statement for Otago.
- [131] As the proposal is considered likely to give rise to adverse effects that will be no more than minor, and will not be contrary with the objectives and policies of the District Plan, the proposal is considered to meet both 'limbs' of the Section 104D 'gateway test'. Consideration can therefore be given to the granting of consent to the proposal.
- [132] The proposal is considered to be a true exception for the following reasons:
- the site is already significantly undersized to that anticipated within the rural zone; and
 - it is unable to support productive rural activities given the topography and unsuitable soil conditions; and
 - is in close proximity to the urban fringe of Dunedin City.
- [133] Overall, the proposed development has been assessed as not being likely to give rise to adverse effects on those elements of the Rural zone that the Dunedin City District Plan seeks to protect. Furthermore, the proposal aligns with the outcomes sought by the Proposed 2GP (noting these are subject to appeal).

Report prepared by:



Callum Riddle
Planner
9 March 2020

Date

Report checked by:



Phil Marshall
Senior Planner
9 March 2020

Date