
TO: Hearings Committee

FROM: Shane Roberts, Consultant Planner

DATE: 28 January 2019

SUBJECT: **RESOURCE CONSENT APPLICATION
LUC-2018-428
17 & 17A MELROSE STREET, DUNEDIN
OTAGO BOYS HIGH SCHOOL**

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 28 January 2019. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

QUALIFICATIONS AND EXPERIENCE OF THE REPORTING OFFICER

- [2] My name is Shane Leslie Roberts. I am employed by WSP – Opus in Dunedin as Work Group Manager – Planning and Property.
- [3] I hold the Degree of Bachelor of Resource Studies from Lincoln University and am a Full Member of the New Zealand Planning Institute. I am also a Certified Hearings Commissioner having completed the Making Good Decisions Training. I have over sixteen years of professional experience in the field of Resource Management Planning and am responsible for the provision of consulting services in resource management and planning to a range of public and private clients including government departments and regional and territorial authorities.
- [4] Since 2010 I have provided consultant planning assistance to the Dunedin City Council processing resource consent applications of varying scale and complexity.
- [5] In preparing this evidence I have read and had regard to the following:
- (a) The application and associated appendices;
 - (b) The submissions received;
 - (c) The relevant provisions of the Operative Dunedin City District Plan (Operative Plan), the Proposed Dunedin City District Plan (2GP), the Operative Otago Regional Policy Statement (OORPS), and the Partially Operative Otago Regional Policy Statement (PORPS); and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES Contamination).
- [6] I visited the site and surrounding area on 22 August 2018.

- [7] While this is a Council Hearing, I have read the Environment Court's Code of Conduct and agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this statement of evidence are within my area of expertise.
- [8] The data, information, facts and assumptions I have considered in forming my opinions are set out in the report. I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

SUMMARY OF RECOMMENDATION

- [9] For the reasons set out in paragraphs 153-158 below, I recommend that the proposal be granted in part with respect to the establishment and operation of a carparking area. With respect to the use of the site for recreational purposes I consider further detail regarding the management of noise onsite is required before granting can be contemplated.

DESCRIPTION OF PROPOSAL

- [10] Resource consent is sought by Otago Boys High School to establish a car parking and recreation area on a site located at 17 and 17A Melrose Street, Dunedin. The site is immediately adjacent to the existing Otago Boys High School Hostel (the hostel).
- [11] The car parking area will provide vehicle parking for 15 vehicles (1 mobility park). 12 of the parks will be dedicated visitor parks, with the remaining 3 used for hostel van parking. An upgraded vehicle access from Melrose Street will be created along with a boundary treatment of a low stone wall and retractable bollards. Due to the topography of the site earthworks and a retaining wall along the north western boundary of the site will also be required. The top of the retaining wall will be planted with a mixture of native species of differing heights and colours.
- [12] The three hostel parks at the rear of the parking area will be demarcated from the visitor parks at the rear of the site by a low garden bed and a small canopy. The canopy is proposed on the south west boundary of the site and is 6.5 metres long, 2.8 metres wide and up to 3.4 metres in height. The canopy will connect with a new pedestrian accessway on the existing hostel site (not part of this current application).
- [13] Lighting within the site is proposed via 19 bollards evenly distributed along/near the east and west boundaries. 5 inground lights are proposed as well. These will be used to illuminate signs at the road edge and a sign at the canopy structure.
- [14] When the car park is not in use (evenings and weekends) the applicant has also applied to use the site for recreational purposes by students residing at the hostel. This would be limited to up to 12 students using the carpark for recreation at any one time. The application initially proposed recreational usage hours would be between 3.30pm to 6.00pm and 7.30pm to 10.00pm Monday to Friday, and between 9am and 8pm on Saturdays and Sundays. Subsequently the Noise Assessment recommended this evening use cease at 9.00pm in summer and 8.30 pm in winter.
- [15] Land use consent is also sought for 405m³ of earthworks (378m³ of cut and 27m³ of fill) associated with the proposed activity.
- [16] The application was lodged on 30 July 2018.

- [17] Following initial review of the application, further information was requested in the form of an Assessment of Environmental Noise Effects. The applicant supplied a report prepared by Malcom Hunt Associates (the "Noise Assessment"). The Noise Assessment concluded that the proposal would create the following levels of noise (in relation to the Operative District Plan):
- Up to 5dB above the 45dB evening noise limits for two sites; and
 - Up to 15dB above the District Plan noise limits applying on Sundays and statutory holidays for up to seven residential sites.
- [18] This relates to noise from outdoor recreational activity not car parking which is assessed as compliant with the provisions of the Operative District Plan.
- [19] Additional clarification was subsequently sought from the applicant regarding the relevance of the study used to underpin the noise assessment. A short addendum to the original noise assessment was subsequently supplied. This resulted in the applicant confirming that the number of boys playing in the recreational area will be limited to 12. The applicant has stated this will be controlled by the Director of Boarding who lives onsite.
- [20] A copy of the application, and further information received, is contained in Appendix 1 of this report.

DESCRIPTION OF SITE AND LOCATION

- [21] The subject site is located at 17 and 17 A Melrose Street, Dunedin. The site consists of two parcels of land:

Address	Legal Description	Area	Current Land Use
17 Melrose Street	Lot 1 DP489065	0.1850 ha	Residential
17A Melrose Street	Lot 2 DP489065	0.0713ha	Vacant

- [22] The site consists of two parcels of land as identified above. Number 17 is at the rear of the site and contains an existing dwelling, garage and gardens. Number 17A at the front of the site is largely bare. An existing right of way runs along the western boundary of Number 17A, servicing Numbers 17 and 17C.
- [23] The site is relatively flat, but slopes gently uphill from the street towards the rear of the site, with a crossfall downhill towards the hostel. A former driveway is also present through Number 17A.
- [24] Surrounding land use is residential with the exception of the hostel which is located along the south eastern boundary of the site. Surrounding residential land use surrounding the site consists of typically larger dwellings with mature vegetation.
- [25] The hostel itself occupies a 0.6986 hectare site consisting of a number of large buildings (for a residential setting) including dormitories, laundry, kitchen, boiler and houses for the staff. Onsite parking is minimal with limited existing parking shown on the plans accompanying the application. A small parking area exists adjacent to the kitchen/laundry area along with parking associated with the onsite dwellings.

- [26] Melrose Street in the vicinity of the site is unusually laid out with a dogleg section that includes no parking lines on both sides of the street on the dogleg curves.
- [27] Immediately south east of the site access is the main access for all vehicles and pedestrians to the hostel.
- [28] The application seeks to extend the footprint of the hostel in the form of a carpark (17A), with the existing dwelling on number 17 being used as the Hostel Managers House.
- [29] It should be noted the adjoining hostel site is designated in both the operative and proposed district plans as D024 Otago Boys High School Hostel with the designation purpose of 'Otago Boys High School Hostel – Secondary School Hostel'.

BACKGROUND TO THE APPLICATION

- [30] One important matter to consider given the applicant has identified the noise limits of the operative district plan cannot be complied with at certain times is the current noise environment at the site. Advice on the application was received from Alison Blair – Environmental Health Officer who provided a memo (2 August 2018) regarding the application which included the following:

"Residential boarding hostels can cause noise nuisance where they border residential properties. Thirty-nine noise complaints have been received in the period from 2003 - 2018 associated with the activities of the hostel. The majority relate to noise from stereo use, both inside and outside the main residential buildings. Noise created by basketball use on a small hard surfaced section of the site that borders Pacific Street has been noted and a specific complaint which references bad language that was clearly audible from a residential dwelling was also received."

- [31] It is also noted two submitters raise the use of the garage at #17 for rowing training in more recent times, which according to the submitters was not authorised and generated adverse noise effects.
- [32] This issue of noise is further assessed below in paragraphs 100-102.

ACTIVITY STATUS

- [33] 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.
- [34] 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.
- [35] In considering the activity status of the application, I have considered the carpark to be an expansion of the hostel activity. I note the applicant [Para 4, Page 3] of the application considers it 'stand alone' car parking. I have a different view as the use of the carpark will be exclusively for either visitors or staff of the hostel, rather than the general public – therefore the activity is not 'stand alone' and is better considered as part of the hostel. Likewise the use of the carpark for recreational activity by residents of the hostel I consider to

be hostel activity. I understand in the past Council has assessed hostels as a non-complying activity as they are not considered to be residential or commercial residential facilities. My opinion differs from this.

Operative Dunedin City District Plan

[36] The subject site is zoned Residential 1 in the Dunedin City District Plan. Melrose Street is a local road in terms of the Operative Plan's roading hierarchy.

[37] The definition of community support activity within the District Plan means:

"means the use of land and buildings or collection of buildings which are used for the primary purpose of supporting the health, welfare, safety, education, culture and spiritual well-being of the community including childcare facilities and community police offices but excludes hospitals, recreational facilities, facilities which have or require a liquor license or which provide restaurant facilities."

[38] Notwithstanding the designation of the hostel in the plan, the activity being undertaken on the hostel site is one I consider is captured by the above definition. It clearly has a primary purpose of supporting education. The proposed carpark and recreational area is clearly intended to be part of the hostel which has a clear purpose in terms of supporting the education of the community (in the form of boarders at Otago Boys High School).

[39] I therefore consider the activity to be a **discretionary activity (unrestricted)** in terms of Rule 8.7.5.

[40] The proposed earthworks associated with the carpark construction exceed the thresholds in the plan in terms of volume and setback and are therefore a **restricted discretionary activity** in terms of Rule 17.7.5.

[41] The applicant has also requested that consent is granted for a yard breach arising from the retention of the garage on number 17 to rectify a historic oversight. This is a **restricted discretionary activity** pursuant to Rule 8.7.4.

[42] Regarding noise Rule 21.5.1(i) states that:

"(i) Maximum L10 and Lmax Limits

Subject to (ii), the maximum noise limits generated by any activity shall not exceed:

(a) The maximum day-time, night-time and shoulder period L10 noise limits identified on District Plan Maps 62 to 70, measured at the boundary or within any other property within the same noise area, except that in the case of noise generated within any Rural or Residential Zone noise shall be measured at or within the notional boundary of any dwelling not on the same site.

(b) Between 9.00 pm on any night and 7.00 am the following day no noise shall exceed an Lmax of 75 dBA measured at the boundary of the site or within any other site."

[43] As identified above in Paragraph 17 the proposed activity is predicted to create the noise at the following levels:

- Up to 5dB above the 45dB evening noise limits for two sites; and

- Up to 15dB above the 35dBA noise limit applying on Sundays and statutory holidays for up to seven residential sites.

[44] Therefore the activity is a **restricted discretionary activity** under Rule 21.5.6:

"Rule 21.5.6 Discretionary Activities (Restricted)

Any activity which is permitted, controlled or discretionary (restricted) in any section of the District Plan but which does not comply with the performance standards above is a discretionary activity (restricted).

The Council's discretion is restricted to the performance standards with which the activity fails to comply."

[45] Overall, in terms of the Operative District Plan I consider the activity to be a **discretionary activity (unrestricted)**.

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

[46] The Proposed 2GP was notified on 26 September 2015, with decisions on submissions being notified on 7 December 2018. The 2GP zoning maps indicate that the subject site is zoned as **General Residential**.

[47] 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.

[48] The Proposed 2GP was notified on 26 September 2015, and some Proposed 2GP rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.

[49] The proposal falls under the definition of the following activity:

"Supported Living Facilities: *The use of land or buildings for the purposes of providing supported living accommodation for more than ten residents that includes fulltime management, care and supervision, and may include laundry, meal, and cleaning services. For the sake of clarity, this definition includes any ancillary activities directly associated with the functioning of the facility, including medical treatment, recreational facilities, and other facilities necessary to service the needs of the residents or their visitors.*

This definition excludes activities otherwise defined as standard residential.

The following activities are subactivities of supported living facilities:

- *rest homes*
- *retirement villages; and*
- *student hostels.*

Supported living facilities are an activity in the residential activities category."

[50] The definition of student hostels is:

"Supported living facilities for school or tertiary students. Examples are halls of residence, university colleges, school boarding houses and hostels.

For the sake of clarity, this definition includes use of those facilities outside of the time of occupancy by students for the accommodation of visitors to the educational facility or events hosted by the educational facility on or offsite (e.g. sporting events).

Student hostels are a sub-activity of supported living facilities."

- [51] **Supported living facilities** in the general residential zone are a **restricted discretionary** activity in terms of Rule 15.3.3.2, subject to a number of performance standards relating to minimum car parking, outdoor living space and service areas. With regards to these performance standards, the application is somewhat unusual as it seeks to provide a facility (carparking) that required by the performance standards of the plan. Further to this, as the hostel site (excluding the site subject of this application) is designated in both plans the need to comply with these performance standards is not required.
- [52] Notwithstanding the designation, for comparative purposes it is useful to understand what parking the 2GP does require for the hostel. For clarity the hostel has a licence for 159 residents. In accordance with 15.5.8.4(a) for hostels with greater than 30 residents 3 parking spaces plus 1 additional space for every 10 residents (or part thereof) is required.
- [53] Therefore the hostel (if the 2GP rules were to apply) would require 19 carparks. I understand that there are currently 6 carparks onsite, plus 16 in the proposed parking area gives a total of 22 carparks.
- [54] In terms of the Development Performance Standards for Residential areas I have assessed the following apply.
- [55] **Rule 15.6.6.1 Height in Relation to Boundary** – it is likely the covered structure exceeds the height in relation to boundary provisions on the boundary between the proposed carpark and hostel. This could be clarified by the applicant. Additional to this the 2 metre boundary setback of **Rule 15.6.13.1(a)(i)** is also not met. These are 'internal' breaches that are **restricted discretionary activities**.
- [56] **Rule 15.6.7.1 Location and Screening of Car Parking** requires parking areas must not occupy more than 50% of the front yard setback. Technically as the entire site is carpark this provision is not complied with and the activity is a **restricted discretionary activity**.
- [57] **Rule 15.6.10 Maximum Building Site Coverage and Impermeable Surfaces** requires that the maximum impermeable surfaces (% of site) is 70% in the General Residential 1 Zone. The applicant has not provided a figure regarding the site coverage, but given almost the entire site is to be hard surfaced, this compliance or otherwise should be clarified.
- [58] **Rule 15.6.11 Number, Location and Design of Ancillary Signs** requires that signs (15.6.11.1) must not be illuminated. The plans accompanying the application indicate they will be illuminated with up lighting and are therefore a **restricted discretionary activity**. This rule also requires compliance with Rule 6.7.3 - again clarification on the size of the signage should be provided.
- [59] Regarding earthworks, the first step is to assess if they comply with the performance standards listed in Rule 8A.3.2. The earthworks cross a property

boundary 17 and 17A Melrose Street, therefore technically cannot comply with the required setbacks in 8A.5.4 and are a **restricted discretionary activity**.

- [60] It is also necessary to determine if the earthworks are small scale or large scale. Regarding the maximum volume of combined cut and fill (on slopes of less than 12°) is determined by the area of the site which in this instance consists of two 'sites' (in terms of the plan definition – 17 and 17A) of 2563m² in total area. The plan allows 30m³ of earthworks per 100m² of site which gives a volume of earthworks (to be considered small scale) of 769m³. As identified above the total volume of earthworks proposed is 378m³. Small scale earthworks are permitted, but must comply with the performance standards in Table 8A.3.2.
- [61] The proposed earthworks are therefore a **restricted discretionary activity** in terms of **Rule 8A.3.2**.
- [62] Regarding noise, **Rule 9.3.6 Noise** is of relevance. Given the zoning of the receiving properties is residential, the noise limits are as follows:
- 7.00am to 7.00pm – 50 dB LA_{eq} (15 min)
- 7.00pm to 10.00pm – 45 dB LA_{eq} (15 min)
- 10.00pm to 7.00am – (i) 40dB LA_{eq} (15min) and (ii) 70dB LAF max.
- [63] The noise assessment supplied by the applicant was prepared prior to the release of decisions on the 2GP (September 2018) so (quite rightly) assessed the activity against the provisions of the plan in force at the time. With the release of decisions on submission (and subsequent closure of appeals) the rules of the 2GP must also be considered.
- [64] Given the Operative District Plan and 2GP use slightly different noise limits, it would be useful for the applicant to clarify how the predicted noise levels in the Noise Assessment relate to the 'dB LA_{eq} (15 min)' used in the 2GP.
- [65] This is an important consideration as activities that contravene the 2GP limit by less than 5dB LA_{eq} (15 min) are a discretionary activity. More than this figure, and the activity is non-complying.

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

- [66] 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.
- [67] 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.
- [68] Overall the application is considered to be a **discretionary activity**.

NOTIFICATION AND SUBMISSIONS

[69] No written approvals were submitted with the application.

[70] 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.

It was therefore determined that the effects of the proposal would be restricted to a limited number of parties being the owners and occupiers of the properties at the owner and occupiers of:

- 9 Melrose Street;
- 10 Melrose Street;
- 11 Melrose Street;
- 12 Melrose Street;
- 15 Melrose Street;
- 17C Melrose Street; and
- 20 Melrose Street

[71] This was based upon the conclusions of the Noise Assessment regarding the noise breaches in relation to these properties. Additionally there are broader amenity effects from the establishment of a carpark in a residential area.

[72] The written affected party approval of any of these parties was not obtained and the application was, therefore, notified on a limited basis on 1 November 2018.

[73] Copies of the application were sent to the above parties with submissions closing on 28 November 2018.

[74] Five submissions were received by the close of the submission period. Two submissions were in support (one conditionally) and three submissions were opposed.

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

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
Kristina Butler	Support	On-street parking is an issue on Melrose Street, this would be improved if the OBHS hostel had its own parking lot.	Yes
Murray Ross Grimmett	Support (Conditional)	- Submitter support for the application is conditional. - Proposal should not allow an increase in intensity of use of the site. - Notes the use of term "recreation" is vague. - Submitter requests: additional stipulations including requirements	Yes

		for buses and minivans; additional information about the likely timeframe for site works; and requests a means of registering complaints should they arise and a time-frame for responses. • Concern about construction activity.	
Adam Francis Williams	Oppose	• Carpark/recreation area will detract from the attractiveness of the street. • Negative impacts on amenity due to noise and light pollution. • Proposal does not fit with the Operative District Plan. • OBHS already have 6 vehicle parks, and a recreation wing. • Many recreational facilities already exist within close proximity of the hostel (e.g., OBHS tennis courts, Roberts Park, and Moana Pool). • Concerns regarding lack of trust in policing the increased recreational activity. • Increased visitor parking will not solve the congestion issues caused by lack of student parking. • Planting will obstruct views of the harbour.	Yes
Susan Lee	Oppose	DCC 2GP: • Applicant must provide further planning assessment that fully considers the effects against the decisions version of the DCC2GP. Unauthorised use of the site: • There are existing compliance issues and unauthorised use of a garage on residential site for a rowing club facility. • This unconsented	Yes

		activity leads to concerns whether additional facilities will adhere to conditions. Significant Amenity Effects: • The buffer area (residential section at number 17) is essential to mitigate existing effects of the hostel. • Recreation aspects of the proposal negatively impact amenity and would be hard to police. • Nature of noise needs to be assessed in detail in application/noise report. Lighting: • Negative impact on amenity, this is not adequately outlined or assessed within the application. Future Expansion of hostel activity: • Concerns regarding potential for future expansion of the hostel activity. Traffic: • Traffic effects have not been adequately assessed. Carparking: • Submitter observes there is often available carparking on the street. • Submitter may be able to accept the proposal if adjusted for only carparking uses. • Requests conditions on the consent to restrict students from congregating on the site. • Request hours of construction to be limited to 8.30am – 4pm on weekdays.	
Gabriel Anastasiia Wilmshurst	and Oppose	• Site currently serves as a buffer-zone to protect the amenity of the surrounding area (from	Yes

		noise, inappropriate language etc.,) • The proposed carpark will lead to increased pollution in the street (both noise and emissions from exhaust fumes). • Concerns the carpark area will be used for afterhours loitering that will likely be unmonitored.	
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ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[76] 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

[77] 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.

[78] Given the nature of the proposed activity (carpark) the permitted baseline is of limited use, noting a single dwelling could be erected on the site (the part of the site that is 17A) under both plans subject to the bulk and location provisions of both plans, up to a height of 9 metres.

[79] Recreation (Operative Plan) and Community and Leisure – small scale (less than 50 people) (2GP – subject to hours of operation of Sunday – Thursday 6.00am to 10:30pm and Friday – Saturday 6.00am to Midnight) are permitted activities in both plans. In this instance the recreational component of the activity however as identified in the application the recreational activity is part of the hostel activity and therefore should be considered on that basis.

[80] It is also noted both plans specifically exclude noise from schools from noise limits during the hours of 8.00am to 6.00pm. Whilst associated with educational activity the site is not a school (noting above I do consider it to be community support activity which includes activities *supporting* education).

- [81] What is worth noting however is that the proposed activity will service an existing non-residential activity and will not generate additional traffic in its own right (and will in fact assist with provision of off-street carparking).

Assessment of Effects

Operative Dunedin City District Plan

- [82] The assessment of effects is guided by the assessment matters in Sections 8.13 (Residential), 17 (Hazards, Hazardous Substances and Earthworks), 20.6 (Transportation) and 21 (Environmental Issues) of the District Plan. Accordingly, assessment is made of the following effects of the proposal:

- Bulk, Location, Design, Appearance and Amenity Values;
- Transportation;
- Noise;
- Infrastructure;
- Hazards;
- Positive Effects;
- Cumulative Effects;

Bulk, Location and Amenity Values and Character (Assessment Matters 8.13.3 and 8.13.5)

- [83] As discussed above, the site is located in a residential neighbourhood, however non – residential activity is prominent in the form of the Hostel.
- [84] In terms of any bulk and location effects it is noted in the application that consent is required to legitimise a small yard breach in relation to the garage on the property at 17 Melrose Street. Any effects arising from this are internal to the site.
- [85] In terms of the effects on amenity values and character, the effects for consideration are those relating to the establishment of a modest carparking area adjacent to a non-residential activity, in a residential neighbourhood.
- [86] As identified above in Paragraph 22 the site is relatively bare at present
- [87] The parking area will have the greatest impacts in terms of visual amenity on the adjoining residences at 15 and 17C Melrose Street due to the non-residential nature of the carpark. It is noted that the applicant is proposing mitigation in the form of planting along the western boundary of the site, which in time will screen the carpark from views along the western and street boundaries. The carpark may however remain visible from the second floor on adjoining residences.
- [88] There is also screening planting proposed along the property frontage, which will over time also provide screening in conjunction with the small rock wall proposed.
- [89] I would consider the screening planting along the boundaries to be typical of what could be expected in a residential context, notwithstanding the non-residential use of the land enclosed by the planting.
- [90] It is noted that the applicant has not provided a detailed landscaping plan, but would as noted in the response to Council's further information request [dated 19 September 2018] that applicants preference was to address this issue following submissions. I have recommended some conditions regarding the proposed planting, which the applicant may wish to comment on.

- [91] Further to this a submitter has raised concerns regarding the potential for screening planting to impact on harbour views from their property, which is an effect on amenity. Detail about the proposed height of plantings (or potential height) should be clarified. That said I note there may be a tension with preserving views / outlook with adequately screening the site.
- [92] The application was referred to Council's Urban Designer, Mr Peter Christos for comment. Mr Christos identified no significant concerns from an urban design perspective from the proposal. Mr Christos stated:
- "15 Melrose Street is located close to the subject sites western boundary. This is the property most likely to be affected by changes to the site. Other properties are buffered either from distance, alignment and/or established vegetation providing screening."*
- [93] Mr Christos noted that the scale of the proposed signage would appear to exceed what is expected in the zone and would prefer an entrance treatment that only used a single sign with either halo lighting, behind the sign, or inground fittings that were hooded or gimbled to control spill would avoid minor negative effects to streetscape values.
- [94] Finally, the applicant has identified there is a historic yard breach relating to the existing garage on number 17 and the boundary with number 25 (hostel). As this is an existing situation I consider any effects are less than minor.
- [95] I consider the carpark to have any effects on amenity values that are minor provided the suggestions of Mr Christos are adopted. Please note that this assessment excludes noise (and its part in amenity values) which is discussed below).

Transportation (Assessment Matter 8.13.17)

- [96] The proposal seeks consent to provide off street carparking for an activity that is currently relying largely on on-street carparking; and the activity (new carpark) per se is not a generator of additional traffic in the neighbourhood.
- [97] Submitters were mixed in their views on this matter with some considering the proposal will improve the current situation; with others suggesting it is student and not visitor parking causing congestion problems. In contrast other submitters suggest carparking is often available on the street.
- [98] Other submitters raised transportation issues relating to the use of buses in association with the hostel as well as delivery vehicles. One submitter suggested the carpark should be used for all buses to on and off-load students. Given the hostel activity is undertaken on a different site and is subject to a designation (that does not require this) I do not consider this can be imposed as a condition (unless volunteered by the applicant).
- [99] The application was referred to Council's Transportation Planner for comment.
- [100] The transportation planner considered that the carparking layout complies with Table A.3 of the Operative Plan including the required onsite manoeuvring area.
- [101] Regarding the access to the site, the Transportation Planner was comfortable with a 6m wide vehicle access, but has requested a condition of consent that the stone wall at the front of the site be no higher than 800mm to avoid visibility issues for vehicles existing the site.

- [102] The transportation planner has not raised any issues regarding the proposed signage.
- [103] The conclusion of the Transportation Planner was that the effects of the proposal on the transport network to be no more than minor, subject to the imposition of conditions.
- [104] Additional to the recommended conditions, given the volume of earthworks required, the need for a traffic management plan during construction was identified.
- [105] Having regard to the above, I consider any transportation effects to be less than minor.

Noise (Assessment Matter 21.6.1)

- [106] I consider that noise is the critical issue in relation to the application; and more specifically relating to the use of the carparking area for recreational activity.
- [107] The further information supplied in relation to noise assessed the potential noise generated from activities on the site. The 'Noise Assessment' assesses the noise from the two key components of the application separately. Importantly, the noise assessment identifies that in terms of the noise generated by the proposed activity, the use of the site for carparking (vehicle movements, doors opening and closing etc) can comply with the noise limits in the Operative District Plan for daytime until 6pm. Additionally, outdoor recreation activity in this time can also comply.
- [108] In terms of the operative plan, the assessment criteria for noise is set out in (i) to ((x) under 21.6.1. These matters are assessed in turn below.

(i) The maximum noise levels associated with the proposed activity

The applicant has provided information on the maximum levels of predicted noise (worse case) in Table 1 of the Noise Assessment (reproduced below):

Assessment Location	Car Park Activity [Vehicle Sounds & People] Predicted Sound Level L _{A10 15 minutes} [dB]	Recreational Activity [12 Boys at Play] Predicted Sound Level L _{A10 15 minutes} [dB]
9 Melrose	36 dB	41 dB
10 Melrose	37 dB	42 dB
11 Melrose	44 dB	49 dB
12 Melrose	42 dB	47 dB
15 Melrose	49 dB	55 dB
17 ^c Melrose	46 dB	51 dB
20 Melrose	44 dB	49 dB
26 Melrose	35 dB	40 dB

Table 1: Summary results of predicted worst case sound pressure levels
Assessment as per District Plan at or site boundary of adjacent residential sites.

Of particular note is the fact that the sound of 12 boys at play will be greater than that from 'car park activity' in terms of the predicted sound level at all affected properties. It is also important to note that the recreational activity is based on 12 boys at play only. More than 12 boys would presumably have a greater noise impact. Ensuring no more than 12 boys are undertaking recreational activity in the carpark will be required to ensure the activity is in accordance with the application. The applicant should however clarify that if this includes those potentially watching (and cheering etc) any activities that are being undertaken.

(ii) The frequency of the noise occurring

The applicant has not provided a set frequency from the recreational activity but has stated the activity will occur generally at the following times (light & weather dependant):

- 3.30pm to 6.00pm and 7.30 pm until 10.00pm Monday to Friday
- 9.00am to 8.00pm Saturday and Sunday

As identified the Noise Assessment recommended activity cease at 9.00pm in Summer and 8.30pm in winter. No explanation of the seasonal variance was supplied.

(iii) The frequency and duration of the noise that will exceed the maximum noise level for the site.

Whilst no information has been provided on the frequency of when the noise limits for the plan will be exceeded, it is clear from the Noise Assessment that recreation noise (12 boys) after 6pm Monday to Saturday will exceed the District plan permitted noise standard by up to 5dB at 15 and 17C Melrose Street. On Sundays (or public holidays) this exceedance is up to 15dB. (Note the 2GP has moved away from treating Sundays 'differently')

(iv) The length of time that the noise is continuous.

The noise will not be continuous. The times the carpark will be used for recreation is identified above in Paragraph 14.

(v) The special characteristics of the noise.

The noise assessment determined that there was no need to apply a 5-8dB penalty to the received sound levels as the noise was not considered to possess impulsive character or to be tonal in nature.

(vi) The adverse effects of the noise on other activities, existing and permitted, in the locality.

It is clear that there is already noise being generated by the hostel that is having an effect on the residents of the immediate neighbourhood; particularly given the history of noise complaints in association with the hostel. The proposed activity will add additional noise to the local 'noise environment' and has been assessed in the noise assessment as being in excess of the permitted levels in the operative district plan. No assessment against the provisions of the 2GP has been undertaken; noting the assessment was prepared prior to decisions on submissions having been released.

(vii) The cumulative effect that the noise may have on the environment.

Cumulative effects are discussed above in (vi).

(viii) Any practicable means of mitigating the effects of the noise.

In the Noise Assessment the applicant has offered a number of noise mitigation measures in Section 7 [Page 14]. These include (in summary):

- The site is only used for a carpark / recreational purposes within defined times;
- The consent holder is to provide immediate neighbours with consent details of the person(s) to be contacted in the event of a noise issue arising from the use of the carpark;

- The consent holder undertakes to maintain a written record of any noise complaints received;
- An element of play management is required to prevent unnecessary loud behaviour;
- No use of whistles;
- No goal posts or basketball hoops are installed.

The applicant has stated the number of boys playing in the recreation area will be limited to 12, which will be controlled by the Director of Boarding. I consider this to be a useful in addition to the measures identified above, however it would be beneficial for the applicant to explain how 'supervised play' will work in practice, and they will prevent unsupervised play activity as this would seem to be the key mitigation measure, particularly given the concerns of submitters. Further to this how noise will be monitored to ensure it is kept at acceptable levels also requires further clarification.

(ix) Any objectives and policies for noise control.

The relevant objectives and policies relating to noise are discussed below in Paragraph 125.

(x) Any means of noise reduction that can be implemented.

The applicant has not suggested any means to reduce noise in relation to the activities that exceed the operative plan limits; only to limit the hours of use of the site for recreational activity. Fencing of the site, for example, could be a measure employed to further mitigate noise (but could have visual amenity impacts).

Provision for Stormwater, Water and Sewerage (Assessment Matter 8.13.10)

[109] The proposed activity does not require water or sewerage connections. Being a large area of impervious surface however dealing with stormwater is an issue that requires addressing. The proposal was referred to Council's Three Waters Policy Analyst who did not express the need for any specific conditions regarding stormwater. The Policy Analyst did express the preference for an advice note regarding the need to install a mud tank on the site to settle out sediment and provide primary treatment of any contaminants.

[110] Any effects regarding the provision of services are less than minor.

Hazards, Safety and Earthworks (Assessment Matters 8.13.12, 8.13.17 17.8.1, 17.8.2 and 17.8.6)

Hazards and Safety

[111] Section 6(h) of the Resource Management Act 1991 requires the Council to recognise and provide for the management of significant risks from natural hazards, as a matter of national importance.

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

- (a) *the likelihood of natural hazards occurring (whether individually or in combination); and*
- (b) *the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and*

- (c) *any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).*

[113] The site is annotated in the Hazards Register as being subject to Hazard ID 11965: Land Movement – Town Belt Slide Complex. The application was consequently considered by Council’s consultant engineer, Stantec New Zealand Ltd. The Senior Engineer advised:

- We recommend that the application not be declined on the ground of known natural hazards.
- There are no general potential instabilities of concern.
- The proposal will not create or exacerbate instabilities on this or adjacent properties

[114] That noted, Stantec have recommended a number of conditions to manage potential land instability issues during and post construction.

Effects on stability and flood risk

[115] Earthworks have the potential to affect the stability of land. As identified above by Stantec the proposed earthworks will not create or exacerbate instabilities on the site or neighbouring sites.

[116] Flood risk is not a relevant consideration in this location.

Effects on Neighbours

[117] Earthworks can potentially cause adverse effects if not well managed – potentially noise, vibration and dust. The applicant has not offered any specific measures to address any earthworks undertaken however I have recommended a set of conditions to address the potential for earthworks to create adverse effects on the neighbours during construction.

[118] Having regards to this assessment, it is considered any risks from natural hazards and earthworks can be appropriately mitigated through the imposition of appropriate conditions as recommended.

Positive Effects

[119] The applicant has suggested [Application - Page 9] that the proposal will have positive effects with respect to creating additional parking, improving vehicle safety and providing recreational opportunities for students.

[120] I agree that these are all potential positive effects.

Cumulative Effects (Assessment Matter 8.3.13)

[121] 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".

[122] 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 of these scenarios, the effects can be considered to be 'cumulative'.

- [123] There is a cumulative adverse effect apparent in terms of the changes to the noise environment at the site and surrounds. This is discussed above in Paragraph 102.

Proposed 2GP

- [124] The Proposed 2GP was notified on 26 September 2015, and some Proposed 2GP rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.
- [125] Regarding the breaches of the 2GP, given the degree of commonality with the Operative Plan in terms of activities requiring consent, I have not undertaken a full assessment of the above effects in terms of the 2GP but rather have focussed on those matters which are additional to the assessment matters in the Operative Plan (to avoid unnecessary repetition) and indicated if the assessment matters have been previously dealt with.

Effects on neighbourhood residential character and amenity (Assessment Matters 15.10.4.8(a), 15.10.4.10(b), 15.10.4.11(a)) and Effects on surrounding sites residential amenity Assessment Matter 15.11.2.5(b)

- [126] These effects have been assessed in terms of the Operative Plan assessment above, noting that due to the limited notified nature of the application it is the effects on the surrounding sites (i.e. those served notice) rather than the 'neighbourhood' that are most relevant.
- [127] It is also noted there is an 'internal' height in relation to boundary and setback breach which has no effect beyond the hostel.

Effects on streetscape amenity and character – Assessment Matter 15.11.2.5(d)

- [128] These effects have been assessed in terms of the Operative Plan assessment above.

Effects on on-site amenity for residents - Assessment Matter 15.10.4.10(a)

- [129] Due to the nature of the proposed activity a high degree of site coverage is a necessity. Due to no residential activity proposed on the site, on site amenity is not particularly relevant; though noting the carpark will provide an additional amenity space for the adjoining hostel.

Effects on efficiency and affordability of infrastructure - Assessment Matter 15.10.4.10(c), 15.11.2.5(a)

- [130] No issues have been raised by Council staff regarding the proposed activity having an effect on the efficiency of infrastructure.

Effects on the safety and efficiency of the transport network - Assessment Matter 15.10.4.11(a), 15.11.2.1(b)

- [131] These effects have been assessed in terms of the Operative Plan assessment above.

Effects on the stability of land, buildings and structures - Assessment Matter 8A.6.3.2(a)

[132] These effects have been assessed in terms of the Operative Plan assessment above.

Noise - Assessment Matters 9.7.4.4 or 9.8.2.6

[133] It is unclear how the activity fits with the noise provisions in the 2GP, however this should be easily clarified by the applicant. I note one submitter suggests the activity is non-complying in terms of the 2GP due to the noise levels proposed however (as discussed above) the Noise Assessment was undertaken against the provisions of the Operative Plan only. Regardless a noise exceedance is either a discretionary or non-complying activity in terms of the 2GP, with quite similar assessment criteria which are discussed below in an aggregated manner.

Relevant objectives and policies (Objectives 2.2.6, 9.2.2, Policies 2.2.6.1 and 9.2.2.1)

[134] Assessed below in the statutory assessment.

Is the exceedance infrequent or short term?

[135] Assuming there is an exceedance, it would be expected that this would be a relatively frequent occurrence given the potential for daily use of the site for recreation.

Do sufficient ambient levels of noise exist that the exceedance will be insignificant in the circumstances?

[136] No information has been supplied in terms of the ambient noise levels at the site.

Sensitivity of activities on surrounding sites to noise and the distance of noise sensitive activities from the site boundary

[137] It is clear from submissions the surrounding sites are experiencing noise effects, and are concerned about an increase in these. As discussed above, I consider further clarification is required from the applicant regarding how the noise from recreational activity will be addressed, given the sensitivity of surrounding land uses to noise.

'FIDOL' Factors

[138] Frequency – as discussed above the use of the site for recreational activity will potentially be a daily occurrence.

[139] Intensity – The Noise Assessment has detailed the level of noise and has concluded that the health and amenity values within receiver sites will be maintained at reasonable levels.

[140] Duration – The hours of use are detailed above.

[141] Offensiveness – The Noise Assessment has not deemed the noise to be offensive. The noise from the proposed recreational activity will be similar to that from a school. It should be noted that both plans exempt noise from schools between 8.00am to 6.00pm from the noise performance standards – a signal that such noise is not offensive (at least during those hours).

[142] Location – Detailed above.

Effects Assessment Conclusion

- [143] After considering the likely effects of this proposal above, overall, I consider the effects of the proposal, with respect to the establishment and use of the carpark for carparking can be appropriately mitigated by conditions of consent so as to be minor.
- [144] With regards to the use of the site for recreational activity, it is clear there are some adverse noise effects. Whilst the applicant has supplied some proposed mitigation measures it still remains unclear just what process will be used to actively manage the use of the carpark for recreational activity to ensure effects remain at a minor level.

OBJECTIVES AND POLICIES ASSESSMENT

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

- [145] 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

- [146] The following objectives and policies of the Dunedin City District Plan were considered to be 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.	I consider there are two key amenity aspects to consider with respect to this application. Firstly, the visual amenity of the location will be altered by the proposed activity. Given it is proposed to undertake screening of the site, and given the site context I consider the proposed carpark will at the least maintain the amenity values of Dunedin. Secondly, it is clear the recreational use of the site brings with it noise effects. At present I consider the noise from the use of the site for recreational purposes will not maintain or enhance the amenity values of the site for those in proximity.
Policy 4.3.8 Avoid the indiscriminate mixing of incompatible uses and developments.	Given the potential for noise effects arising from the proposed activity there is a question as to the compatibility of the use of the site for recreational activity.
Policy 4.3.10 Adopt an holistic approach in assessing the effects of the use and development of natural and physical resources.	In terms of a holistic assessment of the application it is clear the carpark will provide a number of positive effects. Given the outstanding noise issues I consider the proposal is partially inconsistent with the objectives and policies of the sustainability section.

Residential Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 8.2.1 Ensure that the adverse effects of activities on amenity values and the character of residential areas are avoided, remedied and mitigated.	With regards to the establishment of the carpark, I consider that given the design and screening measures proposed by the applicant I consider that any adverse effects on amenity arising from the carpark are appropriately avoided, remedies or mitigated, and the amenity values of the area will be in the least maintained (aside from noise impacts on amenity). Given my unresolved concerns over noise, I consider the proposal is partially consistent with this objective and policy.
Policy 8.3.1 Maintain or enhance the amenity values and character of residential areas.	
Policy 8.3.4 Ensure that the density of new development does not exceed the design capacity of the urban service infrastructure.	No issues have been raised by Council infrastructure staff with respect to the use of the site as proposed. Therefore the proposal is consistent with this policy.
Objective 8.2.7 Recognise that some community support activities contribute to the maintenance and enhancement of residential character and amenity.	Noting that the activity is considered community support activity and as discussed above in terms of Objective 4.2.1 and Policy 4.3.1 the activity will contribute to the maintenance or enhancement of residential character, with some reservations regarding the noise impacts on amenity. Policy 8.3.10 is an enabling policy; reflective of the fact that typically community support activities have a functional need to establish in a residential area. The hostel activity is well established, and this carpark represents an expansion of the footprint of the activity, without an increase in intensity of activity i.e. – no increase in terms of student numbers. Therefore I consider the proposal partially consistent with Objective 8.2.7 and consistent with Policy 8.3.10.
Policy 8.3.10 Provide for community support activities within residential areas	

Hazards, Hazardous Substances and Earthworks Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Policy 17.3.2 Control building and the removal of established vegetation from sites or from areas which have been identified as being, or likely to be, prone to erosion, falling debris, subsidence or slippage.	Whilst some natural hazard issues have been identified in relation to the site; none are of a nature that cannot be addressed by way of suitable consent conditions.

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.	In terms of effects on the transportation network arising from the proposed activity, I consider the proposal will mitigate some existing adverse effects occurring in the vicinity of the site. The carpark will not affect the safety of the roading network and will provide for the safe interaction of pedestrians and vehicles. I therefore consider the proposal 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.	

Signs Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 19.2.1 Avoid, remedy or mitigate the adverse effects of signs on amenity values.	It is noted a small amount of signage is proposed as part of the application. The signage will not adversely affect amenity values in the area, and no issue have been raised by the Transportation planner regarding it having any effect on the safe and efficient functioning of the roading network. Therefore I consider the proposal to be consistent with these objectives.
Objective 19.2.2 Ensure that signs do not adversely affect the safe and efficient functioning of the road network.	

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.	I consider noise is the principal issue for this application, particularly in relation to the recreational use of the site, and given the history of noise complaints. It is clear that current activities from the hostel are having an impact on the amenity values of residents, and the proposal brings hostel activity in closer proximity to a number of residential activities and increases the footprint of hostel activity. At present I do not consider the applicant has fully established how those in proximity to the site will be protected from noise in particular that will potentially affect their amenity. Therefore I consider the proposal to be inconsistent with this objective and policy.
Policy 21.3.3 Protect people and communities from noise and glare which could impact upon health, safety and amenity.	

Proposed 2GP

[147] 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 are considered to be relevant to this application:

Strategic Directions

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 2.2.6: Public Health and Safety The risk to people's health and safety from contaminated sites, hazardous substances, and high levels of noise or emissions is minimised Policy 2.2.6.2 Protect people from noise, light or offensive emissions that may create adverse effects on health or well-being through rules that: ... f. restrict activities that generate high levels of noise from locating in residential zones.	In terms of the proposed activity, whilst it will generate some noise, I do not consider this to be high but rather potentially in excess of what is expected in a residential environment, further to this, how the noise will be minimised requires further clarification. Therefore I consider the proposal to be inconsistent with this objective and policy.
Policy 2.4.1.5 In residential neighbourhoods, manage building bulk and location, site development (including site coverage), and overall development density to: maintain or create attractive streetscapes; and protect the amenity of residential activities and public open space.	As discussed above in paragraph 95 the proposed activity will not detract from the streetscapes in the area. Therefore I consider the proposal to be consistent with this policy.

Earthworks

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 8A.2.1 Earthworks necessary for permitted or approved land use and development are enabled, while avoiding, or adequately mitigating, any adverse effects on: - visual amenity and character; - the stability of land, buildings, and structures; and - surrounding properties.	Earthworks have been assessed by Council's Hazards advisor who has no concerns with the proposed earthworks subject to a set of recommended conditions. Providing suitable conditions are imposed I consider the proposed activity to be consistent with this objective and policy.
Policy 8A.2.1.1 Require earthworks, and associated retaining structures, to be designed and located to avoid or minimise, as far as practicable, adverse effects on the stability of land, buildings, and structures by: - being set back an adequate distance from property boundaries, buildings, structures and cliffs; and - using a batter gradient that will be stable over time.	

Public Health and Safety

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 9.2.2 Land use, development and subdivision activities maintain or enhance people's health and safety.	In terms of the proposal the use of the site for recreational activity, if noise is at unacceptable levels could impact on the health of the residents of neighbouring properties (noting the Noise Assessment does not conclude this). It should also be noted the use of the site for recreational activity also has health benefits for the hostel students.

	Proving noise is adequately mitigated the proposed activity is consistent with this policy.
Policy 9.2.2.1 Require activities to be designed and operated to avoid adverse effects from noise on the health of people or, where avoidance is not practicable, ensure any adverse effects would be insignificant.	In this case it is accepted that both components of the application will generate noise. According to the noise assessment the noise generated by the activity will ensure maximum noise received in nearby sites ensure health and safety within these site is maintained and reasonable levels. At this point, I do not consider sufficient information has been supplied to ensure these adverse effects are insignificant. Therefore I consider the proposal to be inconsistent with this policy.

Residential Zones

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 15.2.1 Residential zones are primarily reserved for residential activities and only provide for a limited number of compatible activities, including: visitor accommodation, community activities, major facility activities, and commercial activities that support the day-to-day needs of residents.	Whilst this activity is not provided for as a permitted activity in terms of the 2GP, it is a restricted discretionary activity, with discretion reserved in relation to minimum car parking, outdoor living space and service areas. As identified above, this represents an expansion of an existing activity to provide for a facility (carpark) that is not currently provided. Some of the incompatible effects from the existing hostel relating to on street parking will continue should the application not be granted, noting the potential for some aspects of the activity (noise) to be incompatible with the surrounding environment. Regarding Policy 15.2.1.1 the effects of the proposal are currently not consistent with Objective 15.2.3, but is consistent with Objective 15.2.4. For completeness 15.2.2 is not relevant.
Policy 15.2.1.1 Provide for a range of residential and community activities, where the effects of these activities will be managed in line with objectives 15.2.2, 15.2.3 and 15.2.4 and their policies.	
Objective 15.2.3 Activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.	As discussed above the use of the site for recreational activity has the potential to have an effect on the amenity of surrounding residential properties through the generation of noise.
Objective 15.2.4 Activities maintain or enhance the amenity of the streetscape, and reflect the current or intended future character of the neighbourhood	As discussed above the proposal will at least maintain the streetscape of the site.
Policy 15.2.3.4 Only allow schools, emergency services, early childhood education, community and leisure - large scale, sport and recreation, registered health practitioners, training and education, visitor accommodation, supported living facilities, service stations and stand-alone car parking where they are designed and located to avoid or, if avoidance is not practicable, adequately mitigate, adverse effects on the amenity of surrounding residential properties	These two policies are almost identical but relate to two separate issues – amenity of surrounding properties and streetscape amenity. With regards to streetscape amenity I do consider any adverse effects on streetscape amenity are adequately mitigated. With regards to the effects on amenity of surrounding properties, noise remains an issue.
Policy 15.2.4.7 Only allow schools,	

emergency services, early childhood education, community and leisure - large scale, sport and recreation, registered health practitioners, training and education, visitor accommodation, supported living facilities, restaurants or retail ancillary to sport and recreation, service stations and stand-alone car parking where they are designed and located to avoid or, if avoidance is not practicable, adequately mitigate, adverse effects on streetscape amenity	
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Overall Objectives and Policies Assessment

- [148] Having regard at the relevant objectives and policies individually, and considering these in an overall way, the above assessment indicates that the application is largely consistent with the provisions of both plans.
- [149] The key issue is how the proposed activity is how it sits with respect to the objectives and policies of the residential zones and those relating to noise.
- [150] Both plans have 'higher level' objectives and policies (which are more explicitly expressed in the 2GP) contained in the Sustainability (Operative Plan) and Strategic Directions (2GP) sections. Currently the proposal is partially inconsistent with the relevant provisions in these sections.
- [151] With respect to the operative plan the proposed activity sites comfortably with the Hazards, Transportation, Signs and Earthworks. Likewise the proposal is consistent with the Earthworks provisions in the 2GP.
- [152] Regarding the objectives and policies of the residential zones for both plans; I consider the proposed activity is consistent with these with the exception of appropriately dealing with the noise effects of the activity to ensure the amenity of surrounding properties is (at least) maintained. I consider until further information is provided on exactly how this will occur, I do not consider the proposed activity to be fully consistent with the objectives and policies of the residential zone.
- [153] Similarly, I consider the proposal to be inconsistent with the relevant Environmental Issues Objective and policy (Operative Plan) and Public Health and Safety Policy (2GP).
- [154] Overall in terms of the policy framework of both plans the development of the site for a carpark finds general favour. These noise effects arising from the use of the carpark, particularly for recreational activity (as currently proposed) are a limiting factor in terms of meeting the objectives and policies of both plans.
- [155] Regarding plan weighting, and particularly in terms of the provisions of the 2GP assessed above only the following are subject to appeal: Policy 2.2.6.2, Policy 9.2.1 and Objective 15.2.1. Therefore the Commissioners can give reasonable weight to the objectives and policies of the 2GP assessed above.

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

- [156] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements.

[157] Otago has two Policy Statements at present – the Regional Policy Statement for Otago which was made operative in October 1998, and the Partially Operative Regional Policy Statement 2019 (PORPS). Chapter 9, Built Environment of the 1998 Policy Statement is largely superseded, therefore my analysis has focussed on the PORPS.

[158] Relevant in this instance is Objective 4.5 – *Urban growth and development is well designed, occurs in a strategic and coordinated way and integrates effectively with adjoining urban and rural environments.*

[159] In this instance, there is nothing to suggest the proposal is not well designed nor unstrategic or uncoordinated. Currently though (in relation to noise) the integration with the adjoining urban environment is a partially unresolved issue.

[160] Similarly Policy 4.5.3 Urban Design is relevant.

Design new urban development with regard to:

- a) A resilient, safe and healthy community;*
- b) A built form that relates well to its surrounding environment;*
- c) Reducing risk from natural hazards;*
- d) Good access and connectivity within and between communities;*
- e) A sense of cohesion and recognition of community values;*
- f) Recognition and celebration of physical and cultural identity, and the historic heritage values of a place;*
- g) Areas where people can live, work and play;*
- h) A diverse range of housing, commercial, industrial and service activities;*
- i) A diverse range of social and cultural opportunities.*

[161] The proposal relates well to its surrounding environment, provides an area where people can work, live and play, and provides for diversity. Whether the proposal currently provides for the health of those in proximity (with respect to noise impacts) is unresolved.

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

DECISION MAKING FRAMEWORK

Part 2 Matters

[163] It is considered that there is sufficient assessment guidance within both 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 104

[164] 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 and use of the carparking area, for carparking will be minor and can be adequately avoided remedied or mitigated provided recommended conditions of consent are adhered to.

[165] Regarding the use of the carpark for recreational activity I consider this to be a sensible and efficient use of available space; provided adverse effects are appropriately addressed.

- [166] The noise assessment provided with the application concluded that provided the recommended noise mitigation measures are in place the any noise effects arising from approving the application will be no more than minor. As discussed above the key aspect of this mitigation is what is termed 'play management' to ensure noise levels arising from the use of the carpark for recreational activity remain at acceptable levels.
- [167] No further information has been supplied as to what 'play management' would consist of and what resources the Hostel will commit to ensuring this is undertaken, or how noise levels occurring during play will be monitored. Furthermore what 'play consists of has not been defined – particularly given the concerns raised by submitters about the nature of previous recreational activity on the site (e.g. rowing training). Until this is provided I do not consider the applicant has satisfactorily demonstrated the noise effects of the proposal have been adequately avoided, remedied or mitigated.
- [168] 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.
- [169] 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 development and use of the site for carparking is consistent with the key objectives and policies relating to both the Dunedin City District Plan and the Proposed 2GP. This report has also concluded that based on current available information, the use of the proposed carpark for recreational activity is inconsistent with the relevant provisions of the operative district plan and 2GP.
- [170] 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 partially consistent, and partially inconsistent with the relevant objectives and policies of the PORPS.

Other Matters

- [171] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [172] I draw the Commissioners attention to a long history of noise complaints associated with the hostel, some of which are raised by submitters – including some of which occurred during the processing of this application.

CONCLUSION

- [173] Having regard to the above assessment, I recommend that the application be partially granted with respect to allowing the establishment and use of the carpark for carparking subject to appropriate conditions.
- [174] At this point in time, I am not comfortable in recommending consent be granted with respect to the use of the site for recreational purposes. I have however attached a second suite of conditions to assist the Commissioners should they decide consent can be granted for recreational use of the carpark. One of these conditions requires the provision of a 'play management plan' to address the noise issues raised above – it would be my preference that an outline of this would be provided at a hearing to further clarify how noise from recreational activity can be controlled.

RECOMMENDATION

Land Use LUC-2018-428

That pursuant to Section 34A(1) and 104B and having had regard to Part 2 matters and Section 104 of the Resource Management Act 1991, and the Operative and Proposed District Plans, the Dunedin City Council grants in part consent to a discretionary activity being the establishment and use of carpark for parking and recreational activity at 17A Melrose Street Dunedin.

Consent Type: Land Use Consent

Consent Number: LUC2018-428

Purpose: The establishment and use of a carpark.

Location of Activity: 17 and 17A Melrose Street, Dunedin.

Legal Description: Lots 1 and 2 DP 489065 (Computer Freehold Registers 702735 and 702736).

Lapse Date: XXXXX, unless the consent has been given effect to before this date.

Conditions:

- 1. The proposed activity must be undertaken in general accordance with the information provided with the resource consent application received by the Council on 30 July 2018, and further information received on 19 September 2018 and 24 October 2018, except where modified by the following conditions.*
- 2. The carpark must not be used for recreational activity.*
- 3. The car park shall only be available for visitor use between the hours of 7.00am to 9.00pm.*
- 4. The carpark must be fully constructed prior to its use for parking.*

Transportation

- 5. The vehicle access must be a maximum 6.0m formed width, hard surfaced, and adequately drained for its duration.*
- 6. The surface of all parking, associated access and manoeuvring areas must be formed, hard surfaced and adequately drained for their entirety, and parking spaces permanently marked [in accordance with the application plans].*
- 7. The parking area must have clearly defined access and the remainder of the property road boundary shall have a physical barrier which separates the parking area from the road.*
- 8. The car parking layout must comply with Table A.3 – Minimum car parking space dimensions (Appendix 20B).*
- 9. The proposed stone wall must not exceed 800mm in height.*

Earthworks

10. *All walls retaining over 1.5m, or a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s*
11. *Where the long-term stability of other's land or structures may rely upon the continued stability of retaining works, the designer must confirm in writing to Council's Manager – Resource Consents, that the retaining structure can be safely demolished following a complete design life without creating hazards for neighbouring properties prior to works commencing.*
12. *Slopes must not be cut steeper than 1:1 (45°) without specific engineering design and construction.*
13. *Slopes must not be filled steeper than 2h:1v (27°) without specific engineering design and construction.*
14. *Any change in ground levels is not to cause a ponding or drainage nuisance to neighbouring properties.*
15. *Any fill material to be introduced to the site must comprise clean fill only.*
16. *To ensure effective management of erosion and sedimentation on the site during earthworks and as the site is developed, measures are to be taken and devices are to be installed, where necessary, to:*
 - a) *divert clean runoff away from disturbed ground;*
 - b) *control and contain stormwater run-off;*
 - c) *avoid sediment laden run-off from the site'; and*
 - d) *protect existing drainage infrastructure sumps and drains from sediment run-off.*
17. *All loading and unloading of trucks with excavation or fill material is to be carried out within the subject site.*
18. *The consent holder must:*
 - a) *be responsible for all contracted operations relating to the exercise of this consent; and*
 - b) *ensure that all personnel (contractors) working on the site are made aware of the conditions of this consent, have access to the contents of consent documents and to all associated erosion and sediment control plans and methodology; and*
 - c) *ensure compliance with land use consent conditions.*
19. *Should the consent holder cease, abandon, or stop work on site for a period longer than 6 weeks, the consent holder must first take adequate preventative and remedial measures to control sediment discharge/run-off and dust emissions, and must thereafter maintain these measures for so long as necessary to prevent sediment discharge or dust emission from the site. All such measures must be of a type and to a standard which are to the satisfaction of the Resource Consent Manager.*
20. *If at the completion of the earthworks operations, any public road, footpath, landscaped areas or service structures that have been affected/damaged by*

contractor(s), consent holder, developer, person involved with earthworks or building works, and/or vehicles and machineries used in relation to earthworks and construction works, must be reinstated to the satisfaction of Council at the expense of the consent holder.

21. If the consent holder:

- a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:*
 - i) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.*
 - ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.*

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

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

Site work may recommence following consultation with the Consent Authority.

Signage

22. Only one sign shall be erected at the entrance to the site.

Landscaping

23. Prior to commencement of construction activities onsite the applicant must supply to Council's Manger – Resource Consents for certification a landscaping plan that details:

- (a) The species to be planted onsite and the density of planting;*
- (b) The timing of planting; and*
- (c) A maintenance and management regime.*

Advice Notes:

1. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through Sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
2. Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
3. The lapse period specified above may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.
4. It is the responsibility of any party exercising this consent to comply with any conditions imposed on their resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
5. It should be advised that the applicant will require a TMP, prepared by a suitably qualified person, if the proposed works affect the normal operating conditions of the transport network. The TMP will need to be approved by Transport, prior to works commencing.
6. The vehicle crossing, between the road carriageway and the property boundary, is within legal road and is therefore required to be constructed in accordance with the Dunedin City Council Vehicle Entrance Specification (available from DCC Transport Group).

REASONS FOR RECOMMENDATION

- [175] Provided that the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity (carpark) can be adequately mitigated and will be minor.
- [176] The proposal is considered to be consistent with the key relevant objectives and policies of both the Dunedin City District Plan and the Proposed 2GP.
- [177] The proposal is considered to be consistent with the objectives and policies of the Regional Policy Statement for Otago.
- [178] I consider that the establishment and use of the carpark on the site as proposed will not give rise to any adverse effects that would warrant refusal of consent, if it is only to be used for carparking purposes – subject to the recommended conditions.
- [179] I do however consider that whilst the use of the carpark for recreational activity has merit in making use of an available space, there remains outstanding issues as to the level of management of activity in this site to ensure noise levels remain at acceptable limits.
- [180] Overall, the proposed development has been assessed as not being likely to give rise to adverse effects on those elements of the residential zone that both the Operative Dunedin City District Plan and Proposed 2GP seeks to protect. Further, the proposal does have some positive effects in terms of reducing demand for on street parking in the vicinity of the site.

Report prepared by:



Shane Roberts
Consultant Planner

28 January 2019

Date

Report checked by:



John Sule
Senior Planner

28 January 2019

Date