

BEFORE THE DUNEDIN CITY COUNCIL HEARING PANEL

IN THE MATTER OF The Resource Management Act 1991

AND

IN THE MATTER OF Land Use Consent Application
LUC-2018-428 by Otago Boys Hostel

Response to Chair's Minute of 25 February 2019
Kirstyn Lindsay, Southern Planning Solutions
15 March 2019

1. I respond to the Chair's minute dated 25 February 2019 regarding the entranceway to 25 Melrose Street via 17A Melrose Street. This evidence is not the applicant's right of reply.

SCOPE OF APPLICATION

2. As noted by the Chair in his minute, the entranceway is deemed to have always formed part of the application. As shown below, there are a total of seven references to the entranceway within the application (including its own sub-heading within the Transportation section of the Assessment of Effects) and the entranceway is shown on nine plans submitted in support of the application. The entranceway is referred to on a number of occasions in my evidence dated 2 February 2019.
3. Notwithstanding the number of references in the application, the entranceway did not form any part of any submission or further evidence in support of any submission, and no additional information was sought by submitters or Council. Given, that further information relating to a number of elements of the proposal was requested by Council and submitter's, the applicant remains confused as to why this element of the application was overlooked.
4. The applicant respectfully queries whether, in supplying this additional information to the submitters to make comment on, the hearings panel is satisfied that it is not unduly providing the submitters an opportunity to broaden the scope of their submissions.

REFERENCES WITHIN THE APPLICATION

5. The references to the entranceway within the application are identified below:
6. With regard to the application, it is noted at paragraph 4, page 1 that:

As part of the car park development, a new pedestrian entranceway into the hostel will be created towards the rear of 17A Melrose Street. The entrance will create a legible entrance into the hostel and direct users away from the current entrance which is located at a problematic location on Melrose Street. It is intended that the new entranceway, which includes a canopy, will provide a safer and more elegant entrance into the hostel site. The current entrance to the hostel will revert to a service entry only once Stage Two of the development is implemented. The carpark area and pedestrian entrance will be low lit.

7. Paragraph 5, page 1 states that:

It is important to note that this application seeks only to authorise the pedestrian entrance and canopy up to the boundary shared with 25 Melrose Street and all works contained within 25 Melrose Street will be applied for as part of Stage Two. However, some plans do show the intended works into the hostel site for context.

8. On Paragraph 6, page 3 (Planning Framework) of the application the rule breach for the entrance canopy is identified.

9. At Paragraph 6, page 7 (Assessment of Effects - Transportation) of the application, the following statement is made:

It is considered that access into the 17A Melrose site is at a better location than the existing access into 25 Melrose Street because of sight lines and manoeuvrability. The existing hostel access will revert to a service entry only, once Stage Two is implemented.

10. At Paragraph 7, page 3 (Assessment of Effects - Transportation) of the application, pedestrian access has its own subheading.

Pedestrian Access

The current pedestrian access to the hostel via 25 Melrose Street is not welcoming. The new access through 17A Melrose Street (once the linkage is formed under stage 2) will provide a more legible and elegant entrance to the hostel. The pedestrian access will be lit by low level lighting and differentiation in paving surfaces will define the pedestrian space from the car parking area.

11. At Paragraph 3, page 9 (Positive Effects)

The proposal will create additional car parking in a narrow, steep and congested street in Dunedin's hill suburbs. The car park will be used in conjunction with a designated site which results in a number of daily traffic movements. The site will present well to the street and discrete signage will be used as a wayfinder not advertising. Once the linkage to 25 Melrose Street is established in Stage Two access to the hostel will be defined and as a result safer than the existing shared vehicle access to 25 Melrose Street.

12. In the commentary for Objective 8.2.1 and Objective 15.2.4 on Pages 10 and 14 respectively, the application notes that:

The site will eventually provide an elegant linkage to the adjacent hostel site.

13. In addition, Plans P4, P5, P7, P8, P9, P10, and the four plans labelled CS - 105068, show the pedestrian entranceway and/or refer to the link to 25 Melrose Street.

ASSESSMENT OF EFFECTS

Existing Environment

14. The designated hostel site at 25 Melrose Street forms part of the existing environment at this location. The boys, visitors and staff and associated effects of the hostel are generated by the hostel activity which is designated at this location. The car park and entranceway will not attract more people to the area and will not result in an increase the number of boys boarding at the hostel.
15. The current hostel entrance is located five metres southeast of the proposed site entrance and all entry and exits to and from the hostel occur at this location. The existing access to 25 Melrose Street has been identified by the school board, hostel staff and emergency services as unsuitable and unsafe, especially in an emergency

event. The hostel has a duty of care to its boarders to provide a safe environment. Adverse parking and traffic effects associated with the hostel have been identified by the hostel and neighbours and this application seeks to partially resolve this issue.

16. The existing site at 17A Melrose Street is a vacant, undeveloped site.

Future Environment

17. The designation of the hostel at 25 Melrose Street was retained in the 2GP and, as such, is well-established and its use is permitted to continue in its current form.
18. One option, which may form the future environment, is for the hostel to establish an entranceway along the same boundary as the proposed entranceway but to have the entranceway contained entirely 25 Melrose Street. This location would increase the setback distance of the entranceway from the property at 15 Melrose Street by approximately two metres. This entranceway would fall within the scope of the designation.
19. The hostel originally explored this entranceway option, (prior to the purchase of 17 and 17A Melrose St by the school benefactor) but were reluctant to proceed with this as it would have necessitated the removal of the screening vegetation along the boundary shared with 17A Melrose Street. However, if the entranceway is unable to be located as currently proposed in the application, then the hostel will revert to this option. This option will not relieve the existing parking and traffic effects associated with the hostel.
20. The entranceway and carpark are intrinsically linked in terms of the outcomes sought by the applicant. If the carpark and entranceway do not proceed, the owner of 17 and 17A Melrose Street will seek to maximise his return and develop the two sites into denser residential use. This option was outlined by Mr Swann at the hearing. While the tenancing of these units is expected to be by private residential tenancy agreements, it is expected that there may still be some philanthropic association with the school and this development.
21. To achieve the maximum return, it is envisioned that the existing dwelling on 17 Melrose Street would need to be demolished and five two-storeyed townhouses could be constructed. Under the 2GP, up to five five-bedroom units may be established on the two sites subject to meeting the required performance standards. It is noted that the 2GP rules are not under appeal at this location.
22. Given the land area, it is expected that the performance standards for the 2GP could be easily met, especially given that the units will be two-storied. To maximise use of the site, it is expected that at least four of the units would gain access over the existing right-of-way, with only one unit in the south east corner of 17A having direct access from Melrose Street. The 2GP only requires two car parks per five-bedroom unit, resulting in a maximum of 10 car parks on site to serve the 25-bedroom development.
23. It is considered that neither of the future environments are fanciful and, in fact, both scenarios are likely should the hostel abandon its current development plan within 17 and 17A Melrose Street.

Effects of the Entranceway

24. It is intended that the proposed pedestrian entranceway become the main foot entrance to the hostel. The pedestrian entranceway is an integral part of the car park proposal.

Canopy

25. A 6.75m long canopy will be located at the end of the pedestrian walkway where it links to 25 Melrose Street. The canopy will be constructed of a stone clad block wall (facing 17 Melrose Street) and will be constructed of metal fins on the internal face to the site to allow light and sightlines to the car park (see images below). The development effects of the canopy are restricted to effects in respect of boundary setbacks and height in relation to the boundary on 25 Melrose Street and all effects on them must be disregarded as they are the applicant.

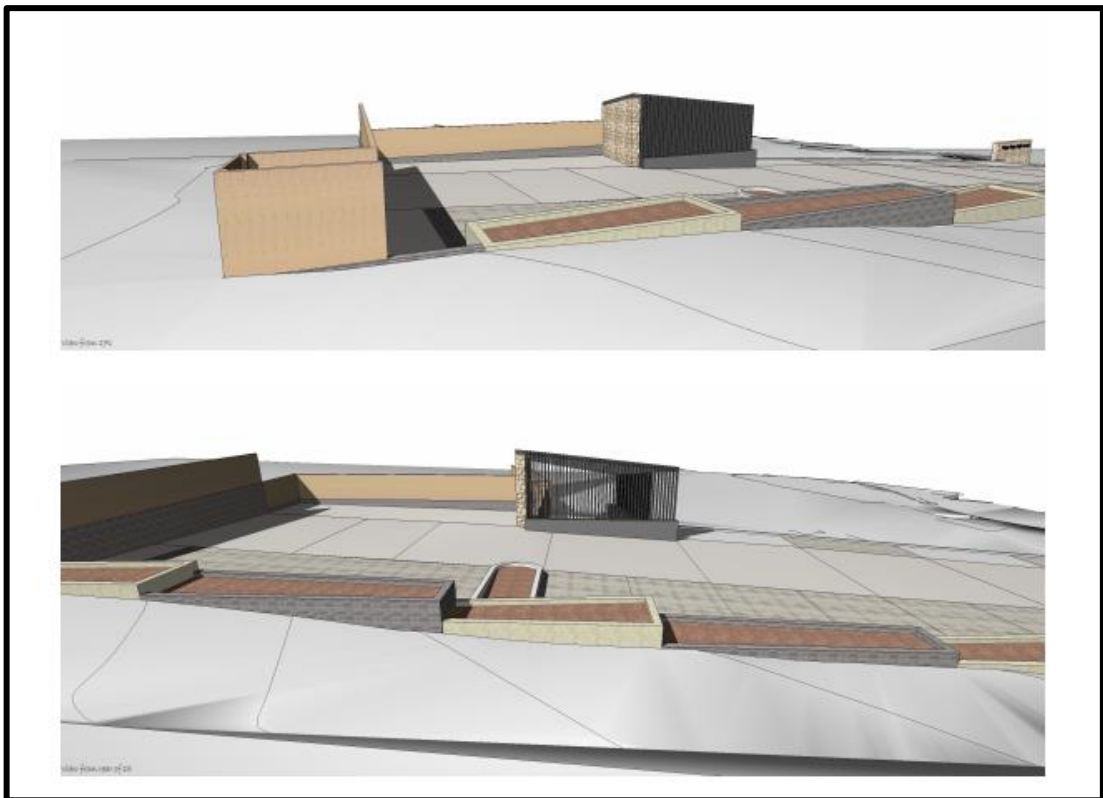


Image 1: Top image showing view from 17C Melrose Street and bottom image showing view from 15 Melrose Street,

Physical Elements of the Entranceway

26. The entranceway and canopy are located entirely within 17A Melrose Street and will run along the shared boundary with 25 Melrose Street. The entranceway does not extend into 17 Melrose Street. The entranceway will be located some 16 metres from the boundary shared with 15 Melrose Street. Under the designation on 25 Melrose Street, the pedestrian entranceway could be established approximately 18 metres east of the boundary shared with 15 Melrose Street. This is approximately two metres further east than the proposed entranceway.

27. The pedestrian entranceway will be approximately 2.25m wide. As traversed in the hearing, the entranceway will be at a lower topography than the right-of-way and screen planting will be established. The entranceway will be approximately 2.0 metres lower than the property at 15 Melrose Street (see image below).

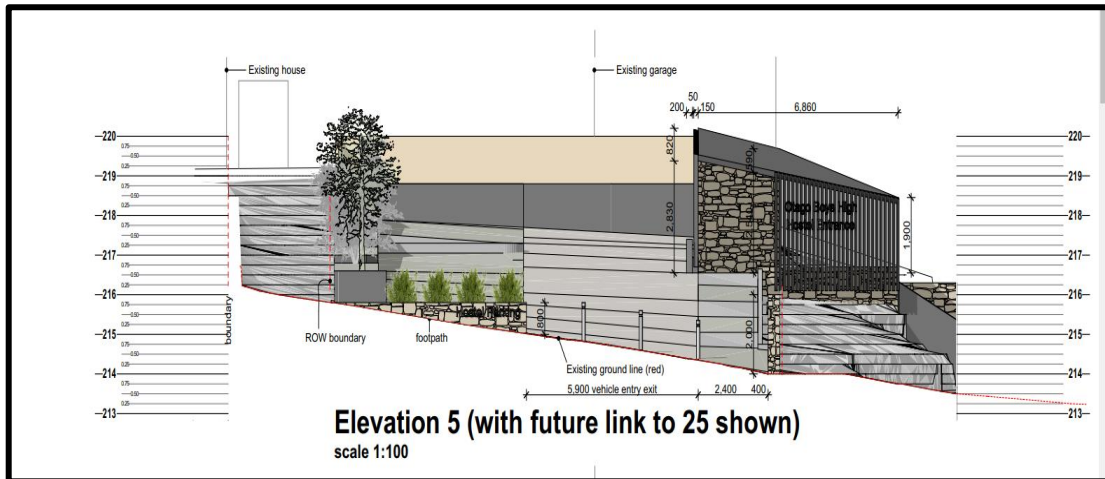


Image 2: Topography change across the site at road frontage (do not scale)

Use of the Entranceway

28. The hostel is occupied by the boys during the school terms being a total of 40 weeks per year. The hostel boys will enter and exit the site through this pathway on their way to school in the morning and return after school.
29. Movements of boys will occur intermittently, typically between 7.30 and 8.30 in the morning. The boys will not be permitted to loiter so the extent that any boy will be present on the pedestrian walkway will be the approximate time that it takes them to walk the 30 metres from the canopy area to the footpath on Melrose Street and the same again in the afternoon typically between 3pm and 6pm.
30. In the afternoon, the boys' return to the hostel will be staggered depending on various after school activities. During inclement weather, the time spent on the walkway is expected to be very brief. As agreed with Ms Lee's legal counsel during the hearing, small groups of boys will also congregate outside the canopy area to load the mini-vans to be taken to sports games and practices and other events.
31. Unless there are extra-ordinary circumstances, the boys do not leave the hostel site between the hours of 9pm and 7am. Where the boys are anticipated to return to the hostel after 9pm (for example a bus load of boys returning from a Highlanders game), the hostel will arrange for them to be admitted via the service entry to 25 Melrose Street. If the entranceway is established under the designation, it will not be necessary for these types of controls to be placed on this use.

32. Many of the boys return home during the weekends so there will be a reduction in the number of boys using the entranceway during the weekends. The coming and goings from the site during the weekend will be less regular than during the week.
33. Guests to the hostel will also use this main pedestrian entranceway. Guests typically comprise the parents and families of the boys and only visit the site infrequently, typically at the beginning and end of terms to undertake pick up and drop offs and during hostel open days. At the beginning of the year, the hostel staggers the intake of boys by year so to reduce the disruption to neighbours. It is noted that these effects of the comings and goings to 25 Melrose Street are already established within the environment and this proposal is a response to issues arising from traffic congestion and safety issues associated with these occurrences.

Noise

34. Noise limits in the 2GP for the General Residential 1 zone are given as:

Zoning of receiving property	Noise level measured at the boundary of the receiving property or the notional boundary of noise sensitive activities in a rural, rural residential or Ashburn Clinic zone		
	a. 7.00am to 7.00pm	b. 7.00pm to 10.00pm	c. 10.00pm to 7.00am
1. Residential, Recreation, Smith Street and York Place, schools, Dunedin Botanic Garden, Wakari Hospital, Mercy Hospital and Moana Pool zones	50 dB LAeq (15 min)	45 dB LAeq (15 min)	i. 40 dB LAeq (15 min); and ii. 70 dB LAFmax

35. The red shading denotes that these rules are under appeal. However, these rules also reflect the rules in the 2006 operative plan.
36. The application originally sought approval to allow the boys to play between the hours of 7am and 9pm. The noise assessment undertaken by Malcolm Hunt and Associates found that the carpark and recreation noise would have a final predicted maximum L_{A10} of 50dB at 15 Melrose Street and L_{A10} of 46dB at 17C Melrose Street (page 94 of the agenda). The noise assessment assumed a 3.5m (the right-of-way) separation from the neighbouring properties at 15 and 17C Melrose Street and that the play area would extend into the van parking area within 17 Melrose Street.
37. The report found that a reasonable standard of residential amenity will be able to be maintained as those predicted noise levels will fall below the daytime guideline limits recommended for residential areas in NZS6802:1991(L_{A10} 55dB). NZS6802 states that such levels of daytime noise adequately protect health and amenity values within residential areas. The report noted that the sound characteristics assumed for the boys playing included crowd characteristics such as people laughing, yelling and cheering but that this type of noise did not qualify for a penalty associated with any Special Audible Characteristic.
38. The Chair invited the applicant to refer to the existing noise assessment and make any relevant comparisons as to the type and scale of effects in its assessment of the relocated entrance to the hostel. The comparisons are made as follows:

39. The recreation use of the site was assessed as being located a minimum of 3.5 metres from the boundary shared with 15 and 17C Melrose Streets. The entranceway will be located approximately 16 metres from the boundary shared with 15 Melrose Street and approximately 18m from the dwelling within that site and at approximately 2.0 metre lower elevation.
40. I am not a noise expert but my limited understanding is that there is an inverse square decrease of 6dB per distance increase from the noise source. For example, if the noise is 55dB (NZS6802 levels L10) at the noise source, then this will decrease to 49dB two metres from the noise source, then 43dB at four metres, 37dB at eight metres, 31dB at 16 metres. However, this amateur calculation does not take into account any topographical influences.
41. It is also noted that NZS6802 is an L10 calculation means that the noise measurement period is 10 minutes. It is noted that the 2GP sets a L15 level meaning that it is the noise within a 15 minutes period which is measured. Therefore, to achieve a noise level of 50dB as set out in the 2GP, my understanding is that this will need to be consistent noise at that level. The use of the entranceway is intermittent and staggered and will not result in a consistent noise level as discussed further below.
42. The recreation component sought to provide for 12 boys to play for up to three hours in any one period during the hours of 8am and 9pm. In respect of the use of the entranceway is noted that this differs from the recreation use in that up to 150 boys will traverse the pedestrian walkway during any given period (typically 7.30-8.30 and 3pm-6pm) but this use will be staggered and intermittent. Use on the weekends is expected to be reduced, and further staggered and intermittent. The use of the entranceway after 7pm at night is expected to be by low numbers of boys and no use will be permitted after 9pm at night.
43. The boys will not be lingering within 17A Melrose Street but travelling the 30 metres from the canopy to Melrose Street. As such, some of the sound power level components assumed in the noise assessment by Mr Hunt and Associates, such as cheering, will not be present. As an assurance that the boys will not be loitering in this area, a security camera will be installed and the hostel manager will monitor the area to ensure there no loitering in the carpark area.
44. What is being proposed is not sustained noise as anticipated by NZS6802 when setting the noise amenity levels of L_{A10} 55dB, rather it is intermittent noise originating from people entering and exiting a site. Furthermore, this is not new sound which is being introduced to this environment, although it is accepted that the sound will be located approximately two metres closer to the residential neighbours than the alternative location identified for an entranceway contained entirely within 25 Melrose Street.
45. Notwithstanding any of the above, Section 16 of the Act sets out a duty for any person to :

“...adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.”

46. The applicant offers a complaint management condition for how complaints regarding the use of the carpark and entranceway will be managed. The applicant advises that the hostel operates on a separate site to that which is subject to this application and under a designation but suggests that this procedure may also be used for any complaints relating to the effects arising from 25 Melrose Street and are happy for this complaint process to be included as an advice note for 25 Melrose Street.
47. In addition, the applicant offers a review condition which provides for the conditions of consent to be reviewed should demonstrable noise effects associated with the use of the carpark and pedestrian entranceway be identified.

Commencement of use

48. The application identifies that the actual use of the pedestrian accessway will not commence until the linkage from 25 Melrose Street to 17 Melrose Street is established. Until that component is given effect to, there are no effects arising from use of the entranceway. The works, for 25 Melrose Street, are not programmed and, as such, no timeframe is able to be provided.

Summary of the Effects on the Environment

49. The relocation of the main entrance to the hostel from its current location is considered necessary for safety of the hostel boarders. If the preferred location outlined by this application is unsuccessful, it is expected that a pedestrian accessway contained fully within 25 Melrose Street would be established along the boundary of 25 and 17A Melrose Street and the sites at 17 and 17A be developed by the owner as he sees fit within the bounds of the district plan.
50. When compared with an entranceway which could be established within the immediate environment under the designation, the effects of the pedestrian entranceway as proposed are expected to be similar although mitigating elements, such as, the screening trees on the boundary between 17A and 25 Melrose Street would be lost.
51. The use of the pedestrian entranceway will generally occur for 40 weeks of the year and use will occur at regular periods between 7am and 9pm with use concentrated between 7.30 and 8.30 am and 3pm and 6pm. No use of the entranceway will occur between 9pm and 7am. Guest use of the walkway will be limited to parents and family picking up and dropping off boys and when open days of the hostel are held. A consistent and constant noise source is not expected as a result of the entranceway.
52. The pedestrian entranceway is located as far as practicable from neighbouring residential sites. Use of the walkway will be limited to people travelling along the 30-metre pathway from Melrose Street to the entrance canopy which leads to 25 Melrose Street and return, except where boys will be collected from the canopy area by mini-vans as agreed by Ms Lee's legal counsel at the hearing. No lingering or loitering within the carpark and entranceway is intended or proposed.
53. A draft set of conditions is offered including camera monitoring, complaint management and review conditions. when assessed in the context of the receiving environment and subject to conditions of consent, it is considered that that the effects of the pedestrian entranceway will be no more than minor.

CONCLUSION

54. The applicant trusts that the matters addressed above satisfies the request by the Chair for further assessment of the effects of the entranceway. When assessed in context of the existing and future environment, it is considered that, subject to conditions of consent, the effects on the environment are no more than minor,. It is respectfully requested that consent be granted, subject to the conditions set out Appendix A of this Evidence.

Appendix A - Offered conditions for LUC-2018-428

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 and the reduction in the scope of the application as confirmed in the evidence of K Lindsay dated 2 February 2019 and 13 March 2019, except where modified by the following conditions:*

Carpark and Entranceway Use

2. *Entry and exit from the car park is only available between the hours of 7.00am to 9.00pm and the bollards must be lifted outside of these hours.*
3. *The carpark must be fully constructed, fenced and planted prior to its use for parking.*
4. *The pedestrian entranceway must not be used by between the hours of 9.00pm and 7.00am except in an emergency event.*
5. *Loading and unloading of the hostel vans or any other mini-vans must occur entirely within 17A Melrose Street and adjacent to the canopy for the pedestrian walkway.*
6. *Loitering must not occur within the car park and entranceway area on 17 and 17A Melrose Street.*

Security and Complaints

7. *The consent holder shall install a security camera to monitor the carpark and entranceway area.*
8. *The consent holder must provide residents at the following addresses the details of the person(s) to be contacted in the event of a noise issue arising from the use of the carpark:*
 - 9 Melrose Street;
 - 10 Melrose Street;
 - 11 Melrose Street;
 - 12 Melrose Street;
 - 15 Melrose Street;
 - 17C Melrose Street; and
 - 20 Melrose Street
 -
9. *In the event a noise issue associated with the use of the car park and pedestrian entranceway on 17A Melrose Street is raised, the consent holder must advise the complainant of the outcome of the investigation into the complaint and any action taken to resolve the noise issue.*
10. *The consent holder must maintain a written record of any noise complaints received, detailing:*
 - a) *The name and address of the complainant;*
 - b) *Details of the complaint including time, date and nature of complaint.*
 - c) *The action undertaken to deal with the complaint.*

Transportation

11. *The vehicle access must be a maximum 6.0 metres formed width, hard surfaced, and adequately drained for its duration.*

12. *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].*
13. *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.*
14. *The car parking layout must comply with Table A.3 – Minimum car parking space dimensions (Appendix 20B).*
15. *The proposed stone wall along the front of 17A Melrose Street must not exceed 800mm in height.*

Earthworks

16. *All walls retaining over 1.5m, or a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s*
17. *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.*
18. *Slopes must not be cut steeper than 1:1 (45°) without specific engineering design and construction.*
19. *Slopes must not be filled steeper than 2h:1v (27°) without specific engineering design and construction.*
20. *Any change in ground levels is not to cause a ponding or drainage nuisance to neighbouring properties.*
21. *Any fill material to be introduced to the site must comprise clean fill only.*
22. *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.*
23. *All loading and unloading of trucks with excavation or fill material is to be carried out within the subject site.*
24. *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.*
25. *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.*
26. *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.*
27. *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

28. *Only two signs shall be erected at the entrance to the site.*

Landscaping

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

- a. *The species to be planted onsite and the density of planting to maximise the screening to 15 and 17C Melrose Street;*
- b. *The consultation undertaken with the owners of 15 Melrose and 17C Melrose Street.*
- c. *The timing of planting; and*
- d. *A maintenance and management regime.*

Review Condition

30. *On each anniversary of this consent, or if a demonstrable effect relating to noise or lighting within the car park or pedestrian entranceway is identified, the consent authority may, after providing written notice to the consent holder, review the conditions of consent pursuant to Section 128(1)(iii) of the Act.*

Advice note:

1. The consent holder should provide residents at the following addresses the details of the person(s) to be contacted in the event of a noise issue arising from the hostel at 25 Melrose Street:
 - 9 Melrose Street;
 - 10 Melrose Street;
 - 11 Melrose Street;
 - 12 Melrose Street;
 - 15 Melrose Street;
 - 17C Melrose Street; and
 - 20 Melrose Street
 -
2. In the event a noise issue associated with the hostel at 25 Melrose Street is raised, the consent holder should advise the complainant of the outcome of the investigation into the complaint and any action taken to resolve the noise issue.
3. The consent holder should maintain a written record of any noise complaints received, detailing:
 - d) The name and address of the complainant;
 - e) Details of the complaint including time, date and nature of complaint.
 - f) The action undertaken to deal with the complaint.

Plus the additional advice notes recommended in the S42A report.