

TO: Hearings Committee

FROM: Robert Buxton, Consultant Planner

DATE: 3 March 2020

SUBJECT: **RESOURCE CONSENT APPLICATION**
LUC-2019-122
27 Belmont Lane, Dunedin
K.L. Soo and K.M.C. Ku

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 3 March 2020. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

SUMMARY OF RECOMMENDATION

- [2] For the reasons set out below, I consider that the proposed visitor accommodation for up to eight guests will have minor adverse traffic and amenity effects (including noise), particularly when compared to a permitted activity that could involve a residential activity including up to five guests as a home stay or bed and breakfast operation, and these effects can be managed. I also consider that the proposal is generally consistent with the relevant objectives and policies of both District Plans. As a result, I have concluded that the application should be granted, subject to conditions.

DESCRIPTION OF PROPOSAL

- [3] Resource consent is sought to operate the site for visitor accommodation, via such web sites as AirBnB and Booking.com. The owners are not present on site, and the site is managed by a real estate and property management company, Edinburgh Realty. The site is listed on their website as accommodating up to 8 guests in four bedrooms consisting of a king size bed with ensuite, two queen beds and twin single beds, and two shared bathrooms.
- [4] A copy of the application and updated information, including a link to an information video for guests is contained in Appendix 1 of this report.
- [5] The application states that regarding vehicle movements a typical scenario is 1 or 2 vehicles arrive for a stay of 2 to 3 days and during their stay they come and go 2 to 3 times a day. At the end of the stay cleaners come to clean. The agent's short-stays staff come to check the cleaning or welcome guests.

- [6] The updated information also states that A4 signage (210mm X 297mm) has been placed on the exit doors asking visitors to refrain from using the outdoor spaces after 10pm as the noise effects the neighbours.

DESCRIPTION OF SITE AND LOCATION

- [7] The site is located on Belmont Lane, which is a shared driveway that extends from the end of Rochester Terrace, in Musselburgh. Belmont Lane is made up of a combination of right of ways. From the DCC Webmap, it appears that the legal access for most of Belmont Lane is approximately 8m width from Rochester Terrace to 26 Belmont Lane, and through 26 Belmont Lane the width of the ROW is approximately 4.5m. The formed seal on Belmont Lane varies from approximately 3m to 5m.
- [8] The dwelling on the site contains five habitable rooms (i.e. bedrooms), although the downstairs room is used by the applicants as an office when they are on site. Therefore there are four upstairs bedrooms available for visitors. The site has an outdoor area that faces north, and is adjacent to and elevated above the driveway of 31 Belmont Lane. There is a double garage that is listed as being available for guests, as well as two parking spaces, located on the southern side of the site.
- [9] The land is generally flat, and is located on a gentle crest. 34 Belmont Lane to the east is on the highest point, with the applicant's site slightly lower. All other sites to the south, west and north are slightly lower than the applicant's site.
- [10] The site is legally described as Lot 1 DP 9619 (held in Computer Freehold Register OT414/58). The site has an area of 1042m². Although vehicle access is via Belmont Lane, the site itself has a leg-in from Moana Crescent of approximately 2.5m in width that runs between 26 and 29 Belmont Lane, although this leg-in does not appear to have been formed for pedestrian access. Both 26 and 29 Belmont Lane have approximately 20m frontages to Moana Crescent but, due to the topography, vehicle access to those sites is also via Belmont Lane.
- [11] The immediately surrounding properties consist of the following,:

Site	Area	Owner (from DCC Ratepayer info)
[REDACTED]	2673m ²	JCS Smith
[REDACTED]	717m ²	JCS Smith
24 Belmont Lane	1024m ²	AM, FL and M Borren
26 Belmont Lane	701m ²	BE Guthrie
29 Belmont Lane	561m ²	DG Marsh
[REDACTED]	1040m ²	R Poulin and D Guevremont
33/33A Belmont Lane	2031m ²	J and J Sisters Limited
34 Belmont Lane	1014m ²	H Chin

HISTORY OF THE SITE/BACKGROUND TO THE APPLICATION

- [12] The application states that the proposal is for the continued use for short term visitor accommodation.
- [13] The application was received on 7 March 2019. The timeframe for considering the application was extended on 4 April 2019, and on 12 April 2019 the applicant was advised that 22, 24A, 24, 26, 29, 31, 33/33A, 34 Belmont Lane were considered to be affected parties, and that the application was suspended. The applicant produced a video that covered access along Belmont Lane as well as use of the dwelling, including safety and reducing noise after 10pm. The applicant advised that they had tried to approach the affected parties to discuss the application and show the video. On 4 December 2019 the applicant requested that the application be limited notified.

ACTIVITY STATUS

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

Dunedin City District Plan 2006 (2006 District Plan)

Land Use

- [16] The subject site is zoned **Residential 1** in the Operative District Plan. There are protected trees on 26 Belmont Lane (T192 and T193 English Beech), 33 Belmont Lane (T194 Southern Rata) and 34 Belmont Lane (T195 Pohutukawa), based on Schedule 25.3. Belmont Lane is classified as a Local Road in the Plan's Roding Hierarchy.
- [17] The proposal falls under the definition of Commercial Residential Activity. In accordance with Rule 8.7.5, the proposal is a discretionary activity. However there are no appeals on the equivalent rules in the Proposed 2GP and therefore this rule can be considered effectively inoperative.

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

- [18] The subject site is zoned **General Residential 1** with no overlay or mapped area.
- [19] There are protected trees on 26 Belmont Lane (T192 and T193 English Beech), 34 Belmont Lane (T194 Southern Rata and T195 Pohutukawa), based on Schedule A1.5. Belmont Lane is not classified in the Plan's Roding Hierarchy.
- [20] 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.

City Wide Provisions

- [21] The relevant city wide provision is Rule 9.3.6 Noise. Under this rule, for Residential zones the noise emission limits are:

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
50 <u>dB</u> LAeq (15 min)	45 <u>dB</u> LAeq (15 min)	i. 40 <u>dB</u> LAeq (15 min); and ii. 70 <u>dB</u> LAFmax <i>{Note - appeal relates to a Fonterra Limited request to increase the night time noise emission limits}</i>

Management Zones

- [22] The proposal falls under the definition of Visitor Accommodation, which is defined as “temporary accommodation (up to 3 months stay within any calendar year period per customer) on a commercial fee paying basis.” Visitor accommodation excludes homestays or bed and breakfast for up to five guests, which are provided for under the activity “Working from home”. Under the Proposed 2GP, activities have both a land use activity and a development activity component.

Land Use

- [23] Visitor Accommodation is a restricted discretionary activity under Rule 15.3.3.22. Under Rule 15.11.2.1 discretion is restricted to effects on: accessibility (15.11.2.1.a); safety and efficiency of the transport network (15.11.2.1.b); surrounding sites’ residential amenity (15.11.2.1.c and 15.11.2.7.a); and streetscape amenity and character (15.11.2.1.d). Assessment matters are included in Rules 15.11.2.1 and 15.11.2.7.
- [24] Note the proposal is considered to meet the relevant Performance Standards, being Rule 15.5.2.1.a Density (i.e. one residential unit per 500m²) and Rule 15.5.8.6 Minimum car parking (i.e. its meets either Rule 15.5.8.6.1 requiring 1 parking space per 3 guest rooms, or Rule 15.5.8.6.2 requiring 1 parking space per visitor accommodation unit and Rule 15.5.8.10.a requiring one of the parking spaces be a mobility parking space, given that there is a double garage as well as two parking spaces outside).

Development Activity

- [25] The development activity of “parking, loading and access” is covered under Rule 15.3.4.31. The access does not meet Rule 6.6.3.9.a.iii “Width of driveways” which for non-residential activities requires a legal width of 6m and a formed width of 5m. Under Rule 6.6.3.9.b

contravening this standard is a restricted discretionary activity and the matters that discretion is restricted to are effects on the safety and efficiency of the transport network (Rule 6.10.5.6) and assessment guidance is listed in Rules 6.10.2.1 and 6.10.5.6.

- [26] Rule 15.3.2.5 states that development activities (i.e. the dwelling) that are lawfully present at the time any relevant rules in this Plan have legal effect, are not managed by those rules (the rules do not apply to existing lawfully established development activities). This rule is open to interpretation, although it would appear that the infringement of the Rule 6.6.3.9.a.iii "Width of driveways" noted above would not apply. However, for the avoidance of doubt the infringement will be considered, although it is noted that it may be academic as this matter will also be considered under the discretions provided in considering the land use activity for Visitor Accommodation.

Overall Status under both the 2006 District Plan and Proposed 2GP

- [27] Section 88A of the Resource Management Act determines that when an application has been lodged, the activity status remains unaltered despite decisions on a proposed plan being notified. The application was lodged on 7 March 2019, after the release of decisions on 6 November 2018, and the closing date for appeals on 19 December 2018. Accordingly, as there were no appeals to the relevant rules in the Proposed 2GP, the activity status of the application is determined by the status of the activity under the Proposed 2GP as modified by decisions, which is a **restricted discretionary** activity.

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

- [28] 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 NES-CS 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.
- [29] Given that there will be no change in land use relevant to protection of human health, being residential in its nature, it is considered the NESCS does not apply.

NOTIFICATION AND SUBMISSIONS

- [30] The applicant provided signed affected party approval forms from:
- i. R Poulin and D Guevremont, owners and occupiers of [REDACTED] dated 19 February 2019, although R Poulin has since provided a submission which is considered to over-ride the earlier approval.
 - ii. C Kolimlim of 29 Belmont Lane, dated 12 February 2019, however they had not ticked the box identifying whether they are the owner or occupier or both.
 - iii. Y Wang, occupier of 33 Belmont Lane, dated 5 June 2019.

The applicant also provided an email from Y Wang, dated 11 June 2019, stating that on behalf of his cousin Bona (owner of 33 Belmont Lane) he was giving consent to use 27 Belmont Lane for Short Stay Accommodation. This email was signed off with the name Andrew.

- [31] Given the date of these approvals being more than 3 months old and the fact that some may not have fully met the requirements for affected party approvals, the application was limited notified to all those parties the Council considered affected by the proposal, being the immediate surrounding properties listed above, on 10 December 2019.
- [32] On 17 January 2020 the applicant provided updated “Affected Parties” and “Assessment of effects on Environment” sections of the original application, and these were sent to affected parties on 20 January 2020.
- [33] Submissions closed on 30 January 2020. Four submissions were received by the close of the submission period and all were opposed.
- [34] The submissions are summarised in the table below, and a full copy of the submissions is attached in Appendix 2.

Name of Submitter	Address	Support/ Oppose	Summary of Submission	Wish to be heard?	Delegate to commissioners
R Poulin		Oppose	Concerned about noise, privacy and parking. Considers that the steps taken to address their concerns have not been addressed by the applicant. Noise is still a problem after 10pm. Customers look over wall or walk on to the submitter’s property. Parked vehicles, including campervans, jut into the lane. Concerned about the loss of privacy and loss of small-community spirit.	No	No
J S Smith		Oppose	Concerned about the applicants being non-resident and having no influence over the customers. Customers may not find property and arrive at wrong address. The narrowness and one way nature of Belmont Lane poses a risk and the suggested speed limit of 20km/h is considered too high. Manoeuvrability of large campervans will cause passing and parking problems and potential damage to seal. The submitter provided a legal opinion regarding the access being restricted and complicated, comprising of a series of individual rights of way, and mentions that the access does not meet the district plan rules.	No, but would present a joint case with others	Yes
B A Smith		Oppose	The narrow access was originally designed for four homes and customers could introduce campervans, would not be aware of community imposed speed limits and presence of children. Neighbourhood watch would be compromised. Activities on site could be difficult to police if owners are not on site. Commercial activity is inappropriate, would devalue properties and could lead to more applications. Concerned that once granted, the consent could not be retracted if activity proved unsatisfactory.	No	Yes
F L and A M Borren	24 Belmont Lane	Oppose	Notification was flawed as all residents of Belmont Lane are affected as they have ownership of right of way and are responsible for maintenance of the lane. Submissions from renters should be ignored as they are not affected on a permanent basis. Confirmed they are not the owners of 24A Belmont Lane.	No	Yes

			Concerned about security if unknown vehicles and people use the lane, and prefer permanence of occupiers who are part of their little community. Applicants bought up several properties in Dunedin without any intention of living in them when foreign ownership was not legislated. Belmont Lane is a single carriageway serving 23 properties and is not conducive to any commercial occupancy.		
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ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[35] 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

[36] 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.

[37] In this situation, the Proposed 2GP provides for standard residential activity and "working from home" as a permitted activity. "Working from home" must be ancillary to use as a principal place of residence, and can include up to five guests in the form of hosted visitor accommodation such as a homestay or bed and breakfast. Home stays are excluded from Rule 15.5.4 Hours of Operation. Homestays are not excluded from Rule 15.5.7 Maximum Gross Floor Area which is 50m², although it is not clear what the floor area is referring to, presumably the area of bedrooms and bathrooms available for exclusive use by the visitors. For all "Working from home", on-site parking must be provided for all vehicles associated with the activity, and one of these must be a mobility parking space. This is considered the permitted baseline for the land use.

[38] The existing and reasonably foreseeable receiving environment is made up of:

- The existing environment and associated effects from lawfully established activities;
- Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
- The existing environment as modified by any resource consents granted and likely to be implemented; and
- The environment as likely to be modified by activities permitted in the district plan.

- [39] For the subject site, the existing and reasonably foreseeable receiving environment comprises residential activity in the form of a single residential unit.
- [40] For adjacent land, the existing and reasonably foreseeable receiving environment comprises residential activity in the form of single residential units.
- [41] It is against these that the effects of the activity, beyond the permitted baseline, must be measured.

Assessment of Effects

- [39] This section of the report assesses the following environmental effects in terms of the relevant assessment matters of the Proposed 2GP:
- accessibility (15.11.2.1.a);
 - safety and efficiency of the transport network (6.10.2.1, 6.10.5.6, 15.11.2.1.b);
 - surrounding sites' residential amenity (15.11.2.1.c and 15.11.2.7.a); and
 - streetscape amenity and character (15.11.2.1.d).
- [40] The following parts of this report represent my views on the effects of the proposal, having regard to the application, the submissions, and my visit to the site. Note although there were comments from the DCC 3-Waters Development Support Officer, including suggested conditions, their concerns are not a matter for discretion and have not been included.

Accessibility (15.11.2.1.a); and Safety and efficiency of the transport network (6.10.2.1, 6.10.5.6, 15.11.2.1.b);

- [42] The Planner - Transport considers that the parking spaces and manoeuvring area for the visitor accommodation are acceptable. Having visited the site, I concur, and note that if all four bedrooms were used by a group of four couples travelling independently there would be sufficient parking space on site to accommodate all vehicles. Any cleaner on site would presumably arrive after the guests have departed. As noted by the Council's Planner - Transport, submissions have raised concerns about campervans. I consider a campervan would not be suitable to come and go from the parking spaces on the site. I agree with the Planner - Transport that, if consent is granted, a condition be included that prohibits visitors arriving by campervans or other heavy vehicles. This would also address concerns raised by submitters on wear and tear of the seal on Belmont Lane. I do not consider all heavy vehicle movements should be prohibited as there may be reasons why a heavy vehicle may need access to the site. For example, while on a site visit I noted a small truck that appeared to be associated with maintenance work for 34 Belmont Lane. When leaving the site I observed a furniture truck accessing 11 Belmont Lane. Belmont Lane also appears to be regularly serviced by rubbish trucks.
- [43] In terms of accessibility, the main concern is the narrowness of Belmont Lane. Based on measurements taken during a site visit, the lane varies from 3m to 4.9m formed width. As noted by the Planner – Transport, ideally the lane should be 5m formed width for residential activity (as required under the 2006 District Plan), however, the Proposed 2GP requires a formed width of 3.5m for residential activity and a 5m width for “All other activities”. Although the lane does not meet the 5m formed width, this is an existing situation and, as advised by the Planner – Transport, the proposed use of the site for visitor accommodation is expected to generate similar vehicle movement as standard residential use. Therefore the main concern is that drivers arriving for the first time will not be familiar with the lane. I note that this situation would be similar for visitors arriving at a permitted home stay at the site or other sites on the lane. I also note that visitors

arriving for the first time are likely to arrive after midday, rather than in the morning when there would be more traffic travelling out of the lane. I consider that the most likely situation would be uncertainty for the visitors arriving for the first time and locating the site. Any confusion is most likely to occur after driving past 23 Belmont Lane, which is why those properties accessing the lane beyond 23 Belmont Lane were included in the notification. The video prepared by the applicant would assist those arriving for the first time, as would providing the visitors with an aerial map clearly showing the route from Musselburgh Rise to the parking spaces. The Planner – Transport suggests an advice note that all practicable measures be undertaken to ensure that visitors watch the video. I think this could be bolstered by a condition requiring the video to be watched as part of the terms and agreement of renting the property, and that an aerial map be included in any confirmation of a booking. The applicant's agent has also advised verbally that they try to be present to greet the visitors when they first arrive. This would assist, but I do not consider it would need to be a condition. However, I do consider it would be useful for the agents renting the site to be located in Dunedin and available so that if there were any issues accessing the site they would be able to assist.

- [44] In terms of speed limits, the video suggests a maximum speed limit of 20km/h. Submitter J S Smith considers this to be too fast. Having visited the site, I found that 20km/h appeared to be suitable.
- [45] Overall I consider the proposal will have minor adverse transport effects, as there is sufficient parking, the anticipated traffic generation would be no different to residential activity and the initial arrival of visitors unfamiliar with the lane would be similar to a home stay operation and this can be managed through the use of the video and maps.

Surrounding sites' residential amenity (15.11.2.1.c and 15.11.2.7.a)

- [46] The concerns of the submitters regarding residential amenity appears to be noise, privacy and loss of community.
- [47] In terms of noise, Council's Environmental Health Officer has advised that there have been no noise complaints made to the Council for this site. Noise levels from the Proposed 2GP have been listed earlier in this report and these are lower after 10pm. The Council's Environmental Health Officer has recommended that the applicant should provide a noise management policy for guests to make sure there is no risk of noise nuisance to surrounding properties. The applicant's agent has advised that they have placed signs at the door to the outdoor area advising visitors to refrain from using the outdoor space after 10pm. The video also advises no noise, music or talking outside after 10pm. I consider it would be useful to require that meeting the noise management policy be included in the terms and agreement of renting the property. I also consider it would be useful for the agents renting the site to be located in Dunedin and available so that if there were any issues regarding noise they would be able to assist in addressing it. This could be included as a condition of consent, as well as requirement for the agents to advise the surrounding landowners of their contact details, so if they had concerns they could contact them.
- [48] In terms of privacy, this would appear to mainly concern the submitters at 31 Belmont Lane. I note from my site visit that the outdoor area of the applicant's site is higher than the submitter's site, and is separated by the driveway of the submitter's site. The submitter's dwelling is approximately 7.5m from the outdoor area of the applicant's site. The next nearest neighbour is 33/33A Belmont Lane, and the dwelling on that site is approximately 12.5m from the outdoor area of the applicant's site. Both of these dwelling tend to face away from the applicant's site, so that it is the rear of these dwelling facing the outdoor area. As such, I consider there is reasonable separation between neighbouring properties and the outdoor area of the applicant's site. However, the agent

should advise its visitors of the request for privacy of the neighbours. I also consider that the agents should be required to be located in Dunedin and available so that if there were any issues regarding privacy they would be able to assist in addressing it.

- [49] In terms of loss of community, this can be a rather intangible matter. I agree that resident owners or longer term occupiers may wish to invest more in the immediate community. I also consider that for a home stay or bed and breakfast operation on the applicant's site, or any other site on Belmont Lane, the presence of an on-site host may increase the likelihood that the host would want to be part of the community. However this cannot be guaranteed. Dwellings can also be used for many uses, including for holiday homes, student accommodation or periodic rentals (greater than 3 months). I agree with the submitters that if there were future similar applications within the vicinity this would have the effect of eroding the residential community aspect of the neighbourhood. However, I consider this to be a cumulative effect that would need to be taken into account for future applications, if they were to occur. Overall I consider the introduction of one visitor accommodation activity will not erode the residential community aspect of the neighbourhood. There can also be positive effects, such as the opportunity for residents to meet overseas visitors.

Streetscape amenity and character (15.11.2.1.d)

- [50] The proposal does not involve any changes to the existing dwelling or landscaping. Therefore the streetscape amenity and character will remain the same, and I consider the existing development on the site provides suitable separation from other neighbouring properties.

Effects Assessment Conclusion

- [51] I consider the proposed visitor accommodation will have minor adverse effects that can be managed provided the suggested conditions are adopted. There is sufficient parking and separation of the site from neighbouring properties and the proposal will be similar to a residential activity (or one including a home stay operation) in terms of traffic generation. I consider a review clause of the conditions relating to traffic and noise effects should be included, and this may meet some of submitter B A Smith's concerns that once granted the proposal cannot be retracted.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

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

OBJECTIVES AND POLICIES ASSESSMENT

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

- [54] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the 2006 District Plan and the Proposed 2GP were taken into account in assessing the application.

2006 District Plan

- [55] Although many of the objectives and policies of the 2006 District Plan may be deemed inoperative, as there are some appeals against the Objectives and Policies of the Proposed 2GP, the following have been considered as a conservative approach:

Sustainability

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 4.2.1	Enhance the amenity values of Dunedin.	The amenity values of the surrounding area are considered to be maintained.
Policy 4.3.1	Maintain and enhance amenity values.	
Objective 4.2.5	Provide a comprehensive planning framework to manage the effects of use and development of resources.	This land is zoned Residential 1 and visitor accommodation within an existing dwelling is not considered to be incompatible with the adjoining residential activities.
Policy 4.3.7	Use zoning to provide for uses and development which are compatible within identified areas.	
Policy 4.3.8	Avoid the indiscriminate mixing of incompatible uses and developments.	
Policy 4.3.9	Require consideration of those uses and developments which: (a) Could give rise to adverse effects. (b) Give rise to effects that cannot be identified or are not sufficiently understood at the time of preparing or changing the District Plan.	
Policy 4.3.10	Adopt an holistic approach in assessing the effects of the use and development of natural and physical resources.	

Residential

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 8.2.1	Ensure that the adverse effects of activities on amenity values and the character of residential areas are avoided, remedied or mitigated.	The amenity values of the residential area will be maintained.
Policy 8.3.1	Maintain or enhance the amenity values and character of residential areas.	
Policy 8.3.15	Provide for Commercial Residential Activities within identified areas.	Commercial residential activities are provided for in the Residential 1 zone as a discretionary activity, and the scale and its location within the existing dwelling is considered to be suitable.

Transportation

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 20.2.2	Ensure that land use activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.	The proposed activity will not be significantly different to a residential activity (or one including a home stay operation) and any adverse effects can be addressed through management of the site.
Objective 20.2.4	Maintain and enhance a safe, efficient and effective transportation network.	

Environmental Issues

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
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.	Provided the noise levels can be met, the public health of neighbours will not be affected.

Policy 21.3.3	Protect people and communities from noise and glare which could impact upon health, safety and amenity.	
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Proposed 2GP

The following Proposed Plan objectives and policies are considered relevant to the proposal (noting that the underlined objective or policy indicates that it is subject to appeal):

Strategic Directions

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
<u>Objective 2.2.6</u>	The risk to people's health and safety from contaminated sites, hazardous substances, and high levels of noise or emissions is minimised	Provided the noise levels can be met, the public health of neighbours will not be affected.
<u>Policy 2.2.6.1</u>	Protect people from noise, light or offensive emissions that may create adverse effects on health or well-being through rules that: a. ... f. restrict activities that generate high levels of noise from locating in residential zones.	
Objective 2.4.1	The elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected and enhanced. These include: a. ... e. the amenity and aesthetic coherence of different environments; and f. ...	The proposal provides visitors with the ability to live within an urban community and there is no proposal to change the existing development on the site.
Policy 2.4.1.5	Maintain or enhance the attractiveness of streetscapes, public open spaces and residential amenity by using rules that manage building bulk and location, site development and overall development density.	

Transportation

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
<u>Objective 6.2.3</u>	Land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods.	The proposed activity will not be significantly different to a residential activity (or one including a home stay operation) and any adverse effects can be addressed through management of the site. Also there is sufficient parking and manoeuvring space on site.
Policy 6.2.3.3	Require land use activities to provide adequate vehicle loading and manoeuvring space to support their operations and to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on the safety and efficiency of the transport network	
Policy 6.2.3.4	Require land use activities to provide the amount of parking necessary to ensure that any overspill parking effects that could adversely affect the safety and efficiency of the transport network are	

	avoided or, if avoidance is not practicable, adequately mitigated	
Policy 6.2.3.9	Only allow land use and development activities or subdivision activities that may lead to land use or development activities, where: a) adverse effects on the safety and efficiency of the transport network will be avoided or, if avoidance is not practicable, adequately mitigated; and b) ...	
Objective 6.2.4	Parking areas, loading areas and vehicle accesses are designed and located to: a) provide for the safe and efficient operation of both the parking or loading area and the transport network; and b) facilitate the safe and efficient functioning of the transport network and connectivity for all travel modes.	
Policy 6.2.4.1	Require parking and loading areas, including associated manoeuvring and queuing areas, to be designed to ensure: a) the safety of pedestrians travelling on footpaths and travelling through parking areas; b) that vehicle parking and loading will be carried out safely and efficiently; c) that any adverse effects on the safe and efficient functioning of the transport network are avoided, or if avoidance is not practicable, will be no more than minor; d) the safe and convenient access to and from parking and loading areas for vehicles, emergency vehicles, pedestrians and cyclists; and e) that mud, stone, gravel or other materials are unlikely to be carried onto hard surface public roads or footpaths.	
Policy 6.2.4.2	Require driveways to be designed to ensure that: a) the surfacing and gradient of the driveway allows it to be used safely and efficiently; b) mud, stone, gravel or other materials are unlikely to be carried onto hard surface public roads or footpaths; c) the width of the driveway is sufficient to allow the type and number of vehicles (including emergency vehicles), likely to be using it to do so safely and efficiently; and d) sufficient distance is provided between shared driveways and dwellings.	

Public Health and Safety

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 9.2.2	Land use, development and subdivision activities maintain or enhance people's health and safety.	Provided noise levels for the residential zone are maintained the proposal is considered to be consistent with this objective.
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.	
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Residential Zones

	<u>Objective / Policy</u>	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
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.	The proposal will provide for one visitor accommodation activity of a scale not significantly different to a home stay within an existing residential area.
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.	
Policy 15.2.1.2	Provide for a limited range of major facility activities and commercial activities, including dairies, registered health practitioners, training and education, and visitor accommodation, where the effects of these activities will be managed in line with objectives 15.2.3 and 15.2.4, and their policies.	
<u>Policy 15.2.1.5</u>	Avoid commercial activities, other than those expressly provided for, from locating in residential zones, unless: a) the activity will not detract from the vibrancy and functioning of the centres hierarchy; and b) the site is adjacent to a centre and it provides a logical extension to a centre; and c) the centre is at, or very close to, capacity; and d) the development activities are done in accordance with the performance standards of the street typology (if relevant) of the adjacent centre zoned sites; and e) the development maximises opportunities for integration with the centre; or f) ...	Visitor accommodation is expressly provided for within the Residential zone as a restricted discretionary activity.
Objective 15.2.2	Residential activities, development, and subdivision activities provide high quality on-site amenity for residents.	The existing development of the site provides high quality on-site amenity for residents.
Policy 15.2.2.1	Require residential development to achieve a high quality of on-site amenity by: a) providing functional, sunny, and accessible outdoor living spaces that allow enough space for on-site food production, leisure, green space or recreation; b) having adequate separation distances between residential buildings; c) retaining adequate open space uncluttered by buildings; and d) having adequate space available for service areas.	

Objective 15.2.3	Activities in residential zones maintain a good level of amenity on surrounding residential properties and public spaces.	The existing development of the site provides a good level of amenity for surrounding residents. Also, the proposal will provide for one visitor accommodation activity of a scale not significantly different to a home stay within an existing residential area
Policy 15.2.3.1	Require buildings and structures to be of a height and setback from boundaries that ensures there are no more than minor effects on the sunlight access of current and future residential buildings and their outdoor living spaces.	
Policy 15.2.3.2	Require working from home, dairies, training and education, and community and leisure - small scale to operate in a way (including hours of operation) that avoids or, if avoidance is not practicable, adequately mitigates, noise or other adverse effects on the amenity of surrounding residential properties.	
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.	
Objective 15.2.4	Activities maintain or enhance the amenity of the streetscape, and reflect the current or intended future character of the neighbourhood.	The amenity values of the residential area will be maintained.
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, 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.	

Overall Objectives and Policies Assessment

- [56] Although consideration should be given to the weight each Plan has, it is noted that the proposed activity is considered to be generally consistent with the relevant objectives and policies of both Plans, and these support the granting of consent

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

- [57] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. Given the localised nature of the activity, the Regional Policy Statement for Otago is not considered to provide any specifically relevant provisions.

DECISION MAKING FRAMEWORK

Part 2 Matters

- [58] Based on the findings above, it is evident that the proposal would satisfy Part 2 of the Resource Management Act 1991. Granting of consent would promote the sustainable management of Dunedin's natural and physical resources

Section 104

- [59] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall will be minor and can be adequately avoided remedied or mitigated provided recommended conditions of consent were adhered to.
- [60] 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.
- [61] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be consistent with the key objectives and policies relating to both the Dunedin City District Plan and the Proposed 2GP.
- [62] 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 Regional Policy Statement for Otago is not particularly relevant to this localised application within the residential area.

Other Matters

- [63] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application. I consider there are no other matters to be considered.

CONCLUSION

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

RECOMMENDATION

Land Use LUC-2019-122

*That pursuant to section 34A(1) and 104C and after having regard to section 104 of the Resource Management Act 1991, and the Operative Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to a **restricted discretionary** activity being the establishment of visitor accommodation at 27 Belmont Lane, Dunedin, legally described as Lot 1 DP 9619 (held in Computer Freehold Register OT414/58), subject to conditions imposed under section 108 of the Act.*

Conditions

LUC-2019-122

- The proposed activity must be undertaken in general accordance with the information provided with the resource consent application received by the Council on 7 March 2019*

and updated information received on 17 January 2020 (including the introductory video), except where modified by the following conditions:

2. *There must be no more than eight guests on site at any one time.*
3. *Guests must not access the site using heavy vehicles, such as campervans.*
4. *All four parking spaces on the site must be made available for the guests.*
5. *The activity must be managed by a person or agent who is resident in Dunedin.*
6. *In the first week of October every year (or within a week of any change of details) the person or agent managing the property must provide their name and contact details, including phone number, by posting a flyer in the letterboxes of the following properties: 22, 24A, 24, 26, 29, 31, 33/33A, 34 Belmont Lane.*
7. *The person or agent managing the property must prepare, within one month of granting this consent, an aerial photographic map showing the access from Musselburgh Rise to the car parking spaces on the site and a Site Management Plan that includes advice that the area is a residential neighbourhood where expectations are that there should be no disruptive noise, particularly after 10pm in the outdoor area, and privacy should be respected. The aerial photographic map and Site Management Plan must be to the satisfaction of the Manager, Resource Consents.*
8. *A notice must be placed by the door accessing the outdoor area reminding guests of the requirements of the Site Management Plan.*
8. *The person or agent managing the property must ensure that all guests booking the site agree to a condition that states they have viewed the introductory video, aerial photographic map and Site Management Plan, and will abide by the Site Management Plan.*
9. *Under Section 128 of the RMA the Council may once per year, serve notice of its intention to review the conditions of this consent at the Consent Holder's cost in order to address any traffic or noise effects which may arise from the proposed activity.*

Advice Notes

Transportation

1. Pursuant to Schedule 5 of the Property Law Act, a formal agreement should be drawn up between the owners/users of Belmont Lane in order to clarify their maintenance responsibilities.

Noise

2. The activity will need to meet the noise standards of the Proposed Second Generation Dunedin City District Plan.

General

3. In addition to the conditions of a resource consent and the noise standards of the Proposed Second Generation Dunedin City District Plan, 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.

4. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
5. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.
6. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
7. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.

REASONS FOR RECOMMENDATION

- [65] Provided that the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated.
- [66] The proposal is considered to be generally consistent with the objectives and policies of both the Dunedin City District Plan 2006 and the Proposed Second Generation Dunedin City District Plan.

Report prepared by:



Robert Buxton
Consultant Planner

3 March 2020

Date

Report checked by:



Phil Marshall
Senior Planner

3 March 2020

Date

Video link setting out access and etiquette

<https://www.youtube.com/watch?v=SvfNEjqlDRM&feature=youtu.be>