

3 November 2016

V & M Hanna
C/O Terramark Ltd (Maaik Duncan)
PO Box 235
Dunedin

RESOURCE CONSENT APPLICATION: LUC-2016-170
7 HUNTLY ROAD
DUNEDIN

INTRODUCTION

- [1] Your application to establish a residential dwelling on an undersized Residential 5 allotment was processed on a notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991 (the Act). No submitters wished to be heard in respect of the application and therefore, pursuant to Section 100 of the Resource Management Act 1991, the application was considered by the Resource Consents Manager, under delegated authority, on 3 November 2016.
- [2] I advise that the Council has **granted** consent to the application. The decision is outlined below, and the decision certificate is attached to this letter.

DESCRIPTION OF PROPOSAL

- [3] Resource consent is sought to establish a residential dwelling on an undersized allotment. A dwelling design is not identified however, the Applicant has indicated that a future dwelling will comply with the bulk and location provisions.
- [4] The Applicant proposes to dispose of effluent via an on-site sewerage disposal system. Stormwater will be disposed of to ground. A water connection will be applied for from Huntly Road.
- [5] A vehicle crossing is not identified and no excavation is proposed to establish a dwelling on the site.

DESCRIPTION OF SITE AND LOCATION

- [6] The site comprises a rectangular shaped allotment adjoining Huntly Road. The site is vacant and grassed with mature vegetation at the boundary growing over the road reserve. The site has previously been used in association with the residential use on 9 Huntly Road (to the west). Part of the site is currently utilised for an on-site turning circle for the dwelling on 9 Huntly Road. The eastern boundary adjoins 5 Huntly Road which contains an existing dwelling towards the rear of that site. Along the southern boundary, and extending

along almost all of the dwellings adjoining this part of Huntly Road is a high dense hedge. The hedge separates the residential developments adjoining Huntly Road from rural zoned land to the south.

- [7] The site is legally described as Lot 9 DP 16246 (Computer Freehold Register OT14B/1154) and comprises of 838m².

HISTORY OF THE SITE

- [8] The subject site was created following subdivision in the mid 1970's involving a subdivision of twelve residential sites out of a larger rural holding. Eleven of the twelve lots ranged from 805m² to 847m², with one larger parcel of 1395m². Consent was granted in the late 1970's and Council records state that the subdivision was surveyed shortly thereafter, but was not deposited until 1991. Despite a previous zoning as Residential C under the Transitional Plan, the 1995 Plan zoned the lots Rural.
- [9] Resource consent was granted on 20 June 1996 for the establishment of residential activities on the sites which did not yet have a residential activity – this included 7 Huntly Road (RMA960627). The consent expired in 2002.
- [10] The 1999 version of the proposed District Plan changed the zoning of the land within the land which was subject to that consent from Rural to Residential 5. At that time and thereafter, the Residential 5 zone has permitted residential activity on sites of 1000 m² or greater.
- [11] Individual resource consents have been issued for the erection of dwellings on undersized allotments within the original subdivision area.

ACTIVITY STATUS

- [12] Dunedin City currently has two district plans: the Operative Dunedin City District Plan (the Operative Plan), and the Proposed Second Generation Dunedin City District Plan (the Proposed Plan). Until the Proposed Plan is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
- [13] 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 the Operative Plan in place at the time of the decision that must be had regard to when the application is assessed.

Dunedin City District Plan

- [14] The subject site is zoned **Residential 5** in the Dunedin City District Plan. Huntly Road is classified as a **District Road** and Allanton Road as a **Regional Road** in the Council's Roading Hierarchy.
- [15] Rule 8.11.1 permits residential activity at a density of not less than 1000m² per residential unit. The subject site has an area of only 838m². The proposal is therefore a non-complying activity in accordance with Rule 8.11.6.
- [16] As a non-complying activity, the permitted activity conditions and performance standards of the district plan do not directly apply to the activity. However, they do offer guidance as to the suitability of the proposed activity. The Applicant has indicated that a future dwelling design will comply with the current bulk and location controls with the exception of the separation distance between the new vehicle access and the nearby Allanton Road/Bell

Street/Huntly Road intersection. A minimum 70m separation distance is required from the intersection, however, a waiver is provided under Rule 20.5.7(iii)(b) if the location of the access is as far to the west of the site boundary as possible ('most nearly complies with the provisions'), since any location for the access would still breach the rule.

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

- [17] The site is located in the **Township and Settlement Zone**. The site is within a **No DCC Reticulated Wastewater Area** and is identified within a **Hazard 2 Flood Overlay Zone**. Huntly Road is classified as a **Collector Road** and Bell/Allanton road as an **Arterial Road** in the Council's Roading Hierarchy.
- [18] In this instance, there are no relevant 2GP rules to consider.
- [19] Overall, application is considered as a non-complying activity in accordance with the Operative Plan.

WRITTEN APPROVALS, NOTIFICATION AND SUBMISSIONS

- [20] Written affected party approvals were received from parties in the following table:

Person	Owner	Occupier	Address	Obtained
V H and M H C Hanna (Applicants)	✓	✓	9 Huntly Road	Yes

- [21] In accordance with section 104 of the Act, where written approval has been obtained from affected parties the consent authority cannot have regard to the effects of the activity on that person.
- [22] 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.
- [23] It was therefore determined that the effects of the proposal would be restricted to a limited number of parties being the owner and occupier of the property at 5 Huntly Road which adjoins the site on the eastern boundary. Given the lack of sufficient site area, the adjoining property could have anticipated that there would be no development on the adjoining site. The written affected party approval of this party was not obtained and the application was, therefore, notified on a limited basis on 14 September 2016.
- [24] Copies of the application were sent to the following parties with submissions closing on 14 September 2016:
- S T & J K Casey, 5 Huntly Road, Outram
- [25] Submissions closed on 12 October 2016. No submissions were received by the close of the submission period.

Requirement for hearing

- [26] As it is recommended in the assessment below that resource consent be granted to the activity, no submissions were received in respect of the application and the applicant does not wish to be heard, it is considered that there is no need for a hearing of the application (section 100 of the Act). Accordingly, the Manager Resource Consents, in consultation with the Chairperson of the Consents Hearings Committee, determined that a hearing is not necessary and that the decision can be made under delegated authority.

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[27] 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.*

[28] 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.

[29] There is no assistance provided by the baseline in understanding the effects of the activity. No residential activity is permitted on the site without resource consent given the allotment size. Therefore, it is not considered appropriate to apply the permitted baseline to the application.

[30] The assessment of effects is guided by the assessment matters in Sections 8.13 (Residential) and 20.6 (Transportation) of the Dunedin City District Plan considered relevant to the proposed activity. Accordingly, assessment is made of the following effects of the proposal:

- Sustainability
- Amenity Values;
- Transportation;
- Access to Infrastructure;
- Hazards;
- Positive Effects;
- Cumulative Effects.

Dunedin City District Plan

Sustainability

[31] The site is located within a small rural township which has developed independently of a main urban centre. In these townships which are not serviced by a public sewerage system, any new development needs to demonstrate they can dispose of effluent effectively and safely within the boundaries of the site. While not meeting the required 1000m² area requirement for a dwelling to be located on the site without resource consent, the Applicant considers that sufficient site area exists to dispose of effluent adequately without having an adverse effect on the environment and they have submitted the WEB Environmental Consulting documentation in support of this. The design of the system and its potential effect on the environment will be assessed at the time of building consent and the Applicant may also be required to obtain a consent from the Otago Regional Council for a discharge

of human sewage to land. An advice note is included in the decision certificate to alert the Consent Holder to these requirements.

- [32] The issue of water supply is addressed by providing a new water connection. As detailed below, the Council's Water and Waste Team have confirmed that a dwelling on the site will be permitted to connect to the 100mm diameter water main pipe in Huntly Road.
- [33] This demonstrates that the proposal represents a sustainable development and good utilisation of the land. The level of infrastructural service is appropriate for the proposed intensity of development and consistent with the density of development that was anticipated in this area as early as 1977.

Amenity

- [34] Provided control is maintained over the bulk and location of any future dwelling on the site, the amenity of the area will be maintained. The existing driveway at 9 Huntly Road which currently utilising turning space within 7 Huntly Roads will be split to allow independent access for this dwelling. No other changes will be made thereby maintaining the amenity of the adjoining properties.
- [35] It is anticipated that there will be some excavation on the site to establish a building platform and access. To ensure that any dust, soil, does not cause nuisance to the adjoining property owners, a condition of consent is attached to the decision certificate requiring any dust and/or soil to not escape the property boundary.

Transportation

- [36] The location of the vehicle crossing is not identified on the Site Plan. A vehicle crossing located at the western end of the road frontage could comply with the minimum separation distance required from the intersection of Huntly road (District Road) with Allanton Road (Regional Road). However, any other location is likely to breach the 70m minimum separation rule from the intersection to the crossing. Council's Transport Officer has not identified any concerns with the creation of a vehicle crossing on this site, however, a condition of consent is considered appropriate to ensure that the final access design is subject to final approval by the Transport Officer.
- [37] A condition of consent is also recommended by the Transport Officer in order to ensure that sufficient space for on-site manoeuvring and parking is provided once a dwelling is established. The site adjoins a District Road thereby restricting any reverse manoeuvres onto Huntly Road. On-site manoeuvring can still be achieved at 9 Huntly Road without the turning area within 7 Huntly Road.
- [38] As set out above, it is anticipated that there will be some excavation on the site to establish a building platform and access. Given the proximity to Huntly Road, a District Road, conditions of consent are included to ensure that any dust, soil, does not enter the road, and to ensure that all unloading and unloading of trucks with excavation or fill material is carried out within the site.
- [39] Overall, I concur with the Transport Officer's recommendations and consider that any adverse effects on the Transport network are mitigated.

Access to Infrastructure

Water Supply

- [40] As set out above, the Council's Water and Waste Services Officer has confirmed that a new water connection will be permitted to connect to the 100mm diameter water main pipe in Huntly Road.

Effluent Disposal

- [41] Council records show that the traditional means of effluent disposal in Outram was via soak holes. However, due to the requirements of the Resource Management Act 1991 and the recognised need to protect the Taieri groundwater, soak holes are no longer considered acceptable. For housing development on sections under 1000m² the Council requires that an effluent disposal system be installed that can distribute the effluent and treat it so that it is disposed of at or near the surface without causing a health nuisance and without contaminating the groundwater. At the time of the 1977 subdivision, it was recognised that the site contained soils receptive to disposal of sewerage in this manner.

- [42] The WEB Environmental Consulting report dated 1996 has been re-submitted to the Council in support of the soil conditions still being receptive to disposal of sewage. That report was produced in response to concerns expressed by the Council's Environmental Health Department when considering the application for subdivision of the 12 lots (including the subject lot). The report concludes that:

"...the lots of this subdivision are of a size and of suitable soils and drainage characteristics for on-site disposal/treatment of septic tank effluent by standard trench or bed type soil absorption systems. A disposal area of 20m² is required for a standard dwelling. Because of the high permeability of the sandy sub-soil, uniform application of effluent to entire design surface area of trenches or bed is required. This requirement dictates that effluent should be pumped (ie. dose-loaded) to the trenches or beds, and we further suggest that effluent distribution pipes be used".

- [43] Council's Water and Waste Services department have raised no objection to the use of an effluent disposal system on the site. On application for building consent (plumbing and drainage), the effluent disposal system will be assessed by an approved designer which will ensure that the WEB proposed effluent disposal system is designed according to current standards.

Stormwater

- [44] There are no Council reticulated stormwater services in the vicinity of the site. The Applicant proposes to discharge stormwater to ground or collected for on-site use. Council's Water and Waste Service department is satisfied that the site provides sufficient impervious area for stormwater drainage, and once developed, the property, will have very little site coverage. For this reason, the Water and Waste Services department do not require a stormwater management plan. As stormwater can cause a nuisance an advice note is included in the decision certificate alerting the Consent Holder to requirements in relation to management of stormwater on the site.

Hazards and Safety

- [45] The Council's Consultant Engineers, MWH have assessed the application in respect of several hazards that are identified on the property; Hazard ID: 10111 Seismic - Intensified Shaking; Hazard ID: 11407 Seismic - Liquefaction; Hazard ID: 11582 Flood – Overland Flowpath. The Engineer notes that the ground is predominantly underlain by poorly consolidated marine or estuarine sediments with a shallow groundwater table. The Engineer also notes the susceptibility to flooding by the Taieri River to the east and by the streams that drain the Maungatua Range to the north and internal runoff and overland flow. The Engineer recommends conditions of consent if granted, which ensure that good ground is established and a dwelling is designed to meet suitable minimum floor levels. These are included as advice notes in the decision certificate.

Positive Effects

- [46] The development of the site results in the development of underutilised land surplus to the needs of the owner of 9 Huntly Road. This will have a positive effect on the provision for residential development in an already confined residential area.

Cumulative Effects

- [47] 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".

- [48] 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'.
- [49] The potential for cumulative adverse effects is managed by the location of the development within the confines of the 12 dwellings that were approved the previous consent, RMA960627. It was accepted by Council at that time, that the site was of sufficient soil type for onsite drainage despite its undersized nature. The situation is unchanged and therefore, any adverse effects resulting from additional development beyond the subject site will be assessed at the time.

Proposed 2GP

- [50] In this instance, there are no applicable assessment rules.

Effects Assessment Conclusion

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

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of Objectives and Policies of the Dunedin City District Plan (section 104(1)(b)(vi))

- [52] Section 104(1)(b)(vi) of the Act requires the Council to have regard to any relevant provisions of the Dunedin City District Plan and the proposed 2GP.
- [53] 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.	The proposed development provides for additional residential development within an existing residential area. Therefore, the proposal is considered to be consistent with this objective and policy. The 1000m ² site area limits residential development in the Residential 5 Zone. Previous decisions for development in the Huntly Road area have recognised that the size area is not indicative of attempts by Council to prevent the establishment of residential activity but rather mirrors the minimum lot area size deemed appropriate for unserviced residential allotments and is applied generically across the whole Residential 5 Zone. It allows for the ability to ensure that adequate provision can be made for effluent and stormwater drainage. Since it has been demonstrated that the provision of infrastructure is of an appropriate standard (including on-site effluent disposal) the proposal is considered to be consistent with the objectives and policies outlined here.
Objective 4.2.3 Sustainably manage infrastructure	
Objective 4.2.5 Provide a comprehensive planning framework to manage the effects of use and development of resources.	
Policy 4.3.5 Require the provision of infrastructure services at an appropriate standard.	
Policy 4.3.7 Use zoning to provide for uses and developments which are compatible within identified areas.	
Policy 4.3.8 Avoid the indiscriminate mixing of incompatible uses and developments.	
Policy 4.3.10 Adopt an holistic approach in assessing the effects of the use and development of natural and physical resources.	

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.	The proposal does not have sufficient site area, therefore the activity is a non-complying activity. Despite this, the proposal is considered to be consistent with this objective and policy as sufficient space is provided on the site for a dwelling to be located such that it could still comply with the bulk and location provisions. The design of a dwelling is not included in the application however, a condition of consent requiring the dwelling to comply with the current bulk and location rules will mitigate any potential adverse effects on residential amenity of the site and adjoining sites.
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.	disposal can be adequately addressed by a condition of consent requiring a new water connection and at the time of building consent (effluent disposal design) the effects of development of the site can be mitigated and this ensures the proposal is not inconsistent with these objectives and policies. The issue of lot sizes being less than 1000m² was considered at the time RMA960627 was processed. Consideration was given to the ability of the sites (including the subject site) to deal with drainage. Further consideration has been given to this ability, and the site is accepted as being of a sufficient soil type and area to provide for on-site drainage disposal. The Council's Water and Waste Team do not oppose the development subject to conditions of consent requiring a new water connection to be approved and metered.
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Hazards Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 17.2.1 Ensure the effects on the environment of natural and technological hazards are avoided, remedied or mitigated.	The proposal is consistent with this objective and policies. The hazards have been identified and advice notes attached to the decision certificate alert the consent holder to the need to ensure that the future dwelling is designed taking into account the hazards present.
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.	
Policy 17.3.3 Control development in areas prone to the effects of flooding.	

Transportation Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 20.2.2 Ensure that land use activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.	The proposal is consistent with the objectives and policies outlined here. A condition of consent will require the final vehicle access design to be submitted and approved by the Planning Manager to mitigate any potential adverse effects associated with the proximity to the intersection of Huntly/Bell and Allanton Road.
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.	

Proposed 2GP

- [54] The objectives and policies of the 2GP must be considered alongside the objectives and policies of the current district plan. The proposal is considered to be consistent with the following 2GP objectives and policies:
- [55] **Objective 2.2.1 and Policies 2.2.1.1, 2.2.1.3, 2.2.1.6, 2.2.1.8 (Strategic Directions)** seek to manage land use and development based on the sensitivity of the use and the risk from natural hazards to people, communities and property. The proposal is **consistent** with this objective and policy. The dwelling is able to be designed to mitigate any potential risk associated with the location of the site within several hazard identified areas.
- [56] **Objective 2.2.4 and Policy 2.2.4.5 (Strategic Directions)** seek to limit areas where water supply, wastewater and/or stormwater network connections are allowed to zones where network connections are anticipated to avoid pressure for changes to the type or density of development provided for in rural or rural residential zones where that infrastructure passes through. No additional pressure is placed on the system, as the Council anticipated the proposed level of development of the site in 1977. The water connection runs through the site and services properties either side of the subject site. The proposal is **consistent** with this objective and policy.
- [57] **Objective 2.2.5 and Policy 2.2.5.2 (Strategic Directions)** seek to encourage on-site stormwater and wastewater management through rules that provide an alternative to connecting to reticulated infrastructure. The proposal is **consistent** with this objective and policy because the site is self-sufficient in terms of on-site wastewater disposal and managing stormwater.
- [58] **Objective 2.7.1 and Policies 2.7.1.1 and 2.7.1.3 (Strategic Directions)** seek to restrict the density of activity outside of areas reticulated for wastewater, water supply, or stormwater to ensure these are able to be self-sufficient where public infrastructure is not provided. The proposal is **consistent** with this objective and policy – the area is reticulated for water supply, with stormwater and wastewater being disposed of on-site.
- [59] **Objective 6.2.3 and Policies 6.2.3.3, 6.2.3.4 and 6.2.3.9 (Transportation Section)**, which seek to ensure that land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods. The proposal is **consistent** with this objective and policies. The Council's Transport Officer is satisfied that a future vehicle access will meet the criteria for a waiver from the minimum vehicle access separation distance from an intersection.
- [60] **Objective 11.2.1 and Policies 11.2.1.3, 11.2.1.5, 11.2.1.8 (Natural Hazards)** seek to require new buildings for sensitive activities (i.e. including residential) to have a floor level that mitigates risk from flooding and rising groundwater to low. The proposal will be **consistent** with this policy. It is anticipated that any dwelling will need to be designed subject to the recommended floor level at the time of building consent.
- [61] **Objective 15.2.2 and Policy 15.2.2.1 (Residential Zones)**, which seek to ensure that residential activities, development, and subdivision activities provide high quality on-site amenity for residents. The proposal is **consistent** with this objective and policy. The proposal provides for residential activity within a residential area. It is anticipated that all of the bulk and location controls will be complied with on the site.
- [62] **Objective 15.2.3, 15.2.4 and Policies 15.2.3.1, 15.2.4.1, 15.2.4.2 (Residential Zones)**, which seek to ensure that activities in residential zones

maintain a good level of amenity on surrounding residential properties and public spaces. As set out above, the site is located in the centre of two residential properties and provides sufficient space for a complying development. The dwelling at 9 Huntly Road is unaffected by the reduced site area and changed access orientation resulting from the separation of the subject site from that property. Policy 15.2.4.2 requires residential activity to be at a density that reflects the existing residential character or intended future character of the zone. The development of this site, realises a vision for the development of this site in 1977.

- [63] As the Proposed 2GP is not far through the submission and decision-making process, the objectives and policies of the Dunedin City District Plan have been given more consideration than those of the Proposed 2GP.
- [64] Having regard at the relevant objectives and policies individually, and considering these in an overall way, the above assessment indicates that the application is consistent with those provisions and overall, not contrary to objectives and policies of either the Operative Plan or the Proposed 2GP as this will inform your 104D gateway considerations.]

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

- [65] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. The Regional Policy Statement for Otago was made operative in October 1998 and has been taken into account. The regional policy statement has a regional focus that includes development in hazard areas. The proposal was assessed against the objectives and policies of Chapter 4: Manawhenua, Chapter 5: Land and Chapter 11: Natural Hazards is relevant in that it seeks to promote sustainable management of Otago's land resources. In particular, Objectives 11.4.1 seek to avoid or mitigate the adverse effects of natural hazards within Otago to acceptable levels and Policy 11.5.3 seeks to restrict development on sites or areas recognised as being prone to significant hazards, unless adequate mitigation can be provided. Appropriate floor levels for the proposed dwelling will ensure that the proposal is consistent with the objectives and policies promoted in the RPS.
- [66] The Proposed RPS is under review and Otago Regional Council has released its decisions on Saturday 1 October 2016. The PRPS is now subject to an appeal period of 30 working days after the decision. The proposal was assessed against the PRPS, in particular, objectives and policies of Chapters 1 (Kāi Tāhu Values, Rights and Interests/Kaitiakitaka and Chapter 3 (Resilient, Safe and Healthy Communities).
- [67] Objective 1.1 and 1.2 seek to take the principles of the Treaty of Waitangi into account and sustain Kāi Tāhu values, rights and customary resources. Policies 1.1.2 and 1.2.1 seek to manage the natural environment to support Kāi Tāhu wellbeing.
- [68] Objective 3.2 and policies 3.2.1 – 3.2.11 recognise the risk that natural hazards pose to the community and seek to reduce the potential impacts on people's safety, health and wellbeing. Policy 3.2.10 in particular, seeks to apply a precautionary approach to identifying, assessing and managing a natural hazard risk which is uncertain or unknown.
- [69] Objective 3.4 seeks to achieve good quality infrastructure and services that meet community needs. Policy 3.4.1 seeks to achieve the integration of infrastructure with land use by designing to meet the actual and reasonably foreseeable land use change. Policy 3.4.2 seeks to manage infrastructure activities to maintain or enhance health and safety of the community and to

reduce adverse effects of those activities including cumulative adverse effects on natural and physical resources.

- [70] Objective 3.7 seeks to ensure a high quality built environment that is well designed and integrates effectively with the adjoining urban environment, thereby reducing pressure on the surrounding productive and natural environment and policies designed to achieve objective 3.7 seek to promote low impact design techniques and warmer buildings. The proposal is not considered to be inconsistent with these objectives and policies.
- [71] Overall, the proposal is not considered to be inconsistent with the relevant objectives and policies of both the current and proposed Regional Policy Statement for Otago.

DECISION MAKING FRAMEWORK

Part 2 Matters

- [72] When considering an application for resource consent, an assessment of the proposal is to be made subject to the matters outlined in Part 2 of the Act. This includes the ability of the proposal to meet the purpose of the Act, which is to promote the sustainable management of natural and physical resources. Furthermore, the matters of national importance in section 6 must be recognised and provided for, and particular regard must be had to the matters listed in section 7.
- [73] Of particular relevance to this application are sections 5(2)(c) "avoiding, remedying or mitigating any adverse effects of activities on the environment", 6(f) "the protection of historic heritage from inappropriate subdivision, use and development", 7(c) "the maintenance and enhancement of amenity values" and 7(f) "the maintenance and enhancement of the quality of the environment".
- [74] In respect of Section 5(2)(c), I consider that the proposed development will not create more than minor adverse effects on the environment when considered in the context of the receiving environment and the provisions of the District Plan as they relate to Residential Zones. The proposal does not incorporate any denser residential living on the site than that which is provided for under the plan. Only one dwelling is proposed on the site. The potential to create tensions for existing infrastructure are avoided by the provision of a water connection which was anticipated in 1977 as being required by the development of the site. Additionally, the Applicant proposes on-site stormwater and effluent disposal design systems which do not place additional demand on the service infrastructure and/or the groundwater quality.
- [75] I therefore consider that the proposal will avoid, remedy or mitigate adverse effects to a degree that satisfies the provisions of the District Plan. When considering the proposal overall, and in considering the positive effects that would result for the subject and neighbouring sites, the proposed development would be consistent with the purpose of the Act outlined in Section 5 of that legislation.
- [76] Having regard to Section 6 of the Act, there are no matters of national importance which can be considered to be adversely affected by the development of this site.
- [77] Having regard to Section 7(b), the proposal can be considered to be an efficient use and development of an existing physical resource. While the proposal involves development of an undersized allotment, the new

development is in my opinion, an efficient use of a land resource which was surplus to the enjoyment of the property at 9 Huntly Road.

- [78] In relation to Sections 7(c) and 7(f) regard has been given to whether the proposal will provide an acceptable level of amenity to the residents on the subject site and adjoining. While consideration has been given to the existing level of on-site amenity values, the proposal is considered to maintain the amenity of the low to medium density residential environment adjoining and along the southern side of Huntly Road. Overall, I consider the proposal is consistent with those matters outlined in Part 2 of the Act.
- [79] Overall, I consider the proposal is consistent with those matters outlined in Part 2 of the Act.

Section 104D

- [80] Section 104D of the Act specifies that a resource consent for a non-complying activity must not be granted unless the proposal can meet one of two limbs. The limbs of section 104D require either that the adverse effects on the environment will be no more than minor, or that the application is for an activity which will not be contrary to the objectives and policies of either the relevant plan or the relevant proposed plan.
- [81] As discussed above in the assessment of effects, it is considered that there will be no adverse effects on the environment other than the requirement for on-site sewage disposal and stormwater disposal to ground. Any adverse effects can be managed through adequate design (which is assessed at the time of building consent). There are positive effects resulting from meeting the demand for residential allotments in this area through infill development of undeveloped land within the confines of this historical subdivision.
- [82] Overall I consider that the actual and potential effects associated with the proposed development will be able to be mitigated by imposing consent conditions so as to be no more than minor and therefore the first 'gateway' test of section 104D is met. Only one of the two tests outlined by section 104D need be met in order for Council to be able to assess the application under section 104(1)(a) of the Act.
- [83] However, only one of the two tests outlined by section 104D need be met in order for Council to be able to assess the application under section 104(1)(a) of the Act. In order for a proposal to fail the second test of section 104D, it needs to be contrary to the objectives and policies of the Dunedin City District Plan and the Proposed 2GP. In order to be deemed contrary, an application needs to be repugnant to the intent of the relevant plan and relevant proposed plan and abhorrent to the values of the zone in which the activity was to be established. It is noted that in this instance, the proposal is assessed as being not inconsistent with the relevant objectives and policies of the Residential Zone, Transportation and Hazards sections of the Dunedin City District Plan. It was also assessed as being consistent with the relevant objectives and policies of the Strategic Directions, Transportation, Natural Hazards and Residential sections.
- [84] The proposed development is therefore considered to also satisfy the second 'gateway' test outlined by section 104D.
- [85] In summary, the application passes both the threshold tests in section 104D of the Act and therefore, in my opinion, it is appropriate for the Planning Manager to undertake a full assessment of the application in accordance with section 104(1)(a) of the Act. In turn, consideration can therefore be given to the granting of the consent.

Section 104(1)(a)

- [86] Section 104(1)(a) states that the Council shall 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 are adhered to.
- [87] 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. While key to a consideration of this proposal are the objectives and policies of the 2GP, several submissions have been received in respect of the relevant objectives and policies and the rules setting out minimum density, site size and height plane angle by way of example. In light of the opposing submissions on the relevant objectives and policies of the 2GP, they have been given little weight. Therefore, the focus of my assessment is under the operative plan.
- [88] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it was concluded that the application is consistent with the relevant objectives and policies of the Regional Policy Statement for Otago and the Proposed Regional Policy Statement.

Other Matters

- [89] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [90] Case law has suggested that for the Council to grant consent to a non-complying activity, the application needs to be a 'true exception', otherwise an undesirable precedent may be set and the integrity of the District Plan may be undermined.
- [91] In this regard, I do not consider that the proposed activity represents a challenge to the integrity of the Dunedin City District Plan or the Proposed 2GP. A precedent has already been set by the approval of residential development on 12 undersized allotments in this stretch of Huntly Road. The proposal represents development of one of those allotments.
- [92] For this reason, the proposal is considered to be relatively confined its potential approval would be unlikely to undermine public confidence in the plan's provisions.
- [93] For the above reasons, I consider that approval of the proposal will not undermine the integrity of the Plan as the activity will produce only localised and minor effects, if any. I therefore do not consider that the Committee needs to be concerned about the potential for an undesirable precedent to be set in this regard.

CONCLUSION

- [94] Having regard to the above assessment, I recommend that the application be granted subject to appropriate conditions. A decision certificate containing a recommended schedule of conditions is provided below.

REASONS FOR DECISION

- [95] Provided that the recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated and will be no more than minor.
- [96] The proposal is considered to be consistent with the key relevant objectives and policies of the Dunedin City District Plan and the Proposed 2GP.
- [97] The proposal is not considered to be inconsistent with the objectives and policies of the Regional Policy Statement for Otago and the Proposed Regional Policy Statement.
- [98] As the proposal is considered likely to give rise to adverse effects that will be no more than minor, and will not be contrary with the objectives and policies of the District Plan, the proposal is considered to meet both 'limbs' of the section 104D 'gateway test'. Consideration can therefore be given to the granting of consent to the proposal.
- [99] The proposal is not considered to set an undesirable precedent given the allotments were established for residential purposes in 1977 and the proposed development is confined to one of those allotments.
- [100] The proposal is considered to be consistent with the Part 2 matters of the Resource Management Act 1991.
- [101] Overall, the proposed development has been assessed as not being likely to give rise to adverse effects on those elements of the zone that the Dunedin City District Plan seeks to protect.
- [102] If the Resource Consents Manager is minded to grant consent, conditions and advice notes are recommended, and these are set out in the decision certificate below.

COMMENCEMENT OF CONSENT

- [103] As stated in section 116 of the Resource Management Act 1991, this consent shall only commence once the time for lodging appeals against the grant of the consent expires and no appeals have been lodged, or the Environment Court determines the appeals or all appellants withdraw their appeals, unless a determination of the Environment Court states otherwise.

RIGHT OF APPEAL

- [104] In accordance with section 120 of the Resource Management Act 1991, the applicant may appeal to the Environment Court against the whole or any part of this decision within 15 working days of the notice of this decision being received. The address of the Environment Court is:

The Registrar
Environment Court
PO Box 2069
CHRISTCHURCH 8140

- [105] Any appeal must be served on the following persons and organisations:

- The Dunedin City Council.
- The applicants.
- Every person who made a submission on the application.

[106] Failure to follow the procedures prescribed in sections 120 and 121 of the Resource Management Act 1991 may invalidate any appeal.

[107] Please direct any enquiries you may have regarding this decision to Melissa Shipman whose address for service is City Planning, Dunedin City Council, P O Box 5045, Dunedin 9058.

Prepared by:

Approved by:

Melissa Shipman
Planner

Alan Worthington
Resource Consents Manager

3 November 2016

3 November 2016

Consent Type: Land Use Consent

Consent Number: LUC-2016-170

*That, pursuant to sections 34A and 104C and after having regard to Part 2 matters and section 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **grants** consent to establish a residential dwelling on an undersized Residential 5 allotment at 7 Huntly Road, Dunedin, being that land legally described as Lot 9 Deposited Plan 16246 and held in Certificate of Title 14B/1154, subject to the conditions imposed under section 108 of the Act as shown below:*

Location of Activity: 7 Huntly Road, Outram

Legal Description: Lot 9 Deposited Plan 16246 held in Computer Freehold Register 14B/1154

Lapse Date: 3 November 2021

Conditions

- 1 The activity shall be carried out generally in accordance with the plans entitled and the information in the application dated 28 April 2016 except where modified by the following conditions of consent.*

Residential Amenity

- 2 Any dwelling and constructed on the site shall comply with the bulk and location controls at the time of consent being granted; including the following:*

4.5m front yard setback; 2.0m side yard setback; 63° height plane angle; 9m maximum height; 30% maximum site coverage; 35m² amenity open space containing a 4.5m diameter circle; 1 car park for 150m² gross floor area (GFA); 2 car parks for a dwelling exceeding 150m² GFA.

Transport

- 3 The final vehicle access and vehicle crossing details shall be submitted to the Resource Consents Manager for approval within one month of prior to commencement of any building consent.*
- 4 The vehicle access shall be a minimum 3.0m formed width, hard surfaced from the edge of the carriageway of Huntly Road to a distance not less than 5.0m inside the property boundary, and be adequately drained for its duration. On-site manoeuvring shall be provided so that so that there is no reverse manoeuvring onto Huntly Road.*

Water and Waste

- 5 An "Application for Water Supply" shall be submitted to the Water and Waste Services Business Unit for approval to establish a new water connection for the property. Details of how the proposed property is to be serviced for water shall accompany the "Application for Water Supply".*

- 6 *Upon approval by the Water and Waste Services Business Unit, the water service connection shall be installed in accordance with the requirements of Section 6.6.2 of the Dunedin Code of Subdivision and Development 2010.*
- 7 *The new water service connection shall have a water meter installed.*

Earthworks

- 8 *All measures (including dampening of loose soil) should be undertaken to ensure that dust, resulting from any earthworks associated with the construction of any dwelling on the site, does not escape the property boundary.*
- 9 *The earthworks shall be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater management, traffic management, along with dust and noise controls at the sites.*
- 10 *All loading and unloading of trucks with excavation or fill material shall be carried out within the subject site.*

Advice Notes

- 1 Please check with the Council's Building Control Office, Development Services, to determine the building consent requirements for the work.
- 2 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.
- 3 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.
- 4 It is the consent holder's responsibility 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 This consent shall lapse after a period of five years from the date of granting of this consent. This period may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

Code of Subdivision

- 6 Parts 4, 5 and 6 (Stormwater Drainage, Wastewater and Water Supply) of the Dunedin Code of Subdivision and Development 2010 must be complied with.

Fire-fighting Requirements

- 7 All aspects relating to the availability of the water for fire-fighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies, unless otherwise approved by the New Zealand Fire Service.

Erosion and Sediment Control

- 8 The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off during the demolition and building process:
 - a. Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.

- b. Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).

Private Drainage Matters

- 9 Certain requirements for building on this site may be stipulated via the building consent process and are likely to include the following points:
- Stormwater from driveways, sealed areas and drain coils is not to create a nuisance on any adjoining properties.

Effluent Disposal System

- 10 This is a resource consent. Please contact the Council's Building Control Office, Development Services, about building consent requirements and the Otago Regional Council regarding the discharge to land consent requirements for the on-site effluent disposal system.

Hazards

- 11 Underlying soils have a potential for amplified movement and liquefaction during a significant seismic event. The Applicant should provide verification that the site is 'good ground' in accordance with NZS3604, Section 3.1. This verification may require site investigation in accordance with the standard, potentially including dynamic cone testing to 10m depth to quantify the potential for liquefaction. Specific foundation design may subsequently be required.
- 12 Construction should be subject to a minimum floor level that meets Building Act requirements to avoid potential inundation (including flooding, overland flow, storm surge, tidal effects, and ponding) on the land on which the building work is to be carried out or adjacent landowners property.

Issued at Dunedin this 3 November 2016

Alan Worthington
Resource Consent Manager

Appendix 1: Copy of Approved Plan for:
(Scanned image, not to scale)

