



RESOURCE MANAGEMENT ACT 1991

**Submission on an Application for Resource Consent
By M S and V J Lambert (SUB-2015-78 & LUC-2015-443)**

To: City Planning
Dunedin City Council
PO Box 5045
DUNEDIN 9058

Submitter: NZ Transport Agency
PO Box 5245
Moray Place
DUNEDIN 9058

Pursuant to Section 96 of the Resource Management Act 1991, the **NZ Transport Agency** (Transport Agency) hereby makes this **neutral** submission to an application by MS and VJ Lambert for land use consent to build five two-storey residential units and to subdivide the land so as to provide each new dwelling with its own fee-simple site at 380 South Road, Dunedin.

The subject property is legally described as Section 2 Survey Office Plan 23278, held in Computer Freehold Register OT15B/689.

NZ Transport Agency's submission is:

Reverse Sensitivity

Reverse sensitivity is the legal vulnerability of an established activity to complaint from a new land use. Reverse sensitivity arises when new sensitive land-uses (e.g. residential activities) locate in close proximity to a lawfully established activity that may emit some adverse effects (e.g. noise). For land transport network operators, including the Transport Agency, there is a risk that new activities (such as houses and schools) that choose to locate near to established roads or railways may object to the effects of the land transport network (such as noise and vibration) and take action against the operator.

The meaning of "effect" is defined in Section 3 of the Resource Management Act (1991). The Environment Court has held that reverse sensitivity is an adverse effect under the RMA. It follows therefore that there is a duty, the same as with any other adverse effect, to avoid, remedy or mitigate reverse sensitivity effects, in order to achieve the RMA's purpose of sustainable management. Accordingly, landowners have a duty to mitigate the effects of their activities on the State highway network.

As the effects of a State highway usually extend beyond the road designation, it is appropriate to control the establishment of new activities close to State highways to reduce potential conflicts and manage reverse sensitivity effects. The Transport Agency has developed a stepped approach to protect sensitive activities. This approach is based around buffer and effects areas. To achieve a reasonable level of acoustic amenity, all noise sensitive activities should be located outside of the buffer area,

providing a setback from the State highway. Beyond the buffer area new buildings containing noise sensitive activities need to be designed and constructed to achieve reasonable indoor acoustic amenity.

In this situation the proposed residential units are located outside the buffer area, but within the road noise effects area. The Transport Agency therefore suggests that acoustic treatment of the new buildings should be undertaken to reduce internal sound levels. Accordingly, the proposed development should achieve an acceptable level of amenity by ensuring habitable rooms meet "satisfactory" internal sound levels recommended by Australian and New Standard (AS/NZS 2107:2000) Acoustics – Recommended design sound levels and reverberation times for building interiors.

The Transport Agency suggests that developers are responsible for providing design solutions that achieve the above performance standards and for ensuring that the effects of reverse sensitivity are adequately mitigated.

The reasons for this submission are:

The Transport Agency's statutory objective is to carry out its functions in a way that contributes to an affordable, integrated, safe, responsive and sustainable land transport system. Some of these functions relevant in this case are:

- to promote an affordable, integrated safe, responsive, and sustainable land transport system
- to manage the State highway system in accordance with the relevant legislation; and
- to assist, advise, and co-operate with approved organisations (such as regional councils and territorial authorities).

The Transport Agency submits that the proposed land use and subdivision activity has the potential to have an adverse effect on the sustainability of the land transport system.

NZ Transport Agency wishes the consent authority to:

That if the Consent Authority are of a mind to grant consent, that they do so subject to the following condition:

- (1) *New residential buildings shall be designed and constructed to meet noise performance standards for noise from traffic on State Highway 1 that will not exceed 35dBA Leq(24hr) in bedrooms and 40dBA Leq(24hr) for other habitable rooms in accordance with the satisfactory sound levels recommended by Australian and New Zealand Standard AS/NZ2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors.*

The NZ Transport Agency does wish to be heard in support of this submission.

Dated at Dunedin this 26th day of May 2016.



Tony MacColl

Senior Planning Advisor
Pursuant to a delegation from
the Chairman and the Board
of the NZ Transport Agency

Address for Service:

NZ Transport Agency
PO Box 5245
Moray Place
DUNEDIN 9058

Attention: Tony MacColl

Phone: (03) 951 3009

Facsimile: (03) 951 3013

**SUBMISSION ON AN APPLICATION FOR RESOURCE CONSENTS UNDER SECTION
95 B – SUBDIVISION AND LANDUSE**

By email: planning@dcc.govt.nz

TO:

**Lorna Jackson
Dunedin City Council
PO Box 5045
Dunedin 9058**

NAME OF SUBMITTER:

KiwiRail Holdings Limited (KiwiRail)

ADDRESS FOR SERVICE:

Level 1
Wellington Railway Station
Bunny Street
PO Box 593
Wellington 6140

Attention: Deborah Hewett

Ph: 04 498 2127

Fax: 04 473 1238

Email: deborah.hewett@kiwirail.co.nz

Name of Applicant: MS and VJ Lambert

Address of proposal: 380 South Road Dunedin, Section 2 Survey Office Plan 23278, 1314m2

Description of proposal: Undertake an 8 Lot subdivision and associated land use comprising 5 lots for five standalone two storey residential apartments (and decks), 2 lots for carparking and 1 Lot for Infrastructure. Land use consent is not being sought for earthworks to create building platforms and retaining walls.

KiwiRail cannot gain an advantage in trade competition through this submission.

KiwiRail wishes to be heard in support of this submission and will consider presenting a joint case at the hearing with other parties who have a similar submission.

KiwiRail's submission is:

The grant of resource consent for the proposed development:

- (i) Is contrary to the sustainable management of natural and physical resources and is otherwise inconsistent with the purpose and principles of the Act;
- (ii) Will impact significantly and adversely on the ability of people and communities to provide for their social, economic and cultural wellbeing;
- (iii) Does not promote the efficient use and development of natural and physical resources; and
- (iv) Does not promote the reasonably foreseeable needs of future generations.

In particular, and without limiting the generality of the paragraph above:

1. Strategic Transport Network

The Main South Railway forms a strategic component of New Zealand's rail network. It is important that the integrity of that corridor, a physical resource, is maintained, and not undermined as a consequence of land use and subdivision.

2. Stormwater

KiwiRail also has concerns that the proposed works, and change in land use will increase stormwater discharge and overland flow to the rail corridor which has the potential to compromise the structural integrity of the rail infrastructure, ballast and bank.

KiwiRail seeks that all stormwater drainage (including surface water from hard stand areas and buildings) is connected to a suitable Council approved reticulation system. We note that the applicant has indicated the sensitive nature of the downstream stormwater network to catchment flows during severe rainfall events, and we consider stormwater discharge needs to be considered at the catchment level and appropriately accommodated so as not to exacerbate flooding or discharge onto the railway corridor or require ongoing repairs or maintenance works within the corridor.

It does not appear from KiwiRail's records that there is a Council Deed of Grant for stormwater or water pipes within the rail corridor. It is uncertain where the proposal intends to connect to stormwater and water. Where the connection is proposed to existing Council pipes within the rail corridor KiwiRail seeks that a Deed of Grant is sought from KiwiRail and that the Council confirm the pipes are of an adequate size and condition to accommodate the additional stormwater from the development, the catchment, and future developments.

KiwiRail is presently in the stage of requiring Deeds of Grant for all services within the rail corridor to legalise their use and occupation.

3. Reverse Sensitivity and Noise and Vibration

KiwiRail seeks that reverse sensitivity effects on the rail network and the adverse effects on the amenity values for new residential activities is managed to recognised standards.

The applicant has not provided an acoustics report to ascertain whether the proposed design, location of the buildings and outdoor areas or other measures manage noise and vibration effects for residents arising from operational rail noise, which includes from the rail - wheel interaction and the engine exhaust which is significantly elevated above the rail track.

There is an additional noise effect associated with the State Highway which may well compound the noise experienced by residents, giving rise to reduced amenity values, if this is not appropriately considered and addressed as part of the development.

Planting along the common boundary as outlined in the application is likely to have very little effect in mitigating operational rail noise from the rail corridor and the State Highway.

Reverse sensitivity describes the effect that development of one kind may have on activities already in an area. It usually results from the people involved in a newly established activity (including new owners and occupiers as well as alterations and additions to existing activities and structures) complaining about the effects of existing activities in an area. This can have the effect of leading to the restriction on the operation of established land use such as the rail corridor by seeking for example limitations on train speed, lesser axle loads, hours of operation and maintenance. The primary reverse sensitivity effects arising for rail are noise and vibration effects. However, other relevant matters include glare, discharge of storm water onto the rail corridor, building and vegetation encroachment, and trespass onto the corridor to maintain buildings or pass over the corridor.

KiwiRail prefers performance standards because they allow flexibility in how they are met and have a twofold effect. The first is that buildings containing noise sensitive activities are subject to effects from rail operations that may reduce residents' amenity and enjoyment of the environment (especially where sleep is interrupted). The second effect arises from an increased likelihood of complaints being received. Underpinning complaints is an expectation by line side residents that the rail operator will somehow modify its schedule, reduce speed or carry lesser axle loads to minimise adverse effects and through on-going pressure the potential to constrain operation of the rail.

KiwiRail seeks that an acoustic report is undertaken by a suitably qualified and experienced acoustic specialist to ascertain the noise and nature of the mitigation measures required to meet the performance standards in Table 1 and ventilation requirements. This should also take into account future use of the Rail Line, by the addition of 3dB to existing measured or calculated sound levels.

A design certificate should also be required to demonstrate performance with the standard.

Table 1 Railway Acoustic Noise Criteria

Location	Criterion	Comment
Sleeping spaces	35 dB $L_{Aeq(1h)}$	Assumes the windows are partially open for ventilation but are facing away from the railway or screened by a fence.
Other habitable spaces	40 dB $L_{Aeq(1h)}$	Assumes windows are partially open for ventilation and may be facing the railway.
Primary outdoor amenity areas	60 dB $L_{Aeq(1h)}$	Assumes primary outdoor area is on the railway side of the building.

Ventilation Requirements:

Where windows are required to be closed for noise mitigation, a ventilation system should be installed to provide thermal comfort. Otherwise occupants are forced to choose between a poor acoustic environment and a poor thermal environment. To achieve adequate thermal comfort the following requirements for a ventilation system are recommended:

- a) A quantity of air shall be provided to achieve the requirements of Clause G4 of the New Zealand Building Code. At the same time as meeting this requirement, the sound of the system shall not exceed 30 dB $L_{Aeq(30s)}$ when measured 1 m away from any grille or diffuser.
- b) Either: air conditioning shall be provided; or a high air flow rate setting shall provide at least 15 air changes per hour (ACH) in the principal living space and at least 5 ACH in all other habitable spaces.
- c) At the same time as meeting the above requirement in b), the sound of the system shall not exceed 40 dB $L_{Aeq(30s)}$ in the principal living space and 35 dB $L_{Aeq(30s)}$ in all other habitable spaces, when measured 1m away from any grille or diffuser.
- d) The internal air pressure shall be no more than 10 Pa above ambient air pressure due to the mechanical ventilation.
- e) Where a high air flow rate setting is provided, the system shall be controllable by the occupants to be able to alter the ventilation rate with at least three equal stages up to the high setting.

Railway Vibration Criteria

As part of the noise report KiwiRail seeks confirmation and certification from an acoustic specialist that the development meets NS8176E:2005 Class C Vibration criteria.

4. Planting and Fencing and Carparking adjacent to the Railway Corridor

KiwiRail seeks to maintain a safe and efficient rail network by managing potential risks that could give rise to issues within the rail corridor.

Planting along the northern boundary of the rail corridor requires further discussion with KiwiRail and this is flagged in the application. A key matter will be the nature and maintenance of this vegetation, and the proposed maintenance obligation which is to be shared by owners. Access to the rail corridor to carry out maintenance is not likely to be approved for safety reasons.

KiwiRail is of the view that fencing is required along the adjoining northern boundary to maintain a safe environment. In particular, Lot 20, the carparking area should be fenced to remove the possibility of a vehicle inadvertently being driven over the bank and to manage any light spill matters in the rail corridor.

There is a significantly reduced setback from the decks on Lots 3, 4, and 5 and we have concerns with the possibility that items could be thrown onto the rail corridor creating a safety or trespass issue.

5. Earthworks and Retaining Wall

Land use consent is not being sought for earthworks to create building platforms or the retaining wall along the boundary of the railway corridor. KiwiRail is of the view that this should be addressed at the time of application because it is an integral part of the development and has potential effects on the stability of the rail corridor.

We seek that retaining walls are designed and certified by a chartered professional engineer to ensure avoid potential failure of the structure, and includes adequate drainage behind the wall away from the rail corridor, and to an approved stormwater system.

The north western slope near the railway corridor is identified as a potential stability issue due to its over steepened slope and particular geotechnical advice is required.

We note that the Geotechnical report also addresses the matters associated with retaining walls and steep slopes with recommendations, including managing surcharge, stormwater and slope saturation.

Relief sought:

KiwiRail opposes the application(s) and seeks that they be declined.

Regards,



Deborah Hewett
Senior RMA Advisor
KiwiRail

31 May 2016

23 May 2016

RE: Resource Consent Submission (SUB-2015-78 and LUC-2015-443)

Dear Sir/Madam,

My name is Shao Fen Tran. My husband, Sy Ban Tran, and I are the owners of Mayflower Takeaways on 378 South Road, Caversham, Dunedin, one of the adjoining properties next to the proposed site.

We would like to oppose the application from M S and V J Lambert, regarding the proposal of a subdivision creating 5 Lots and Land Use consent to establish five two-storey residential units at 380 South Rd, Caversham, Dunedin.

The reasons for our opposition to this proposal are as listed below.

Car Parking

The Caversham neighbourhood surrounding the proposed building site comprises of both residential properties and a number of commercial businesses. We have owned 378 South Road for roughly twenty six years. Over those last few decades, the proposed building site was open to public as a space for car parking. During this time, we have not had any complaints regarding car parking. More recently, the site was chained off from parking use. This has led to many questions about why this has been closed, as well as bringing attention to the limited number of parking spaces along South Road.

The proposed site mentions housing eleven car parks, two per unit with one for visitors. We believe this is an inadequate number, should any unit receive more than one visitor or if separate units had visitors drop by during coinciding time periods. The extra visiting vehicle(s) would have to find on-street parking along South Road.

Currently, the car parks along this road are shared by both residents and businesses, and even bus stops. As one of the few commercial businesses close to the proposed building site, having these available car parks outside are essential for customer convenience and the general day-to-day running of the business. There are a number of other businesses on the street, including an accountant and a dog-care facility just to mention the closest neighbouring two. When the site was open for car parking, staff and nearby residents were able to utilise it for convenience as did customers and tourists who would park their campervans and take walks around Caversham. Since its closure, people have resorted to finding parking spaces on the roadside, with some residents even parking all day in restricted ten minute zones, while tourists no longer stop by.

In general, with the extra traffic trying to find car parks, the number of available customer parking spaces have been limited. Should the proposed build go ahead, excess visitors would also need to find parking. Not only would this affect customer parking but would cause problems for businesses already located on South Road. As it is presently, customers are having to park further away, which is particularly inconvenient during unfavourable weather conditions, but can also influence an individual's choice to spend on a normal day.

High Traffic

Due to the nearby motorway (State Highway 1), South Road sees reasonably high-usage. Currently, the sight distance for vehicles exiting the proposed building site are approximately 40m in a westerly direction according to the Paterson Pitts Group report. It is not clear whether this sight distance also accounts for the existing transformer and service cabinet. There are also blue clothing bins already situated within the boundaries of the site. These four boxes are significantly shorter than a two-storey building would likely be, however if a vehicle is sitting at the entranceway of the car park /

proposed building site, the transformer and cabinet are still tall enough to momentarily hide a vehicle coming off the motorway, especially due to the slope of the land. To compensate for the minor obstruction, drivers exiting the carpark, typically look through the space between the cabinet and the blue bins onto Barnes Drive to check for oncoming cars. If the blue bins were to be removed and replaced with two two-storey buildings as proposed, the view to the bridge (Barnes Drive) would be obstructed by the buildings. Upon reaching the entranceway, vehicles leaving would need to be extremely cautious prior to merging onto South Road. Not only would their sight distance be reduced but vehicles also leaving the motorway would not be able to see the leaving vehicle. With the short distance between the curve of the road and the entranceway to the site, reaction times would be quite short, increasing the chance of accidents occurring.

Access to Back of Property

Behind our property and the next door neighbours is an empty area which has been used as car parking by several neighbouring properties. For as long as I have been here, the access to this area has always been through the parking lot (proposed site) and down a slope. This area has also been useful for unloading supplies / deliveries, providing access to servicemen for waste removal and grease trap cleaning as required by the DCC. The loss of this vehicle access is one of our major grievances with this proposal. This has exacerbated the on street parking situation and general traffic congestion on South Road.

This access way is also frequented by KiwiRail employees for rail maintenance. In their email from the DCC, this has been stated but is not addressed by the application.

In the Paterson Pitts Group report, the applicant has stated that consultation with us has "progressed on good terms", however this has been misrepresented. When we were indecisive over signing the 'Affected Persons Approval' on their Application Form for Resource Consent, the applicant threatened to remove access to our LPG tanks, which are naturally vital to our business. As they have stated, we do currently have informal pedestrian access to the back of our property. However, we would prefer to make this formal vehicle access for the reasons given above.

Bulk Plane Violation

The proposed building Lot 5 intersects the bulk plane. This is a minor problem, but nevertheless impedes upon the sunlight, and privacy of our section. The applicant has suggested that the trees, which currently stand in the area, already block visual access to the sky and sunlight. However, trees provide dappled light and privacy, whereas a solid building casts hard shadows and could be an invasion of privacy. The slope of the land in this area would increase the shadowed area further.

Conclusion

We believe that the Dunedin City Council (DCC) should be looking out for the welfare of its communities and thus should try to provide enough car parks so Caversham can continue to flourish. It should also be in support of the safety of its citizens, which may be compromised by the reduced visibility presented in the proposal. We also find that this proposal inconveniences us by removing access to the back of the property and violating the bulk plane regulations. Thus, we act in opposition to this proposal.

Kind regards,



Shao Fen Tran

Lorna Jackson

From: Jim and Jennifer Tran <jim.jennifertran@gmail.com>
Sent: Sunday, 29 May 2016 08:35 p.m.
To: planning@dcc.govt.nz
Subject: Resource Consent Application Submission Form: SUB-2015-78 and LUC-2015-443
Attachments: 20160529_193352.jpg; 20160529_193444.jpg; 20160529_201050.jpg

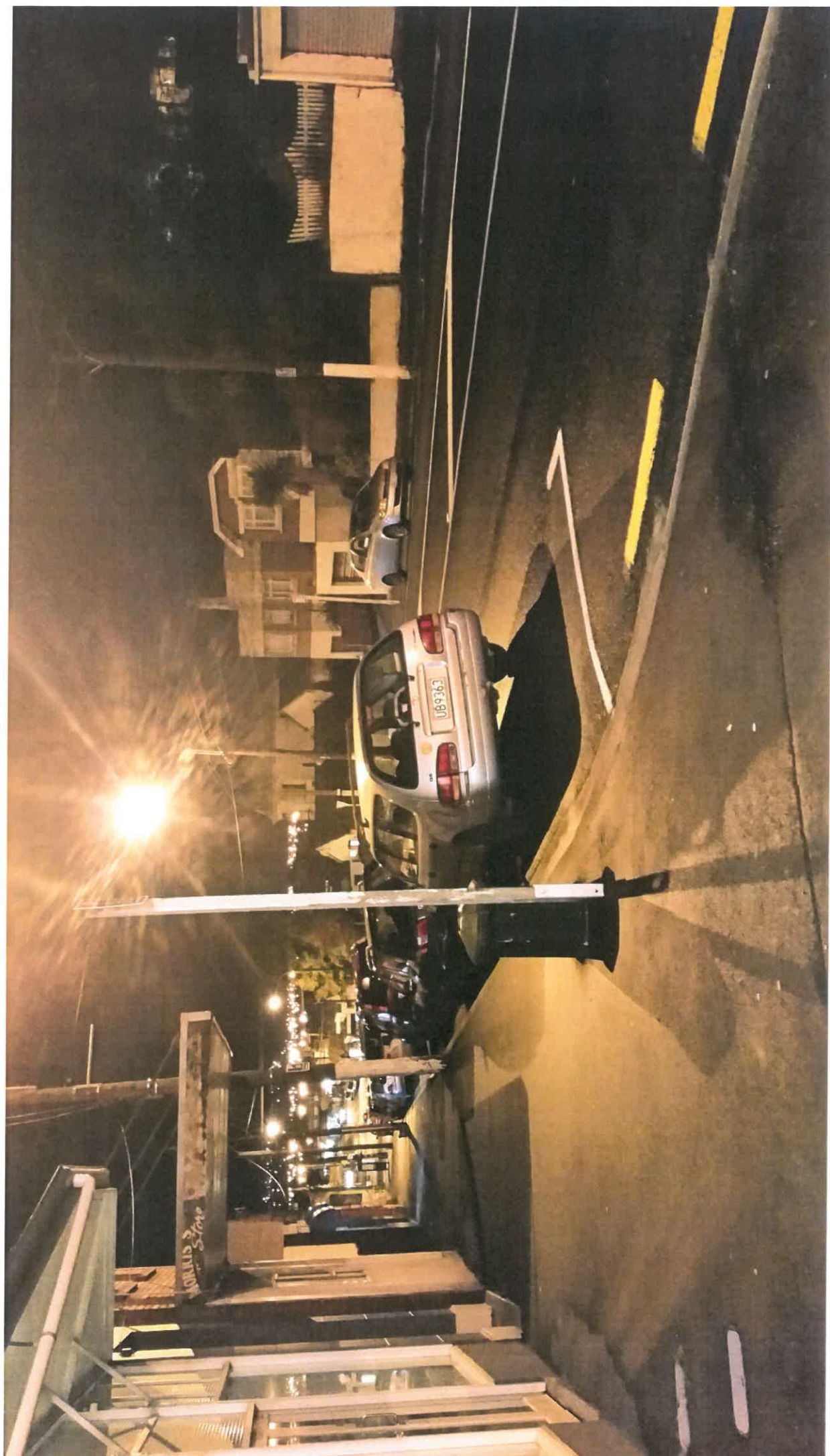
To Whom This May Concern,

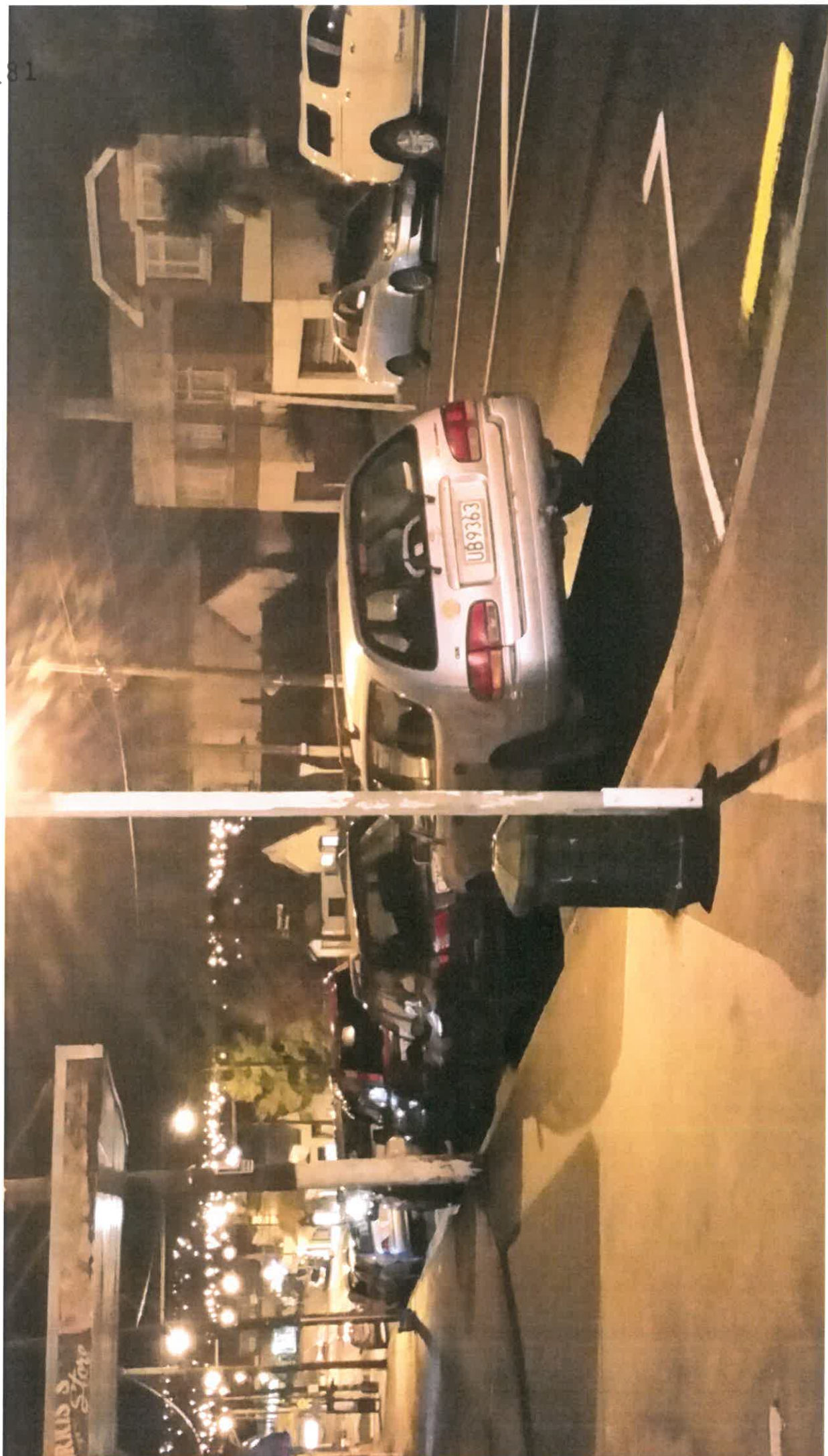
To backup our opposition to the resource application proposal at 380 South Rd, (submitted on the 27th of May), we have attached three images taken on Sunday evening, 29th May 2016. The first two images show our empty business yet the street parking is full, with vehicles also parked in the ten minute zones. The third photo was taken roughly forty minutes later. Vehicles have not moved. Hopefully this shows some of the parking issues already happening on South Rd.

Picture 1: 20160529_193352 Taken at: 7:33pm On: 29/05/2016
Picture 2: 20160529_193444 Taken at: 7:34pm On: 29/05/2016
Picture 3: 20160529_201050 Taken at: 8:10pm On: 29/05/2016

Thank you.

Kind regards,
Shao Fen Tran







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SUBMISSION FORM 13**Submission concerning resource consent on limited notified application under section 95B.****Sections 95B Resource Management Act 1991**

To: Dunedin City Council, PO Box 5045, Moray Place, Dunedin 9058

Resource Consent Number:

SUB-2015-78 and LUC-2015-443

Applicant: M S and V J Lambert**Site Address:**

380 South Road Dunedin

Description of Proposal:

Subdivision creating 5 lots and Land Use consent to establish five two-storey residential units.

I/We wish to lodge a submission on the above resource consent application:Your Full Name: Tracy Ann HooperAddress for Service (Postal Address): 383 South Road CaerohamDunedinPost Code: 9012Telephone: 027 8433079

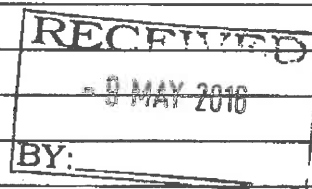
Facsimile: _____

Email Address: hoopermz@extra.co.nzI: Support / ~~Neutral~~ / ~~Oppose~~ this Application I: ~~Do~~ / Do Not wish to be heard in support of this submission at a hearing

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

(Delete the above statement if you would not consider presenting a joint case at a hearing)

Please use the back of this form or attach other pages as required

The specific parts of the application that this submission relates to are:**My submission is** [Include the reasons for your views]:

I have no huge concerns about this project but the one small one is visitor parking. Morrison Street is at full capacity with cars and since the said area has been roped off it has pushed people who once parked there, out into South Road taking up residents parking. Then if you have visitor parking as well it will become a nightmare, it can already be painful, if S^m Road is full around the fish n' chip shop, people park over here. We have business parking - people who work in those business parking. — / PRO

The decision I wish the Council to make is [give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought]:

Have a think about turning some of Caeroham place into angle parking so more people can park there.

Signature of submitter:M. Hooper

(or person authorised to sign on behalf of submitter)

Date:9/5/16**Notes to Submitter:**

Closing Date: The closing date for serving submissions on the Dunedin City Council is **Tuesday, 31 May 2016 at 5pm**. A copy of your submission must be served on the applicant as soon as reasonably practicable after the service of your submission on the Dunedin City Council. The applicant's address for service is C/O /- Kurt Bowen, Paterson Platts Group, PO Box 5933, Moray Place, Dunedin 9058.

Electronic Submissions: A signature is not required if you make your submission by electronic means. Submissions can be sent by email to planning@dcc.govt.nz

Privacy: Please note that submissions are public. Your name and submission will be included in papers that are available to the media and the public. Your submission will only be used for the purpose of the notified resource consent process.

We have "Car pool" people parking, visitors to residences parking. Residence parking. Will this add to the congestion?

