



Report

TO: Hearings Committee

FROM: Melissa Shipman, Planner

DATE: 12 June 2017

SUBJECT: **RESOURCE CONSENT APPLICATION
LUC-2017-98
533 MOUNT CARGILL ROAD
J R FAIRWEATHER**

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 9 June 2017. 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 in the report below, I consider that the proposal to establish a building platform on the site at 533 Mount Cargill Road to allow for residential development on an undersized allotment will not threaten the rural character of the area.
- [3] I consider that the proposal does not threaten the visual quality of the landscape, subject to conditions to ensure a continued visual dominance of the natural landform and elements over human imposed elements and to ensure that temporary effects are not more than minor. The character of the landscape is already somewhat diminished by the forestry established on the site and the protection afforded to an area of regenerating bush as part of the proposal, as well as the addition of new areas and/or a reduction in forestry as required by conditions of consent will have a positive effect on the landscape.
- [4] As a result, I have concluded that the proposal should be granted subject to conditions.

DESCRIPTION OF PROPOSAL

- [5] Resource consent is sought to establish a 30m x 30m building platform for residential development (dwelling and accessory buildings) within the composite property of 533 Mount Cargill Road (see Figure 1 below). Access is via an existing legal and formed access off Mount Cargill Road. The first portion of the access comprises legal road reserve. See Figure 1 below:



Figure 7 : Development Concept Plan, 533 Mt Cargill Road
Scale 1:2000 (A3)

Figure 1: Composite Site Area, Bush Regeneration Area and Screen Planting Area

- [6] The applicant proposes to continue harvesting all the exotic forestry trees on the upper part of the site (see yellow areas identified in Figure X below) excluding the bush regeneration area identified above in Figure X.



Figure X: Yellow illustrates the continued forest harvest areas. Black circles depict areas not to be harvested.

- [7] The Applicant submitted a Landscape Assessment Report by Landscape Architect Mike Moore which proposes several measures to mitigate any landscape and visual effects which include:

- Locating all buildings including accessory buildings within an identified **30m x 30m building platform**. See Figure 1 below.
- Limiting all buildings to a maximum of **6m in height** (it is not stated whether these are inside or outside the platform).
- Requiring all buildings (inside the platform) to be finished in naturally weathered timber or locally appropriate stone, or in colours that have low levels of contrast with the colours of the wider bushland setting. Painted surfaces.
- Requiring painted surfaces to have light reflectivity ratings of no more than 15%.
- Requiring all services to be located below ground.
- Retaining an informal rural character to the driveway by requiring maintenance of a gravel surface and soft edges and prohibiting any monumental gates, lighting.
- Retaining and managing (to protect and enhance extent and quality) all areas of existing indigenous vegetation (not including the native understorey to the exotic species).
- A **screen planting area** is identified with the dual objective of screening the dwelling and providing shelter for the dwelling. This area is located along a 170m long section of the southern boundary, approximately 12m wide. The proposed screen planting is exiting native and exotic vegetation and includes existing Macrocarpa trees.
- A **bush regeneration area** is identified with the objective of encouraging natural regeneration of indigenous species and control of the regrowth or establishment of exotic species. The bush regeneration area is currently exotic woodlot which will be managed to revert to indigenous forest. However, the Applicant has not provided a management plan detailing how this will be achieved.

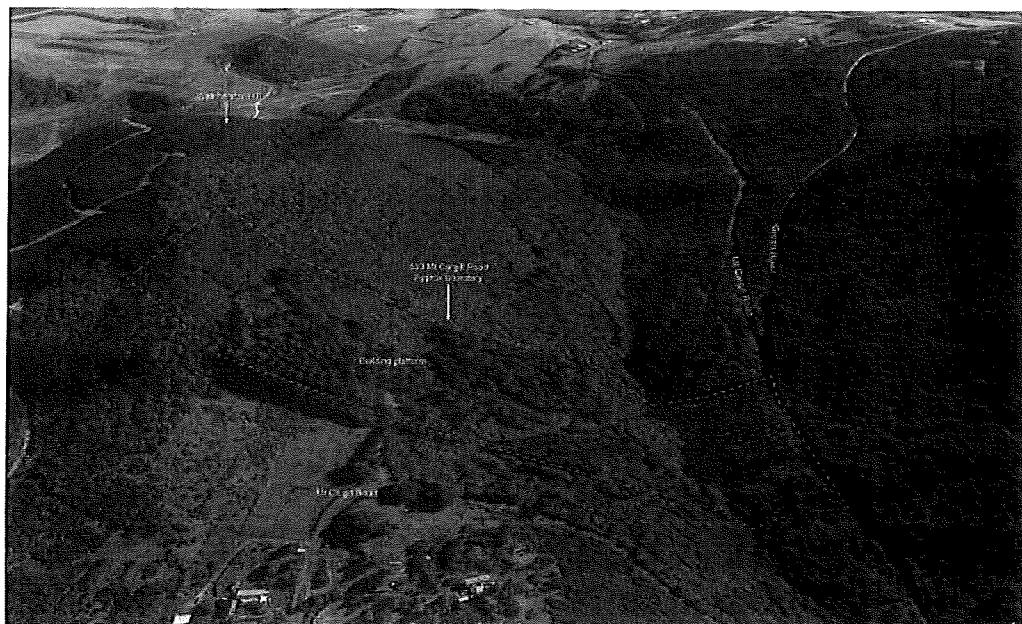


Figure 1 : Location Plan, 533 Mt Cargill Road

Figure 1: Building Platform Location and Landscape and VPA/VRA Boundaries

- [8] No elevations have been provided for any new dwelling on the site nor are any details regarding earthworks that might be anticipated on the site provided. Albeit, in the vicinity of the building platform the topography is moderately sloped with a more level area at the edge of the existing access area. The consent sought is essentially for approval in principle to future residential activity within a defined area.
- [9] The Applicant has indicated that some earthworks will be required to establish a dwelling but no volumes are outlined. The gradient of the land where the platform is located is gentle to moderate.
- [10] A copy of the application, including larger copies of the figures included within the report are contained in **Appendix 1** of this report.

DESCRIPTION OF SITE AND LOCATION

- [11] The site is located at 533 Mount Cargill Road, Waitati. The site is a composite site on land legally described as Sections 5 and 6 Block VII SO 1275 North Harbour and Blueskin Survey District and held in separate Computer Freehold Registers OT 79/251 and 260/294. Section 5 comprises 5.3924 hectares and Section 6 comprises 5.5847 hectares in area. The combined title area is 1.9771 hectares.
- [12] I concur with the applicant's description of the site as being on the eastern slopes of Weatherston Hill with legal and formed access via a leg-in access off Mount Cargill Road reserve, the leg-in also being road reserve. I concur with the applicant that the site is moderately steep with the exception of a flatter area at about the 295 contour level with the access. The area of the proposed building platform is cleared of trees; however, the remainder of the site comprises a mix of regenerating native forest and exotic plantation forestry and pest plants. The applicant has indicated that the exotic trees are predominantly Eucalyptus.
- [13] The Applicant has outlined several undersized allotments in the locality of the subject site, however, some of these dwellings are located at a lower elevation than the subject site and subsequently outside of the Visually Prominent Area (VPA) of the Flagstaff-Mt Cargill Landscape Conservation Area (FMCLCA). They do indicate the scattering of residential use amongst the smaller existing rural lots in this area however.

HISTORY OF THE SITE/BACKGROUND TO THE APPLICATION

- [14] Applicant has indicated that a dwelling/farm house was previously established on the site. However, no evidence has been provided by the Applicant in support of that claim of historic land use. However, an opposing submitter has submitted anecdotal evidence which supports the Applicant's position that residential use was once established on the site. A military topographical survey of the area around the proposed building site (which the submitter has indicated is from WT Neill 1901) labels the site as Greens Farm and features two black dots in the location which are presumably buildings. While this does not confirm that the buildings were residential buildings, the submitter has indicated she recalls a former now elderly resident visiting her and confirming that she had lived on the property as a child. Notwithstanding this, the submitter identified that since they have owned their property (1980) there has been no buildings on the site.

- [15] While no evidence has been provided which clearly establishes the facts concerning former residential use, it is reasonable to accept that some former residential use of the site is likely given the above information. However, any existing use rights have been lost given the duration of time over which there has subsequently been no residential activity on the site.
- [16] This site is currently utilised for exotic forestry plantation. The site has existing use rights to continue harvesting and replanting forestry.

ACTIVITY STATUS

Dunedin City District Plan

- [17] The subject site is zoned Rural in the Dunedin City District Plan. The property is situated within the Flagstaff-Mt Cargill Landscape Conservation Area (FMCLCA). The proposed building platform is located in a Visually Prominent Area (VPA) of this landscape management area. The eastern portion of the site lies within a Visually Recessive Area (VRA).
- [18] The proposal is considered to fall within the definition of Residential Activity. Resource consent is required as the proposal does not meet the following rules in the District Plan:
- [19] The proposed residential activity is considered to be a non-complying activity pursuant to Rule 6.5.7(i) as the District Plan requires 15.0 hectares of site area for residential activity in this zone. The combined area of the two titles is less than this. The proposed building platform will serve as a Landscape Building Platform for the purposes of Rule 14.6.4(a).
- [20] If granted, under Rule 14.6.4(a) the erection of any buildings and structures within any building platform that has been identified as a "landscape building platform" is a controlled activity. Council's control is then in respect of (a) the impact arising from the size, design and appearance of the building or structure and associated site development on the landscape qualities and character of the setting.
- [21] Although not strictly applicable for non-complying activities, the performance conditions of Rule 6.5.3 provide guidance as to acceptable use of new sites. Rule 6.5.3 specifies front yards of 20m, and side and rear yards of 40m, for rural properties. A dwelling located within the proposed building platform will be within 20m of the boundary of 525 Mount Cargill Road and 539 Mount Cargill Road.
- [22] Proposed new forestry has a restricted discretionary activity status within any visually prominent areas under Rule 14.6.4(b). Any existing use rights to undertake forestry may be lost under the current application for residential use of part of the site. See the permitted baseline discussion below.

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

- [23] The Proposed 2GP was notified on 26 September 2015. The 2GP zoning maps indicate that it is proposed that the subject site be zoned as **Rural – Hill Slopes**. The property is also identified as being situated within the **Flagstaff-Mt Cargill Landscape Conservation Area (LCA)**.
- [24] The Proposed 2GP was notified on 26 September 2015, and some 2GP rules have immediate legal effect. In this instance, there are indigenous vegetation clearance provisions which have immediate legal effect, however, Rule 10.3.2.2.b.i exempts vegetation clearance as part of existing forestry activity where under storey indigenous vegetation is cleared. Given this exemption,

there are no relevant 2GP rules to consider. While the rules relating to the clearance of indigenous vegetation within the rural zone have legal effect, the proposal only involves the clearance of exotic forestry which has already occurred within the location of the building platform.

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

- [25] The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 came into effect on 1 January 2012. The National Environmental Standard applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the National Environmental Standard
- [26] It has not been established whether any HAIL activities have been undertaken on this site. However, the National Environmental Standard only controls change in land use where the land use is reasonably likely to harm human health. In this situation, there is no known evidence of HAIL activity. The use of the site is changing from forestry to part residential use and that new land use will not raise any implications for human health. As such, the National Environmental Standard is not deemed applicable to the proposal.
- [27] Overall the application is a considered to be a non-complying activity in accordance with the Operative Plan.
- [28] 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. Failure to locate buildings within 50m of an existing building that has a floor area greater than the floor area of the proposed structure requires assessment of the visual impact arising from the activity on the landscape character and quality of its setting.

NOTIFICATION AND SUBMISSIONS

- [29] No written approvals were submitted with the application.
- [30] The application was publicly notified in the Otago Daily Times on 5 April 2017. The applicant has incorrectly referred to the legal description of the site as being Sections 6 and 7. The site was publicly notified with the correct legal description being Sections 5 and 6 as referred to above under the site description.
- [31] Copies of the application were sent to those parties the Council considered could be directly affected by the proposal. Submissions closed on 8 May 2017.
- [32] Three submissions were received by the close of the submission period. One submission was in support, one submission was opposed and one submission was neutral.
- [33] No late submissions were received.
- [34] The submissions are summarised in the table below, and a full copy of the submissions is attached in Appendix 2.

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
Initial Volco Trust	Support	- Owns two adjacent properties 606 and 524 Mount Cargill Road and another property along Green Road – remaining forest cover on these properties is protected under QEII covenant. - Visual impact and character of the proposal raises concerns. - Support protection of remaining native vegetation and proposed regeneration areas but request a higher level of protection via QEII Covenants. - Preference is for native regeneration for screening rather than reliance on tall exotics.	Yes
Jill Hamel (owner of land to the east of the site)	Oppose	- Contrary to RMA - Fails to protect a VPA within the Flagstaff-Mt Cargill LCA. - Contrary to the Operative and Proposed 2GP. Future re-zoning seeks 40 ha minimum lot size. - Precedent effect for development close to Orokonui Ecosanctuary and buffer zones surrounding. - Plan integrity compromised. - Seeks a QEII Covenant. - Deficient on-site effluent disposal investigation – potential for discharge of grey water given proximity to Cedar Creek. - Potential to undermine predator control work. - Impact on amenity enjoyed within 539 Mount Cargill Road - peace and quiet. - Disagrees that part of the site is described as incoherent due to an uneven canopy. - Concerned that any screen planting will not be maintained given it will block sun and views of the house site.	No
David and Jenny Burchell	Neutral	- Concerned that macrocarpa trees adjacent to their property which are old and hazardous might be being relied upon by the applicant for screening. - Support removal of the trees since they deprive their paddock of sunlight. - The shelterbelt is located within Council road reserve.	No

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] The committee may choose to apply the permitted baseline assessment. This requires consideration of what can occur as of right on the site (permitted activity) and the determination of the existing lawfully established development of the site. Any effect from an activity that is equivalent to that generated by an activity falling within the permitted baseline can be disregarded.
- [37] While the applicant has indicated the application is to re-establish residential use on the property, no evidence has been provided which confirms that residential use did form part of the activities occurring on the site in the past. Anecdotal evidence provided by a submitter indicates that residential development may have at one point been established on the site in association with early dairy farming activity, however, even if the anecdotal evidence was accepted, it is apparent that this use has long been disestablished and therefore does not form part of any existing use rights.
- [38] Forestry activity in visually prominent areas of the site would normally necessitate a resource consent application for assessment of the visual impact. However, the forestry activity on the site is an existing lawfully established activity relying on existing use rights. The applicant has enjoyed existing use rights for this breach until this time, however, as the proposal seeks to increase the degree of non-compliance, existing use rights are deemed to be lost. Given the forestry activity comprises the existing environment, the harvesting of the forestry can be expected without obtaining further consents, however, if consent for residential activity is granted and given effect to, the site loses its existing use rights to re-establish forestry on the site. Therefore, forestry does not form part of a permitted baseline assessment and cannot be relied upon for mitigation of the visual impact of residential activity.
- [39] If forestry were disestablished, the remainder of the site could be utilised for permitted farming activities, with fencing and the creation of farm accesses. However, resource consent is required to erect any farm buildings on the site so that the impact on the visual quality of this landscape can be assessed.
- [40] The proposal is for the establishment of new residential activity on an 11 hectare Rural-zoned composite site. 'Residential activity' will allow the house to be built within the lapse period (5 years), and any number of accessory buildings to be built at any time in the future, should consent be granted. Activities permitted in the Rural zone (subject to compliance with the performance criteria of Rule 6.5.3) include residential activity on-sites of greater than 15ha, and accessory buildings for permitted activities. In this case, the composite site is less than 15ha, and no residential activity is permitted as of right on either allotment or on the composite site (if amalgamated). Consequently, no residential accessory buildings are anticipated by the District Plan either.

- [41] The land is zoned Rural, and farming activity is a permitted activity for this zone. There is no minimum lot size applicable to farming activity and associated buildings. However, the landscape conservation area status of the site gives a controlled activity status to any buildings and structures within any identified 'building platform' on the site with the appearance of those buildings is controlled by the landscape provisions of the plan (Rule 14.6.4(a)). No identified building platform has been approved at this site. Farm buildings are not permitted as there are no existing buildings within 50m of another building that has at least 50% greater floor area than any proposed building (Rule 14.6.4). However, there is no permitted baseline to consider for residential activity.
- [42] 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.

Assessment of Effects

Dunedin City District Plan

- [43] Section 104(1)(a) of the Act requires that the consent authority have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in the section 3 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.*
- [44] This section of the report assesses the following environmental effects in terms of the relevant assessment matters in Sections 6.7 (Rural) and 14.7 (Landscape) of the District Plan. Accordingly, assessment is made of the following relevant effects of the proposal:
- Amenity Values (Assessment Matter 6.7.3)
 - Glare and Lighting (Assessment Matter 6.7.7)
 - Bulk and location (Assessment Matter 6.7.9)
 - High Class Soils (6.7.11)
 - Visibility (Assessment Matter 14.7.1 and 6.7.13)
 - Residential Units (6.7.15)
 - Sympathetic Siting and Design (Assessment Matter 14.7.3)
 - Landscape (Assessment Matter 14.7.2, 14.7.4 and 6.7.25, 14.7.5)
 - Noise (Assessment Matter 6.7.6)
 - Conflict and Reverse Sensitivity (Assessment Matter 6.7.26)
 - Cumulative Effects (Assessment Matter 6.7);
 - Water and Effluent Disposal (Assessment Matter 6.7.10)
 - Forestry and Shelterbelts (Assessment Matter 6.7.14)
 - Positive Effects;
 - Sustainability (Assessment Matter 6.7.1);
 - Transport (20.6.8)

Amenity Values

- [45] Houses are part of the rural landscape in the area, albeit not typically at the subject elevation. Although, the dwelling at 525 Mount Cargill Road contains a dwelling that is already visible in the landscape at a similar elevation. By combining two smaller sites into one composite site, the proposal is able to reduce the fragmentation of rural land use in this area. There is evidence of residential land use within existing under sized rural allotments in the area to the south, some within allotments of similar size to the subject allotment (#525 Mount Cargill Road), some within even smaller allotments, however, a comparison of the visibility of those allotments and the elevation at which they have been established has not been made by the applicant. It would appear from Council records that some of the undersized allotments are outside of the VPA and only one dwelling (#525) located in the vicinity of the site or south of the site is visible from distant views to the north along Mount Cargill Road/Green Road. Currently, the residential development that is visible in distant views from the north looking towards the south is the more densely developed rural residential zoned land which is seen in foreground views across the landscape. Given the inability to see the collective development of undersized rural allotments beyond the rural residential zoned land, the cumulative adverse effect on amenity values of development within undersized allotments is considered to remain minor. The proposed development will introduce a new visibility for domestication in this landscape, albeit the obvious size of the allotment will not be apparent due to the lack of any major title/allotment demarcation in the landscape.

- [46] Additionally, the composite site allows the applicant to apply a landscape approach and potentially a structure plan to the composite site and have a greater positive impact on the overall amenity of the landscape if suitable screening of the dwelling can be achieved. Otherwise, the site comprises two separate undersized 5 hectare allotments that are uneconomic for farming with the exception of continued forestry which is viewed in the Plan as a principal threat to the visual quality of the landscape.

- [47] The Council's Landscape Architect raises concerns associated with the introduction of a human made landscape element, particularly when forestry is harvested around the dwelling site. This will impact adversely on the rural amenity of the site until landscaping is well established and providing the intended mitigation.

- [48] The reduced front yard setback is considered to have a less than minor effect on amenity values. While the physical road area extends some 60m along the unformed driveway to the site boundary, the driveway is only utilised by the subject site and therefore provides an additional physical separation that is not acknowledged by the front yard breach.

- [49] The site utilises an existing rural access and established vegetation along the road reserve area and within the site will continue to provide mitigation of the platform when viewed from the road. Even where macrocarpa plantings cannot be relied upon for mitigation (in the event they are confirmed as being on road reserve), additional planting can be required to provide a similar level of mitigation over time. Where glimpse views into the site are available through the access and road frontage area, any reduction in rural amenity will be minor. Conditions of consent can mitigate any significant impact on rural amenity.

- [50] I consider that the amenity of the adjoining properties can be maintained despite the potential 20m reduction in side yard. The support of the owner of 525 mount Cargill Road is noted in the submissions subject to macrocarpa shelterbelt not being relied upon for screening. A submission from the other

adjoining property owner potentially affected by any side yard reduction (539 Mount Cargill Road) raises opposition to the proposal noting that the amenity enjoyed on their own property will be adversely affected by a dwelling within 125m of an area within their site which is enjoyed for picnicking. The intervening area appears to be densely planted with vegetation however, plans submitted by the Applicant indicate that much of the forest which exists adjoining that property will be harvested. The adverse effects of forestry and the harvesting of it on a periodic basis are considered be greater for appreciation and enjoyment of the adjoining land than the reduced setback proposed for a residential dwelling, however, it may be necessary to require additional screening of the development beyond the proposed screen planting area to address the concerns raised by the submitter. The property of 539 Mount Cargill Road is contains no residential development and is 3.63 hectares in area.

- [51] Overall, the proposal is considered to maintain the rural character and amenity of the site and surrounds subject to conditions of consent mitigating any adverse effects to minor.

Glare and Lighting

- [52] Mike Moore's assessment of the lighting acknowledges that there may be some adverse effects associated with night time lighting. However, given there are already houses and associated lighting in the area adjacent to the south and visible up Cedar Creek valley from points below, he considers these will be minor. I concur with this assessment and note that lighting can be further controlled by conditions of consent if the Panel are minded to grant consent. For example, the type and direction of outdoor lighting permitted within the building platform and/or the type of glass utilised within the dwellings.

Bulk and Location

- [53] The building platform is located as far to the southern boundary extent as possible without compromising views from Mount Cargill Road and from adjoining property owners. As noted above, the siting of a dwelling within the platform (which includes a reduced side yard setback off the southern boundary) is of concern to the land owners of 539 Mount Cargill Road. However, the screen planting which is proposed to the east of the access should remove any visibility of a dwelling within the identified platform. As mentioned earlier in this report, the screen planting within the boundary could be required should the macrocarpa hedge be removed and or be established in anticipation of the macrocarpa hedge being removed. Traffic movements along the access will still be visible however, the separation distances proposed are considered sufficient to mitigate any adverse effects on the rural land within 539 Mount Cargill Road.
- [54] The building platform allows for the dwelling and several ancillary buildings to be located within the platform concentrating the domestication elements to the southern extent of the site. This area of the site is currently not visible from the surrounding area however, once harvested, a dwelling will likely be visible. The applicant has proposed some mitigation, however a maximum height of 6m is considered to be higher than is necessary, particularly in the absence of any detailed drawings to ensure a dwelling and accessory buildings are integrated into the site. The visibility of the dwelling on 525 Mount Cargill Road is indicative of the elevation proposed on the subject site and the degree of visibility. Although still distant, the closer range views available to the subject site when viewed from Green Road and Mount Cargill Road (scenic rural roads through this landscape) mean a reduction in height might be warranted. While the curtilage areas around the dwelling on 525 Mount Cargill Road are not visible there may be greater scope for curtilage and accessory

buildings to be seen from Green Road and Mount Cargill Road, albeit glimpse views.

High Class Soils

- [55] The site is not identified as having high class soils and it not productive rural farm land. This affects the ability for any landowner to utilise smaller 5 hectare allotments for potential production and thereby support a self-sufficient rural lifestyle. Continued forestry production may diminish soil quality further.

Visibility

- [56] The Applicant's Landscape Architect assesses the potential visual prominence of a dwelling on the platform as being low. The Council's Landscape Architect's main concern is how visually exposed a dwelling located on the site would be when some of the woodlot trees are removed. The Council's Landscape Architect highlights that the site is an elevated site in a visually prominent location with no other obvious structures around. The Council's Landscape Architect highlights that no specific dwelling design has been identified, and although he considers that the mitigation measures recommended by Mr Moore would go a long way to help mitigate any adverse effects on FMCLCA natural character values, his opinion is that *'..in a sensitive site like this without more defined plans, the initial adverse effects would be potentially be more than minor'*.
- [57] The Applicant states (Section 2.2) that *'The building site will not be visible from vehicles travelling north on Mount Cargill Road while visibility from the east on Mount Cargill Road will be negligible due to roadside vegetation and other intervening vegetation'*. However, when assessing the visual effects from Green Road and from the northern section of Mount Cargill Road the applicant states that visual effects will be minor. The applicant considers that the existing roadside vegetation and other intervening vegetation together with the proposed mitigated will ensure that *'...any dwelling built on the site will not stand out in any way'* (section 2.2).
- [58] I concur with the applicant's Landscape Architect Mike Moore's assessment that the relevant viewpoints are limited to Mt Cargill Road and Green Road. Mr Moore's assessment of visual effects concludes that with the woodlot trees removed, the proposed house will be visible both from Mt Cargill Road (to the north) and from a few places along Green Road. Mr Moore considers the impact on visibility, if the woodlot trees are removed, however, his assessment that the visual effects are minor relies only on the backdrop created by the bush regeneration area. Mr Moore does not consider any other planting and/or screening is necessary to further mitigate adverse visual effects, given the separation distance from any viewing points and provided there is control over the height and colour of the dwelling.
- [59] Having considered both landscape architects' assessments, I consider that Mr Knox's concerns about the more than minor adverse effect on the quality of longer distance views warrants the need for additional mitigation. I do not consider that the backdrop effect of the regenerating bush area is sufficient to reduce the visual dominance of a dwelling. While it is not considered necessary to wholly screen a dwelling, further reducing the extent of visibility without eliminating it is considered achievable through conditions of consent.
- [60] Reliance on backdrop planting for mitigation is not considered to be sufficient mitigation for a dwelling on a site as elevated as the subject site and on a site of special landscape conservation value. While the positive effects of protection afforded to the regeneration bush above the site are acknowledged, it is considered that additional mitigation is necessary around the building

platform, including in the foreground to better integrate any future buildings and curtilage within the 30m x 30m platform.

- [61] A reduced dwelling height and greater controls over the cladding and building design are also considered necessary. Reducing the height of a dwelling may assist in reducing the timeframe within which any landscaping plan has effect in terms of providing reduced visibility of the dwelling.
- [62] The Council's Landscape Architect has raised concerns about the potentially more than minor adverse effect on the quality of longer distance views from the north and east. Albeit he does note that if native replanting of areas cleared of exotic woodlot vegetation was to be undertaken, this effect would be reduced. However, the applicant does not propose any planting within the areas where exotic woodlot is to be removed. Although exotic forestry could be re-established following its removal if the Applicant elected to.
- [63] It is important to establish whether it is sufficient to accept the proposed bush regeneration area as sufficient compensation for the domestication or whether additional exotic forestry (yellow areas) around the landscape platform should also form part of the larger plan for the site to increase the level of mitigation.
- [64] It is not considered sufficient to rely on a native regenerating backdrop to the dwelling. A landscape plan could be required by condition of consent to achieve increased integration of a dwelling on the north to north eastern aspect. A submitter raises concerns about the prospect of any north and north eastern planting being maintained given access to sunlight/daylight/views will be sought by occupiers of a dwelling in this location. If planting is located appropriately, there may be opportunities to maintain sunlight for the dwelling while achieving better mitigation. While the expanded native bush cover on the slopes above the house site will have a positive visual effect, the Council's landscape Architect's concerns about distant views necessitates a greater level of integration required by planting on these aspects, even where forestry continues to be harvested around.
- [65] Of interest, a consent granted in August 2003 (RMA 2003-0598) for an extension doubling the size of an existing dwelling on 525 Mount Cargill Road allowed a height of up to 7.5m. The written approval of Initial Volco Trust and Friends of Volco Trust was obtained. Initial Volco Trust is also a submitter in support of the subject application. The dwelling at 525 Mount Cargill Road is located on a similar contour level to the subject site, within the VPA of the Flagstaff Landscape Conservation Area and is also visible from distances of 1.2km to 2.6km along Green Road and Mount Cargill Road (to the north). This dwelling is considered to be visually prominent, however, does not benefit from the dense backdrop of exotic woodlot or regenerating bush.
- [66] Overall, the visual effects of the proposal are considered to be minor, subject to conditions of consent ensuring additional mitigation is provided to better integrate the dwelling into the site.

Residential Units

- [67] The issue for this particular proposal is not that residential activity is inappropriate for the rural zone but that the density of development (11 hectares) is greater than that anticipated by the District Plan. In this case, given the proposed residential activity is within an elevated area of the site that forms part of a landscape conservation area, the issue is also whether a siting and dwelling design can be achieved which mitigates adverse effects on the landscape values and character of the area so they are no more than minor.

- [68] Overall, the amalgamation of the two titles forming the application site reduces the fragmentation within this rural environment, potentially allowing a more productive use of the site as a whole. While the titles are in the same ownership currently, they can be sold off individually and 5 hectare allotments with lower soil class have a lower productive potential than an 11 hectare allotment. This is a positive effect of allowing residential use on the site.

Landscape Amenity and Character Values

- [69] As already noted, the site is located within the Flagstaff-Mt Cargill Conservation Area (FMCLCA) which is that area of land including the land to the north and west of urban Dunedin. The plan recognises that this land provides a significant portion of the setting, visual containment and skyline for the urban areas of Dunedin. Its visual quality has a substantial impact on the visual quality of wider areas.
- [70] A number of features and characteristics to be conserved for the FMCLCA overlying zone are listed in the operative plan. The following relevant "Features and Characteristics to be Conserved" of the FMCLCA are listed in the Dunedin City District Plan:

The visual dominance of natural landform and other natural elements (such as remaining indigenous vegetation) over cultural or human-made landscape elements, e.g. buildings or plantations.

The extent, integrity, coherence and natural character of the major natural elements such as landform, streams and areas of indigenous vegetation.

The extent and quality of views from the principal public routes and viewpoints.

The skyline generally defined by natural elements.

- [71] It is clear that the objective is not to prohibit residential development nor is the intention to make sure dwellings are invisible but instead to ensure that domestication is not dominant. That it does not detract unnecessarily from the principal public routes and viewpoints.
- [72] Additionally, the proposed residential use must be considered against the exiting use of the site which is a modified environment by forestry activities. The Applicant's Landscape Architect states that "...given the degree of existing modification the area is not highly sensitive to change". The Council's Landscape Architect states that despite the exotic woodlot plantings, the natural landform totally dominates the area.
- [73] The applicant's desire to manage the effects of domestication on the site is largely through an envelope approach to control the scale and character of future development. However, the Council's Landscape Architect raises concerns with such an approach given the lack of dwelling design and the sensitivities of the site, i.e. being within a visually prominent location (Visually Protected Area of the Flagstaff Mt Cargill Landscape Conservation Area FMCLCA). The building platform is large comprising a 900m² platform in which to establish built form. While a dwelling height limitation of 6m is suggested by the applicant's landscape architect, the Proposed 2GP includes a limit on the height of any building in a sensitive landscape of 5m. While the Proposed 2GP rules have no weight, it may serve as a useful guide for assessment purposes. It is a signal of the type of restrictions which are considered necessary to protect the more elevated areas of sites located within landscape protection areas.

- [74] I note that Mike Moore's assessment is that *'Eventually, regeneration of native bush cover associated with the development will more than compensate for any effects of increased domestication'*. However, as detailed earlier in this report, the level of mitigation is limited to the backdrop of the dwelling. In my opinion, given the potential more than minor adverse effect on the quality of longer distance views from the north and north east, additional mitigation is considered necessary around these aspects of the dwelling. The Applicant may be able to offer some additional mitigation to alleviate these concerns.
- [75] The mitigation methods proposed by the applicant have the potential to mitigate adverse effects on the environment and some of the mitigation measures have the potential to enhance the amenity values and quality of the landscape, however, given the siting of the building platform and its scale, the current proposal can only be supported with conditions requiring additional landscaping and/or regenerating bush cover in areas discussed above.

Sympathetic Siting and Design

- [76] The platform is located relatively close to the existing access into the site and at the southernmost extent of the site which negates additional access being created through the site and avoids a potentially greater visual effect of an intrusion into the skyline of Weatherston Hill. The Council's Landscape Architect does not set out any specific concern with regard to the size of the platform or for the siting of the platform, focusing instead on the human-made landscape element that the proposal would introduce particularly with removal of existing woodlot screen planting. In my opinion, the platform is located low enough on Weatherston Hill that when viewed from the north and north east, and supported with additional landscaping to better integrate development on the platform, any residential development would not interrupt the skyline or reduce the dominance of the natural landform. The proposed site cannot be considered within the context of existing development on the lower plains beneath Weatherston Hill because it is much more elevated and the pattern of land use changes markedly. However, the domestication of the rural lifestyle zoned land is visible in foreground views from Mount Cargill Road and Green Road looking south.
- [77] Instead, the proposed development is likely to be viewed within the context of the existing residential development at 525 Mount Cargill Road due to the perceived softening in the steeper slopes of Weatherston Hill at or around the same elevation as the proposed building platform and the existing dwelling on 525 Mount Cargill Road. Similarly, the Applicant's Landscape Architect refers to this as a 'valley location'. Indeed, a platform at any higher elevation than the dwelling on 525 Mount Cargill Road might be considered to interrupt the landform, particularly where woodlot is removed/harvested. However, neither the Applicant's Landscape Architect nor the Council's Landscape Architect provide comment on the visual effect of the dwelling on 525 Mount Cargill Road in their assessment.
- [78] Given the softening of the slope and the level of intervening vegetation, the siting of a dwelling on the slope of Weatherston Hill will not be perceived as an isolated development. Therefore, in my opinion, with additional mitigation in the form of landscaping and/or retention of additional woodlot or requirement for additional bush regeneration areas, it is considered that the landform will remain dominant.

Water and Effluent Disposal (Assessment Matter 6.7.9)

- [79] The Applicant has not provided detail as to the siting or size of any effluent disposal area. On-site effluent disposal systems are required to comply with the requirements of the Otago Regional Plan: Water. Additionally, the detail of

the effluent disposal system will be required to satisfy building consent requirements. The lack of detail concerns one of the submitters given the proximity of the Cedar Creek. There are no reticulated wastewater services available for connection. Any new dwelling, if consented, will require a septic tank and effluent disposal system. It is considered that suitable conditions of consent can address any potential adverse effects posed by an effluent disposal system on this site.

- [80] The Water and Waste Services Officer has recommended suitable conditions of consent including a requirement for any system to be designed by an approved septic tank and effluent disposal system designer. To assist the Panel with determining the suitability of the site for such activity, and to further alleviate the submitter's concerns, the Applicant could provide the results of any preliminary site investigations at the hearing.

Forestry and Shelterbelts

- [81] The proposal includes retention of an existing mature shelterbelt along the southern boundary on either side of the existing access. A submitter disputes reliance on mitigation which is located outside of the site on which the proposal is located. Further, the submitter indicates that these trees are having an adverse shading effect on their property which is located on the opposite side of Mount Cargill Road (525 Mount Cargill Road). If the shelterbelt is located on the subject site, then it will have existing use rights, however, the Panel could require that it be maintained at a suitable height to mitigate any adverse shading. However, the permitted baseline allows forestry on the site and the height of forestry is not controlled therefore, technically, any trees planted on the inside of the macrocarpa hedge could be left to grow to a similar height. This is not fanciful, albeit it may certainly take several years to have a similar effect. Alternatively, if the macrocarpa hedge is outside of the site, the planting established in between the hedge and the building platform could be protected by way of condition to provide a similar mitigation afforded by the existing macrocarpa. Currently, it is not identified whether the vegetation between the platform and access to Mount Cargill Road (with the exception of the macrocarpa hedge) will be retained.
- [82] Introducing residential use in close proximity to forestry raises potential fire risk issues that must be considered. Suitable safe distances for residential use from forestry are not detailed by the applicant and the NZFS have not lodged any submissions. However, if the Panel is minded to grant consent, they can require any residential development to comply with the Fire Service Code of Practice for Fire fighting Water Supplies SNZ PAS 4509:2008 by way of a condition of consent. This will ensure that additional water supply is provided on site within the platform of the dwelling and suitable couplings attached and/or residential sprinkler system designed into the dwelling.

Noise Effects and Conflict and Reverse Sensitivity

- [83] It is my opinion that the proposal is unlikely to have significant consequences for the economic well-being of the neighbours and generate reverse sensitivity effects. There is no other residential use within close proximity of the site. Additionally, no rural lifestyle living could be accommodated on 529 Mount Cargill Road without resource consent. The dwelling on 525 Mount Cargill Road is located over 200m south of the proposed platform.
- [84] The proposal will not result in any noticeable increase in noise effects beyond what could be established on the site as part of any permitted farming activity on the site (including any forestry activity currently being undertaken on the site during harvesting). Vehicle movements to and from the site may increase slightly from what is currently being undertaken on the site. It is unlikely that

an additional 4 hectares of land area would change the noise effects associated with the proposed activity. The reduction in the side yard from 40m to approximately 25m is not considered to introduce noticeable adverse effects on adjoining land which is not occupied by any residential dwelling (529 Mount Cargill Road). The dwelling on 525 Mount Cargill Road is as mentioned above, sufficiently separated.

Cumulative Effects

- [85] 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".

- [86] 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'. Some development is already established within the VPA of the landscape conservation area. As the proposed development may be seen within the same view shaft as the existing development on 525 Mount Cargill Road it has the potential to have a cumulative visual impact if not appropriately integrated into the landscape. Currently, as highlighted by the Council's Landscape Architect the site is recognised as *"...a largely undeveloped area with high landscape values"* and as *"...a visually prominent location with no other obvious structure around"*. Additionally, the Landscape Architect acknowledges that currently the area is covered almost completely with vegetation. However, the Landscape Architect is not opposed to the development if mitigation measures are incorporated which reduce the adverse effect on landscape character and FMCLCA values to "minor to moderate". This indicates that there is potential for any adverse cumulative effects associated with additional domestication viewed within the same locale, to be mitigated. The Council's Landscape Architect does however, request that further consideration be given to how the length of time that mitigation measures promoted by the applicant, and additional mitigation potentially promoted by the Panel, will take to be realised, if they are minded to approve the consent.

Positive Effects

- [87] The proposal includes a requirement to manage an area of the site which is visually prominent for the regeneration of indigenous forest cover. If the Panel is minded to grant consent, any conditions securing the retention of the regenerating bush for the future established native forest cover will have positive effects on landscape and visual values in the long term. The Panel may seek to ensure a wider area of the site is afforded this protection to mitigate/offset the visual effects of increased domestication in this landscape. The amalgamation of the two allotments (secured by way of condition) will further reduce the fragmentation of rural land within this environment having a potential long term positive impact on the landscape (by removing the possibility of separate ownership).

Sustainability

- [88] Sustainability relates to the protection of amenity values and the protection of significant natural and physical resources, the avoidance of mixing of

incompatible activities, and the avoidance of the unnecessary expansion of infrastructure. It is my opinion, as expressed above, that the proposal will have some adverse effects on the openness of the rural hillside in this location. However, there is no subdivision proposed, and consequently, no further fragmentation of the Rural Zone which could adversely affect the sustainable management of natural and physical resources. The land is forested at present, and the remainder of the site can continue to be forested should consent be granted (albeit excluding any areas set aside for regeneration). Any potential productive use of the site is expected to be maintained. The proposal involves amalgamating two smaller 5 hectare allotments and thereby seeks to reduce the fragmentation that currently exists. The area surrounding the site has been transformed into forestry blocks and/or comprise of regenerating bush. Allotments adjoining the site are also undersized allotments of 3.6ha (539 Mount Cargill Road) and approximately 11 hectares (525 Mount Cargill Road). The dwelling on 525 Mount Cargill Road is located on an undersized rural allotment of 11 hectares held under Title OT10D/1031).

- [89] Two submitters have raised the prospect of QEII covenants as a mechanism to protect the regenerating bush on the site. Such open space covenants are used to protect New Zealand's most vulnerable terrestrial biodiversity and are mostly found on private land. The covenant is a legally binding agreement that is then registered on the land title and protects the associated land and its natural land values forever. The covenanting landowner and subsequent owners retain ownership of, and management responsibilities for the protected land. The QEII National Trust ensures the purpose and objectives of the covenant are achieved by monitoring the covenant and providing advice/support to the landowner. This type of mechanism is better served by a consent notice requiring the landscape plan be detailed on the Certificate of Title.
- [90] While the Applicant may suffer a partial loss of potential income to be gained from forestry across the entire site, the Applicant gains the residential use of the site.
- [91] The proposal does not rely on reticulated services, and will place no demand on City service infrastructure.
- [92] Mount Cargill Road is formed to an appropriate standard for the present and foreseeable traffic usage. It is therefore considered that the City's infrastructure will be sustainably managed.

Transport

- [93] Access will be from the existing entrance off Mount Cargill Road. The Applicant anticipates an additional 8-10 vehicle movements per day along this road. In my opinion the sight distances are deficient and do not feel safe particularly heading south across the road. The curvature in the road together with vegetation on both side of the road, mean that visibility is impeded. The speed limit is 80km/h and while northbound traffic is likely to slow ahead of the bend, this still does not allow for sufficient time to cross the road. I have spoken with Transport Officer who has highlighted that a reconfiguration of the access may be required. Subject to a condition requiring a slight reconfiguration of the vehicle crossing within the road reserve area on the northern side of Mount Cargill Road, it is considered that any traffic effects are no more than minor.

Effects Assessment Conclusion

- [94] 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. Conditions of consent would necessitate the relinquishing of forestry activity intended to the north and north east of the building platform and potentially additional landscaping to the south (depending on the Panel's stance with the status of the existing macrocarpa hedge). If the Panel are minded to allow the continued harvesting of the exotic woodlot (outside of proposed regenerated bush areas) but require its retention until other landscaping is established, this could also be promoted by conditions of consent. Alternatively, or and in addition to the above, the building platform could be reduced in size.

OBJECTIVES AND POLICIES ASSESSMENT

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

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

Dunedin City District Plan

- [96] 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.	I concur with the Applicant that the proposal is not inconsistent with the policy framework set out in the sustainability section. Sufficient infrastructure (self-sustaining water supply and effluent and storm water disposal) is provided to cater for the activity without compromising the demands of future generations. Additionally the proposal encourages the protection of the natural and physical resources and the maintenance or enhancement of amenity values subject to conditions of consent. As stated previously, the amalgamated site and the individual sites may not be economic farm unit/s, however, allowing the applicant to provide for residential living may provide for increased on-site management, particularly for bush regenerating areas which has a positive effect on the landscape and ecological values within the site which are of benefit to the wider area
Policy 4.3.1 Maintain and enhance amenity values.	
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.	

Rural Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 6.2.1 Maintain the ability of the land resource to meet the needs of future generations.	The proposal is generally consistent with this objective and policy. The land has limited value as rural productive land because of its size, but is used for forestry. While the placement of a dwelling on this site is not based on the productive use of the site, a dwelling will support the continued maintenance required for regenerating bush areas and for pest control and support where required the downsizing of any forestry activities.
Policy 6.3.1 Provide for activities based on the productive use of rural land.	
Objective 6.2.2 Maintain and enhance the amenity values associated with the character of the rural area.	Ensuring the sustainability of the native bush on the site will enhance amenity values. While the Applicant proposes to confine protection to one regenerating bush area of the site, a landscape structure plan ensures that the area is expanded around the area of domestication. The proposal is considered to be inconsistent with this objective and these policies. The District Plan does not anticipate residential activity on this site at all. One neighbouring party has opposed the application, noting that the proposed dwelling will compromise their amenity, and fails to protect a visually prominent area within the landscape conservation area that is largely undeveloped at present. The proposed dwelling will be in a quite prominent position, and will be closer to the boundaries than would be expected for residential activity in the rural zone because of the desire to reduce the prominence of the site. The potential for changes to the rural character of the site more consistent with a Rural Residential zoning are avoided by amalgamating the two titles achieving an approximately 11 hectare site. Policy 6.3.6 supports a relocation of the platform if it is considered necessary to further reduce adverse effects on adjoining properties. Subject to conditions the proposal could maintain amenity values for the adjoining properties.
Policy 6.3.5 Require rural subdivision and activities to be of a nature, scale, intensity and location consistent with maintaining the character of the rural area and to be undertaken in a manner that avoids remedies or mitigates adverse effects on rural character. Elements of the rural character of the district include, but are not limited to: a) a predominance of natural features over human made features; b) high ratio of open space relative to the built environment; c) significant areas of vegetation in pasture, crops, forestry and indigenous vegetation; d) presence of large numbers of farmed animals; - e) f) Low population densities relative to urban areas; g) Generally unsealed roads; h) Absence of urban infrastructure.	
Policy 6.3.6 Avoid, remedy or mitigate the adverse effects of buildings, structures and vegetation on the amenity of adjoining properties.	
Objective 6.2.4 Ensure that development in the rural area takes place in a way which provides for the sustainable management of roading and other public infrastructure.	As set out in the effects assessment, the development is self-sufficient and will not result in additional demand on infrastructure. The proposal is considered to be consistent with this objective and policy.
Policy 6.3.8 Ensure development in the Rural and Rural Residential zones promotes the sustainable management of public services and infrastructure and the safety and efficiency of the roading network.	
Policy 6.3.7 Recognise and maintain significant landscapes within the rural zone by limiting the density of development within landscape management areas.	The proposed development still results in an undersized rural allotment. The applicant has not stated the mechanism by which the titles will be amalgamated, however, the effect of this is a potential reduction in the fragmentation of this elevated area of the landscape which can be associated with change of ownership and consequently different land uses proposed within close proximity. The recommended mitigation measures can ensure the landscape qualities of the site when viewed from distant views are maintained. The proposal is considered to broadly accord with this policy. The proposal is considered to be inconsistent with this policy.
Policy 6.3.11 Provide for the establishment of activities that are appropriate in the Rural Zone if their adverse effects can be avoided, remedied or mitigated.	Residential activity is an expected component in the Rural Zone, although not on a site of this size. The issue is not so much whether the residential activity is inappropriate for the zone, but rather whether it is

	appropriate for this site. The proposal should not adversely affect the amenity and operation of neighbouring land to undertake productive rural activities. The proposed residential activity will have potentially have adverse effects on the amenity of one neighbouring properties; however, with conditions as outlined in the effects assessment of this report, it can be consistent with this policy.
Policy 6.3.14 Subdivision or land use activities should not occur where this may result in cumulative adverse effects in relation to: (a) amenity values. (b) rural character (c) natural hazards, (d) the provision of infrastructure, roading, traffic and safety, or (e)	The proposal as presented is considered to have some adverse effects on amenity and rural character, but not in regard to hazards or infrastructure. The proposal is considered to be generally consistent with this policy.
Objective 6.2.5 Avoid or minimise conflict between different land use activities in rural areas.	The proposal is considered to be consistent with this objective. The proposed residential activity is not expected to conflict with the adjoining farming activities and or adjoining property owners enjoyment of their own undersized allotments for more lifestyle oriented activities.
Policy 6.3.9 Ensure residential activity in the rural area occurs at a scale enabling self-sufficiency in water supply and on-site effluent disposal.	The proposal is considered to be consistent with this policy. The proposed residential dwelling can be self-sufficient for services.
Policy 6.3.12 Avoid or minimise conflict between differing land uses which may adversely affect rural amenity, the ability of rural land to be used for productive purposes, or the viability of productive rural activities.	The inclusion of residential use within the site is sufficiently separated from surrounding properties to negate any potential conflict between differing land uses. The submitters concerns about loss of privacy and amenity when using a picnic spot within rural zoned land is noted but when compared with the activities that could occur on the subject site, the residential use is not considered to impact adversely on that continued enjoyment of the submitters land, particularly where the Panel is minded to provide additional landscaping as mitigation around the north and north eastern sides of the dwelling and in the event that the macrocarpa hedges are on road reserve.

Landscape Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 14.2.3 Ensure that land use and development do not adversely affect the quality of the landscape.	The proposal is considered to be consistent with this objective subject to conditions of consent which will ensure that adverse effects on the landscape are no more than minor. The mitigation measures proposed both by the Applicant and those recommended in the effects assessment above, can achieve a development that is sufficiently integrated with the landform and landscape surrounding to ensure this objective is achieved.
Objective 14.2.4 Encourage the maintenance and enhancement of the quality of Dunedin's landscape.	The protection afforded to the bush regeneration area will if successful, foster an enhancement of the quality of a small area of the wider landscape. Provided buildings within the proposed platform can achieve a higher level of integration (through conditions of consent requiring implementation of a suitable landscape structure plan for the northern and north eastern aspects and retention of exotic woodlot until such time as the landscape structure plan has been sufficiently implemented), the proposal will maintain the quality of the landscape in views from Mount Cargill Road and Green Road. When viewed from these key scenic transportation routes any domestication has the potential to impact on people's perception of the visual quality of the
Policy 14.3.3 Identify those characteristics which are generally important in maintaining landscape quality in the rural area (as listed in part 14.5.3 of this section) and ensure they are conserved.	
Policy 14.3.4 Encourage development which integrates with the character of the landscape and enhances landscape quality.	

	landscape. The rural area including the subject site has been modified by the effects of subdivision and land use development, including forestry giving more weight to the protection of any remaining landscape quality and character, i.e. openness and spaciousness. The development of the subject site can be achieved while conserving the characteristics which give the landscape its quality in this area. Therefore, subject to condition, the proposal is consistent with this objective and policies.
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Manawhenua Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 5.2.1 Take into account the principles of the Treaty of Waitangi in the management of the City's natural and physical resources.	The proposal has been assessed using the protocol established between Kai Tahu ki Otago and the Dunedin City Council. The proposal is considered to be consistent with this objective and policy. KTKO Limited was notified of the notified proposal and no submission was received from them.
Policy 5.3.2 Advise Manawhenua of application for notified resource consents, plan changes and designations.	

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 proposed residential activity is not considered to adversely affect the transportation network where the access can be re-configured to achieve improved sight lines. No upgrade of the road is considered necessary (given vehicle movements in association with one residential activity are not significant). However, the safety of residents exiting the site in a southerly direction requires further consideration. Unless the applicant provides further information to address concerns raised about sightlines, additional condition are considered necessary to ensure the proposal is entirely consistent with these objectives and policies.
Objective 20.2.4 Maintain and enhance a safe, efficient and effective transportation network.	
Policy 20.3.4 Ensure traffic generating activities do not adversely affect the safe, efficient and effective operation of the roading network.	
Policy 20.3.5 Ensure safe standards for vehicle access.	
Policy 20.3.8 Provide for the safe interaction of pedestrians and vehicles.	

Environmental Issues Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 21.2.2 Ensure that noise associated with the development of resources and the carrying out of activities does not affected public health and amenity values.	Residential noise is anticipated on allotments of 15hectares. The site is deficient by approximately 4.0 hectares. Residential development within the identified building platform can be accommodated without affecting the closest adjoining property owner's health or amenity values. Subject to condition regarding fire safety and fire fighting water supplies and the design of any effluent disposal system, the proposal is considered to be consistent with this objective and policy.
Policy 21.3.3 Protect people and communities from noise and glare which could impact upon health, safety and amenity.	

Proposed 2GP

- [97] The proposed zoning of the site is Rural Hill Slopes under the Proposed 2GP and is identified within a Landscape Overlay Zone – Flagstaff-Mt Cargill which is a Significant Natural Landscape (SNL).
- [98] Decisions are pending on the rules of this zone and on the rules applying to these zones. The outcome of any submissions on the plan to the rules is not known therefore the final makeup of the rules is unclear. While decisions on the Proposed 2GP rules, are notified, decisions are yet to be made. However, I note that the minimum allotment size for residential development has been raised from 15 hectares to 40 hectares. However, similar setback provisions have been applied.
- [99] The objectives and policies of the 2GP must be considered alongside the objectives and policies of the current district plan. The following 2GP objectives and policies were considered to be relevant to this application:
- [100] **Objective 10.2.1 and Policy 10.2.1.1 (Natural Environment)** seek to ensure areas of indigenous vegetation and the habitats of indigenous fauna are maintained and enhanced by encouraging conservation activity. The proposal is considered to be **consistent** with this objective and policy albeit the applicant has indicated indigenous vegetation beneath existing woodlot across the forestry areas will still be removed.
- [101] **Objective 10.2.5 and Policies 10.2.5.7, 10.2.5.8, and Policy 10.2.5.12 (Natural Environment)** seek to protect significant natural landscapes (SNL's) from inappropriate development and ensure that their values are maintained or enhanced by requiring new buildings and structures in the SNL overlay zones to have exterior colours and materials that avoid, or if avoidance is not possible, minimise adverse visual effects caused by reflectivity. A strong avoidance tone is evident in Policy 10.2.5.7 towards forestry within SNL areas. The policy directive is to only allow forestry in an SNL where any adverse effect on landscape values will be avoided, or if avoidance is not possible, be no more than minor. Policy 10.2.5.12 seeks to provide for smaller buildings (no larger than 60m²) in landscape overlay zones but only where they are limited in number and clustered together with each other or with existing large buildings. With the exception of Policy 10.2.5.7, the proposal is considered to be **consistent** with this objective and these policies subject to conditions of consent which the proposal is considered to be **inconsistent with**. The application indicates that large tracts of the site will continue to be utilised for forestry. The continuation of forestry is not considered to be contrary to this policy because of the comments made by Council's Landscape Architect that *"The natural landform totally dominates the area at the moment, even though the site has exotic woodlot plantings." But neither is it considered to be consistent with it.*
- [102] **Objective 16.2.1 and Policies 16.2.1.1, 16.2.1.5 and 16.2.1.7 (Rural Zones)** seeks to reserve rural zones for productive rural activities and for the protection and enhancement of the natural environment along with certain activities that support the well-being of rural communities. There is a strong directive within objective 16.2.1 and within Policies 16.2.1.5 and 16.2.1.7 which limits residential activity in rural zones to that which directly supports farming or which is associated with papakaika and that do not comply with the density standards for the zone. The continued forestry on the site is not reliant on residential activity to support it. No information has been provided to suggest that forestry across the site is uneconomic. The applicant's consider the residential activity necessary to support a guardianship role to the regenerating bush areas, and in recognition of the minor nature of the deficiency being 4 hectares. Given the avoidance of forestry in this area as

discussed above, the retention of the regenerating bush area without the benefit of residential activity, and the size of the deficiency, the proposal is considered to be **inconsistent with** this objective but **consistent** with Policy 16.2.1.1 which enables conservation activity in the zone. Allowing residential activity to achieve a conservation benefit is considered to be enabling where the adverse effects can be mitigated to no more than minor.

- [103] **Objective 16.2.2 and Policies 16.2.2.1, 16.2.2.3 and Policy 16.2.2.7 (Rural Zones)** seek to minimise the potential for conflict between the activities within the zone. Given the separation distances from the proposed residential activity and any existing or any known approved building platform, the proposal is considered to be consistent with this objective and policy. Policy 16.2.2.7 requires forestry and tree planting to be set back an adequate distance to avoid significant effects from shading on residential buildings on surrounding properties. As there are no such buildings established or able to be established within close proximity of the proposed building platform the proposal is also considered to be consistent with this policy also.
- [104] **Objective 16.2.3 and Policies 16.2.3.1, 16.2.3.2, 16.2.3.9 (Rural Zones)** seek to maintain or enhance rural character values and amenity of the rural zone. The protection of regenerating bush maintains the existing amenity that this provides on the site. The introduction of residential activity promotes a better protection for this area of bush however, it is acknowledged that under new indigenous cover provisions of the Proposed 2GP, the removal of indigenous bush cover is likely to necessitate a resource consent so the impact of this can be assessed in this landscape at that time. As the area of regenerating bush is not being enlarged nor is the relinquishing of forestry activity over part of the site being proposed (albeit this may necessitate consent if replanting is proposed due to loss of existing use rights) the introduction of residential activity is unlikely to enhance rural character values. A proposal to increase the bush regenerating area would be considered as enhancing rural character values. In the event that existing woodlot is removed around the building platform, the proposal is not considered to be consistent with this objective. However, subject to conditions of consent requiring either additional landscaping around the building platform (and retention of existing woodlot while that is established) or an extended bush regeneration area within the site promoting the enhancement of the landscape values the proposal is considered to be consistent with this objective and policies.
- [105] Policy 16.2.3.9 requires development to be designed and operated to ensure that adverse effect from light spill on rural character and amenity, and the ability of people to view the night sky is "insignificant". A dwelling design is not proposed at this stage, however, ahead of establishing any buildings on the approved building platform an additional resource consent is required allowing for an assessment of how the dwelling reduces light spill at night-time. If the Panel is minded to grant consent, and they consider that given the elevation and sensitivity of the landscape that a greater level of control over night time lighting is necessary this too can be mitigated by conditions of consent. The proposal is therefore considered to be consistent with this policy.
- [106] **Objective 16.2.4 and Policy 16.2.4.4 (Rural Zones)** seeks to avoid residential activity in rural zones at a density that may over time cumulatively reduce rural productivity by displacing rural activities. The proposal is considered to be inconsistent only with this objective and policy despite being undersized. This is because the proposal will result in the amalgamation of the two lots which reduces the fragmentation of the land which has already occurred.

Overall Objectives and Policies Assessment

- [107] The objectives and policies associated with the Rural Hill Slopes Zone of the Proposed 2GP, while having legal effect, have been submitted against and I have therefore given them little weight.
- [108] The key objectives and policies are those outlined within the rural and landscape sections of the Operative Plan. Those seeking to maintain and enhance the amenity values associated with the character of the rural area and the maintenance and enhancement of the life supporting capacity of land and resources. Having regard to the relevant objectives and policies, the above assessment indicates that the application is **inconsistent** with some of those provisions and **consistent** with others.

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

- [109] The Operative and Proposed Regional Policy Statements for Otago are a relevant consideration in accordance with Section 104(1)(b)(v) of the RMA. The Proposed Regional Policy Statement (notified 23 May 2015) is in the appeals phase. Given their regional focus, the regional policy statements do not have a great bearing on the current application.
- [110] However, Chapter 5: Land is considered relevant in that it seeks to promote the sustainable management of infrastructure to meet the present and reasonably foreseeable needs of Otago's communities.
- [111] Under the Proposed Regional Policy Statement, Part B: Chapter 1 seeks to recognise and provide for the integrated management of natural and physical resources to support the well-being of people and communities in Otago which includes economic wellbeing. Part B: Chapter 3 is considered to be relevant in that it seeks to recognise and provide for natural resources and processes that support indigenous biological diversity (Policy 3.1.9(e)) and to control the adverse effects of pest species (Policy 3.1.9(g)). Policy 3.1.10 seeks to recognise the values of natural features and landscapes are derived from biophysical sensory and associative attributes. The protection of an area of regenerating bush within the site will be consistent with this policy. Policy 3.1.12 seeks to encourage, facilitate and support activities which contribute to enhancing the natural environment. Protection of the bush regeneration area can achieve this policy albeit there appears to be no intention to increase the area of bush from what already exists on the property or reduce the area of exotic forestry on the site. The proposal is considered to be consistent with policies within this chapter subject to conditions of consent.
- [112] As such, the proposal is considered to be consistent with the relevant objectives and policies of both the operative and proposed regional policy statements.

DECISION MAKING FRAMEWORK

Part 2 Matters

- [113] Given there is no ambiguity, incompleteness or illegality in the Operative Dunedin City District Plan, it may not be necessary to go back to Part 2 Matters of the Resource Management Act 1991, however, I have undertaken an assessment of Part II below and in my opinion there is no inconsistency with Part 2.
- [114] 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, to recognise and provide for the matters of national importance outlined in

Section 6, and to have particular regard to the matters listed in Section 7. Of particular relevance to this application are Sections 5(2)(c) "avoiding, remedying or mitigating any adverse effects of activities on the environment", 7(c) "the maintenance and enhancement of amenity values" and 7(f) "the maintenance and enhancement of the quality of the environment".

- [115] As discussed in the assessment of effects above, the proposed development is not considered to create adverse effects that are more than minor on the environment when considered in the context of the receiving environment and the provisions of the District Plan as they relate to residential activity in rural zones and within landscape conservation areas.
- [116] I therefore consider that the proposal will avoid, remedy or mitigate adverse effects to a degree that satisfies the provisions of the District Plan subject to compliance with conditions. When considering the proposal overall, and in considering the positive effects that would result for the subject site and wider landscape, the proposed development would be consistent with the purpose of the Act outlined in Section 5 of that legislation.
- [117] Having regard to Section 6 of the Act, there are no matters of national importance which can be considered to be affected by the development of this site.
- [118] Overall, I consider the proposal is consistent with those matters outlined in Part 2 of the Act.

Section 104D

- [119] 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.
- [120] As discussed above in the assessment of effects, it is considered that the adverse effects as proposed to be mitigated and subject to additional conditions of consent are no more than minor. As the threshold test relates to adverse effects, mitigating factors can be considered, but any wider beneficial effects for the landscape and environment cannot.
- [121] 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.
- [122] 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 both the Dunedin City District Plan and the proposed 2GP (bearing in mind that limited weight should be given to the 2GP at this stage, because all aspects of that proposed plan are potentially subject to challenge). Since an absence of support (i.e. inconsistency with) is not sufficient to meet the test of contrary, as a whole, the proposal is assessed as being inconsistent with the relevant objectives and policies of the Residential Zone, Transportation and Hazards Sections of both the operative and proposed plans. The proposed development is therefore considered to also satisfy the second 'gateway' test outlined by Section 104D.

- [123] 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 Committee 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

- [124] 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 no more than minor subject to compliance with recommended conditions of consent.
- [125] 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 **inconsistent** with the key objectives and policies relating to both the Dunedin City District Plan and the Proposed 2GP subject to conditions of consent.
- [126] 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 Operative and Regional Policy Statement for Otago.

Other Matters

- [127] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [128] Case law indicates 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.
- [129] The granting of consent will not over intensify residential activity in the Rural Zone thereby compromising the integrity of the zone. Despite the elevated nature of the site, it is considered that there is sufficient scope for additional mitigation on this site to reduce any adverse visual effects and effects on landscape character to minor. Positive effects of exotic forestry removal and the protection of regenerating bush areas are acknowledged. Increasing the area of regenerating bush to encircle the new dwelling is considered to be necessary to avoid the re-occurring temporary effect of forestry being removed. And, or a requirement that existing exotic woodlot not be removed until such time as additional landscaping is completed (i.e. native bush cover on the lower slopes and beside the dwelling).

The District Plan directs the Council to consider:

- the cumulative effects of residential development in the area;
- reverse sensitivity issues;
- the covering of soil by hard surfaces;
- the degree to which a residential unit on the site affects the amenity and economic well-being of neighbouring properties;
- the degree to which the amenity values of the open area is compromised; and
- the degree to which the productive potential of the site and adjoining properties and their future sustainable use is compromised.

[130] Cumulative effects, impact on soils, reverse sensitivity, amenity and sustainability have also been considered earlier in this report.

[131] The Panel is also to consider the implications of a residential unit on the productive potential and future sustainable use of the subject site itself. The subject site is covered in mostly exotic forestry with an area of regenerating bush beneath the exotic canopy in the area above the proposed platform. This is unlikely to change with the addition of a dwelling. The Applicant proposes to continue forestry on the site in the areas marked in yellow. There is no District Plan requirement for a rural site to be productive and/or economically viable, and any inadequacies a site may have as a productive unit are not reason to allow an alternative, non-complying, use of the site.

[132] However, I do not consider that the proposed activity represents a challenge to the integrity of the Dunedin City District Plan for the following reasons:

- The proposal provides a less than a 4 hectare deficiency.
- The existing use of the site is for forestry which the Plan considers to be a principal threat to the visual quality of the landscape. The introduction of residential use will promote a reduced reliance on this type of land use and promotes protection of an area of regenerating bush. If accepted by the Panel the conditions of consent will potentially enhance the visual quality of the landscape through identifying additional areas of bush regeneration within the property.
- Effects can be managed subject to conditions of consent which seek to ensure development within the approved building platform is sufficiently integrated with the character of the landscape and that the landscape quality of the site is maintained and potentially enhanced.
- The proposal is for a composite site which will reduce already fragmented rural landscape.
- Other undersized rural allotments are established within this rural environment albeit only one other dwelling is at a similar contour and visible at that contour in the same views as the subject dwelling.

[133] I consider that its potential approval would be unlikely to undermine public confidence in the plan's provisions, subject to compliance with conditions of consent.

[134] For the above reasons, I consider that approval of the proposal will not undermine the integrity of the Plan as the activity will produce effects that are no more than minor, subject to compliance with conditions of consent. 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

[135] Having regard to the above assessment, I recommend that the application be granted subject to appropriate conditions. If the Panel are minded to grant consent, I have set out recommended conditions below.

RECOMMENDATION

*That pursuant to section 34A(1) and 104B and sections 104 and 104D of the Resource Management Act 1991, the Dunedin City Council **grants** consent to a **non-complying** activity being the establishment of a residential landscape platform on*

an undersized lot, subject to the conditions below, imposed under Section 108 of the Act:

Location of Activity: 533 Mount Cargill Road, Dunedin

Legal Description: Section 5 Block VII North Harbour & Blueskin Survey District (Computer Freehold Register CT OT79/251) and Section 6 Block VII North Harbour & Blueskin Survey District (Computer Freehold Register CT OT260/294)

Lapse Date: XX July 2022, unless the consent has been given effect to before this date.

Conditions:

- 1 The proposal shall be constructed generally in accordance with the plans and relevant details submitted with the resource consent application received by Council on 3 March 2017 and additional information received on 13 March 2017 and in accordance with the conditions below:*

Landscape

- 2 Prior to commencing any development within the approved building platform, a land covenant shall be registered on the Certificates of Title requiring the allotments within the composite site area to be amalgamated. The covenant shall specify the following:*

"Section 5 Block VII North Harbour & Blueskin Survey District (Computer Freehold Register CT OT79/251) and Section 6 Block VII North Harbour & Blueskin Survey District (Computer Freehold Register CT OT260/294) shall be amalgamated together prior to any residential occupation to reduce the fragmentation of land within the Flagstaff- Mt Cargill Landscape Conservation Area (VPA) with the establishment of residential use on the site".
- 3 Prior to commencing any development within the approved building platform, a survey (to-scale) shall be completed by a suitably qualified person identifying on a Site Plan and quantifying (m²) the bush regeneration area and the details submitted to the Planning Manager for approval to allow monitoring of the success of any*
- 4 All buildings, including accessory buildings, and residential curtilage are to be located within the identified building platform (which is centralised along the 295 contour).*
- 5 All buildings shall be a maximum of 5m in height above existing ground level.*
- 6 All buildings shall be finished in naturally weathered timber or locally appropriate stone, or in colours that have low levels of contrast with the colours of the wider bushland setting. Painted surfaces will have light reflecting ratings of no more than 15%.*
- 7 All services with the exception of effluent disposal shall be located below ground.*

- 8 *The driveway is to retain an informal rural character with gravel surface and soft edges (i.e. no kerbs). Monumental gates and driveway lighting are not permitted.*
- 9 *A lighting plan for any buildings proposed within the approved building platform shall be submitted to the Planning Manager for approval within 1 month of construction of any building within the approved building platform. The lighting plan shall include the following design considerations:*
 - (i) *Outdoor lighting shall be down lighting only;*
 - (ii) *All outdoor lighting shall be of low luminance (XXX acceptable limit specified).*
 - (iii) *Any exterior lighting shall be limited to the approved building platform only.*

To achieve the following objective:

- (i) *Low visibility of domestication in distant views to the north along Mount Cargill Road and Green Road.*
-
- 10 *All areas of existing indigenous vegetation (not including the native understorey to the exotic species) are to be retained and managed to protect and enhance their extent and quality.*
 - 11 *A landscape plan for the area labelled screen planting area shall be submitted to the Planning Manager for approval and implemented (in the event that the Macrocarpa Shelterbelt is removed) with the objective of providing screening and of residential activity within the landscape platform area from 539 Mount Cargill Road and Mount Cargill Road.*
 - 12 *A landscape structure plan for the areas to the north and north east of the dwelling shall be submitted to the Planning Manager for approval prior to commencing any development within the approved landscape platform and prior to establishing a dwelling on the site. The plan shall include the following:*
 - (i) *New native vegetation established on the northern and north eastern side of the building platform.*
 - (ii) *Clustered plantings to reduce unnatural alignment.*
 - (iii) *Additional landscaping on the north and north east boundaries (Mount Cargill Road and Green Road).*
 - (iv) *Temporary retention of exotic woodlot around the northern and north eastern aspects of the approved building platform until such time as native planting is established and providing partial screening of the dwelling.*
 - (v) *Planting shall be clustered and follow the contour lines of the site.*
 - (vi) *Planting shall be of native species.*
 - (vii) *The date of any exotic woodlot removal.*

For the following objectives:

- (i) *To provide additional partial screening of the dwelling in distant views from the north and north east (Mount Cargill Road and Green Road).*

- (ii) *To reduce the visual dominance of domestication in distant views (Mount Cargill Road and Green Road).*
 - (iii) *To provide temporary screening of domestication elements until such time as native vegetation provides a level of screening which integrates the development into the site.*
- 13 *Any building established on the site shall be finished in colours which will unobtrusively blend with colours of the surrounding landscape. Roof colours shall have a reflectivity value of no more than 10% and the main cladding colour shall have a reflectivity value of no more than 30%.*
- 14 *The dwelling shall not exceed 5 metres in elevation from the existing ground level.*
- 15 *Prior to commencing any development within the approved building platform, a Bush Regeneration Management Plan (BRMP) shall be submitted by the Applicant to the Planning Manager for approval setting out the methods and timeframes for managing the identified Bush Regeneration Area to encourage natural regeneration of indigenous species and regrowth, to maintain the native trees and bush and to control the establishment of exotic species. A Pest and Indigenous Vegetation Management Strategy shall be included in the BRMP detailing the actions to be undertaken by the property owner to:*
- (i) *Establish processes to protect and enhance the indigenous vegetation in the area.*
 - (ii) *Undertake and monitor the control of noxious weed, including wood weeds such as elder, hawthorn and holly, to enhance native vegetation cover.*
 - (iii) *Progressively remove all exotic trees using methods appropriately for minimising damage to surrounding native species and the timeframe to carry out this work.*
 - (iv) *Prevent any future stock damage, in the event that part of the site is converted for grazing. All bush regenerating areas and landscape planting areas shall be fenced with a permanent fence designed to exclude stock from these areas.*

Additional Bush Regeneration Areas

- 16 *The consent holder shall enter into a covenant with the Council to protect the proposed bush regeneration areas identified by the applicant and to provide an additional 10m wide landscape planting covenanted area along the north and north eastern side of the approved building platform. The covenant shall be prepared at the consent holders expense, and shall be registered on the title of the subject site before building consent is issued for any new dwelling on the property. A detailed design of the covenanted area shall be forwarded to the Planning Manager, Dunedin City Council for approval. The covenant shall specify the plant species, density of planting, on-going maintenance obligations of the landscape planting strip, and the requirement to have 80% of the new plants successfully established on-site to a height of at least 2.0m before the property owner obtains building consent for the new dwelling. The covenant is intended to achieve a reduced visibility of development within the platform and to promote a greater level of regenerating bush within the site to provide additional conservation values for the Flagstaff-Mt Cargill Landscape Management Area.*

Transport

17 Prior to commencing any building within the approved building platform, a plan shall be submitted to the Planning Manager showing a re-configured access to improve sight lines to the south when exiting the property.

Advice Notes:

1. In addition to the conditions of resource consent, the Resource Management Act establishes through Sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
2. Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
3. The lapse period specified above may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.
4. It is the responsibility of any party exercising this consent to comply with any conditions imposed on their resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
5. This is resource consent. Please contact the Building Control Office, Development Services, about the need for building consent for the work.
6. As the proposed building extends to the *side boundaries* care should be taken by the consent holder to accurately identify the position of these boundaries prior to building construction. Confirmation by a licenced cadastral surveyor may be required.
7. The vehicle access, from the carriageway to the property boundary, is over legal road and is therefore required to be constructed in accordance with the Dunedin City Council Vehicle Entrance Specification (available from Transportation).
8. In the event of any future development on the site, Council's Transport Department would assess provisions for access, parking and manoeuvring at the time of resource consent/building consent application.
9. Code of Subdivision
Parts 4, 5 and 6 (Stormwater Drainage, Wastewater and Water Supply) of the Dunedin Code of Subdivision and Development 2010 must be complied with.
10. Fire-fighting Requirements
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.
11. Erosion and Sediment Control
The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off:
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
 - Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).

12. Private Drainage Matters

Private drainage issues and requirements (including any necessary works) are to be addressed via the building consent process.

- 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.
 - For sites level with or above the road, the finished floor level of any building is to be a minimum of 150mm above the crown of the road.
 - For sites below the road, the finished floor level is to be no less than 150mm above the lowest point on the site boundary. Surface water is not to create a nuisance on any adjoining properties.
 - For secondary flow paths, the finished floor level shall be set at the height of the secondary flow plus an allowance for free board.
 - As required by the New Zealand Building Code E1.3.2, surface water resulting from an event having a 2% probability of occurring annually, shall not enter dwellings. The finished floor level shall be set accordingly.

REASONS FOR RECOMMENDATION

[136] 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.

[137] The proposal is considered to be inconsistent with the key relevant objectives and policies of both the Dunedin City District Plan and the Proposed 2GP.

[138] The proposal is considered to be consistent with the objectives and policies of the Operative and Proposed Regional Policy Statement for Otago.

[139] 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.

[140] The proposal is considered to be a true exception for the following reasons:

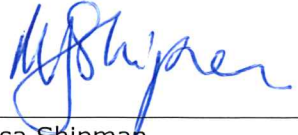
- The site has a 4 hectare shortfall.
- The site is a composite site joining two significantly undersized allotments in the rural zone containing soils of poorer quality.
- The site has an existing access.
- The proposal offers the protection of elevated regenerating bush areas within a visually prominent area of the site.
- The site has existing use rights for forestry activity and is modified by exotic forestry and a house on the landscape to the south of the site.

[141] In my opinion, an assessment with regard to Part II matters of the RMA is not required, however, an assessment of those matters, in my opinion reveals that the proposal is still compatible.

[142] Overall, the proposed development has been assessed as not being likely to give rise to more than minor adverse effects on those natural elements of the Flagstaff Mt Cargill Landscape Conservation Area which the Dunedin City District Plan seeks to protect, subject to conditions being complied with.

Conditions including the setting aside of additional bush regenerating areas on the north and north eastern sides of the platform and a requirement to covenant and protect it by conditions of consent.

Report prepared by:



Melissa Shipman
Planner

12 June 2017

Report checked by:



Campbell Thomson
Senior Planner

12 June 2017