

BEFORE THE DUNEDIN CITY COUNCIL HEARING PANEL

IN THE MATTER OF The Resource Management Act 1991

AND

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

Expert Planning Evidence by Kirstyn Lindsay

2 February 2019

INTRODUCTION

1. My name is Kirstyn Lindsay and I am the sole director and employee of Southern Planning Solutions Limited. I hold a Masters in Planning from the University of Otago. I have 16 years' experience in district and regional planning. I am an accredited RMA commissioner and hold full NZPI membership.
2. Prior to preparing this evidence, I reviewed Mr Roberts' S42A report, the Council officer comments, submissions and relevant planning instruments.
3. I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses and, while this is not an environment court hearing, I agree to comply with the code. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

PROPOSAL

4. Mr Roberts, in his S42A report, provides a succinct description of the proposed activities and the surrounding environment [Paragraphs 10-29 of the S42A report]. For expediency, I will not repeat it here.
5. At this time, the applicant withdraws that component of the application which relates to the use of the site as a recreation area, and seeks only the creation and use of the area as a car park and entranceway and associated site works. Overall, this is a reduction in the scale and nature of the activity and does not introduce any new effects. As such, it is considered that this change falls within scope of the original application, and the Hearings Panel are able to consider the scaled back application.

RULE ASSESSMENT

6. With respect to the 2006 District Plan, I accept Mr Roberts' interpretation [Paragraph 35 of the S42A report] that the activity is an expansion of the existing community support activity and the car park area should be assessed as a discretionary activity. The non-complying activity status identified in the application deferred to preliminary Council advice.
7. Mr Roberts is correct that the application was prepared prior to the decisions of the 2GP being released and, as such, no rule assessment under the 2GP was undertaken or required. This matter was also raised by Ms Lee and G & A Wilmshurst in their

submissions. I appreciate Mr Roberts thorough rule analysis and accept his assessment in respect of the 2GP. I consider this assessment addresses the points raised in the submissions.

LIMITED NOTIFICATION

8. The application was limited notified to seven parties identified in Mr Roberts' report [Paragraph 70 of the S42A report] and five submissions were received by the close of the submission period [Pages 103-136 of the Agenda]. I suspect that the application, without the recreational component and associated noise effects, might have resulted in a different assessment of affected parties.

ASSESSMENT OF ENVIRONMENTAL EFFECTS

9. This additional assessment extends the assessment of effects in the application and seeks only to address those matters raised in Mr Roberts' report which require clarification or further response.

Noise effects

10. Many submitters identified that the recreational use of the site would introduce adverse noise and nuisance effects. The withdrawal of the recreation component of the application is a response to those concerns, leaving only noise effects associated with the car park use of the site to be considered here.
11. Based on the evidence of Mr Hunt and Associates, Mr Roberts' and the Council's Environmental Health Officer, Alison Blair, find that the noise effects generated by the carparking activity and entranceway are acceptable. No other expert noise assessment is available at the time of writing this evidence. Overall, I concur with Ms Blair's and Mr Roberts' assessment of the noise effects.
12. I note Dr Grimmett raises concerns in his submission regarding construction noise and I advise that all construction noise will need to comply with the New Zealand Standard NZS 6803:1999. The applicant is comfortable that an advice note advising of the construction noise standard be included in any decision.
13. Ms Lee and G & A Wilmshurst have requested in their submissions that construction hours be restricted to 8.30 – 4pm, on weekdays only. This restriction could unreasonably extend the period of works. It is noted that Dr Grimmett raises concern in his submission regarding a potentially protracted construction period. The applicant offers construction

hours between 8am and 5pm, Monday to Saturday to ensure works are completed as quickly possible while being considerate of the residential setting.

Traffic Effects

14. The assessment by the Council's Transportation Planner, Logan Copland, did not raise any concerns regarding the traffic effects arising from this proposal, except those effects which are able to be addressed by Conditions 5-9. At the time of writing this evidence, there is no other expert traffic evidence which contradicts Mr Copland. It is considered that Ms Lee's submission point is addressed by Mr Copland's expert assessment and, as such, can be reassured that traffic effects have been adequately assessed. Draft Conditions 5-8 are accepted.
15. With regard to draft Condition 9, clarification of this condition is sought. If the condition relates solely to the stone wall long the frontage shared with Melrose Street, then the applicant is comfortable reducing this height to 800mm to improve sight lines. If the condition also extends to the stone wall along the boundary shared with 25 Melrose Street, then an either/or option to set the wall back further in the site or reduce the height is sought. However, it is noted that a 1.8m high fence could be construed along the shared boundary with 25 Melrose Street as of right, so it is difficult to clearly define the adverse effects arising from the height of the stone wall at this location.
16. Dr Grimmer raises concerns in his submission regarding the existing management of buses and mini-vans associated with the hostel and requests that these be managed on-site. This matter can be considered by the applicant but the difficulty of the site access for buses may introduce unforeseen safety effects. There is no room for a bus to turn within the subject site and may require buses to either reverse onto or off the site which is undesirable at this location. I note that Mr Copland at draft Condition 5 has recommended a driveway width of 6.0 metres only.

Amenity Values and Character

17. Currently the site is vacant, undeveloped site. The applicant commissioned an architecturally designed car parking area intended to compliment and enhance the existing street frontage. It is argued that the carpark will not reduce the attractiveness of the area as submitted by Mr Williams and Ms Porter, and in fact, the Council's Urban Designer, Mr Christos, notes that the carpark will "...generally provide a positive definition and improvement to the current street boundary..." [Page 145 of the Agenda].

No other expert urban design evidence has been submitted at the time of preparing this evidence.

18. With regard to the ongoing site management, I note that the recent appointment of the Director of Boarding, and his accommodation at 17 Melrose Street, is a pro-active move by the hostel to help manage adverse amenity effects arising from the hostel boarders. In addition, the restriction of hours for the car park use by visitors, as set out at draft Condition 3, are accepted.
19. It is noted that all bulk and location effects are restricted to effects on 17 and 25 Melrose Street and are internal to the development overall. As such, the bulk and location effects of the existing garage and entranceway can be disregarded.
20. With regard to the concerns by Ms Lee and G & A Wilmshurst, that the hostel may seek future expansion or that the buffer provided by residential activity at 17 Melrose Street will be lost, I note that this application does not relate to any future expansion of the hostel and no change to the current use of the residential dwelling on 17 Melrose Street is proposed as part of this application. The works at 17 Melrose Street are limited to the van parking, earthworks retaining and landscaping.
21. In respect to the concerns raised by G and A Wilmshurst regarding increased noise and emissions arising from the car park use, it is noted that the car park will not attract more vehicles to the area, rather the proposal seeks to manage the vehicles already attracted to street by hostel visitors.

Landscape, Signage and Lighting matters

22. Mr Christos recognises that the property at 15 Melrose Street would be most affected by the proposed changes to the site but considers that other properties are buffered either by distance, alignment, or established vegetation providing screening. Mr Christos did not recommend any additional landscaping conditions, beyond draft Condition 23. No other urban design evidence is available at the time of writing this evidence.
23. It is noted that the planting is to occur along the ROW boundary rather than along the property boundaries with 15 and 17C Melrose Street as noted by Mr Roberts [Paragraph 87 of the S42A report]. This set back from the property boundary is intended to provide greater screening of the car park area by plants of a lower height. As an aside, Mr Christos did note in his evidence [Page 145 of the Agenda] that a list of proposed species

would have been helpful and I refer the Hearings Panel to Point 2 in the response to the further information where proposed plant species are detailed [Page 81 of the Agenda].

24. Further to the planting, it is noted that the car park is between 1.1m and 1.4m lower than Right-of-Way, so the change in level will further aid in screening the site from these two properties [see Elevation 1 on Plan 7 on page 70 of the Agenda]. As such, it is expected that planting could be restricted to 2.0 in height, similar to that of a permitted fence height, and still provide adequate screening without interfering with harbour views from the upper level of 15 Melrose Street. Overall, draft Condition 23 relating to landscaping is accepted.
25. With regard to signage, draft Condition 22 requires only one sign be erected at the street entrance based on the advice of Mr Christos. The applicant requests that this advice be reconsidered because the signage faces different aspects and serves different functions. The signage on the front wall acts as a wayfinder for traffic travelling uphill and the side wall signage acts as a wayfinder for downhill traffic. It is considered that the signage assists with legibility, depending on the travel approach taken to the site. As such, it is respectfully requested that both signs at the front of the site be permitted.
26. Although I am not an urban designer, I consider the signage to be rather understated when viewed in context of the stone walls [see Image 1, Plan 9 on Page 72 of the Agenda]. The applicant agrees to the signage being either up-lit by hooded or gimbaled inground lighting or halo-lit as recommended by Mr Christos.
27. In respect of lighting, concerns were raised by Ms Lee, G & A Wilmshurst, Mr Williams and Ms Porter. I note that no spotlights are proposed and only subtle lighting at low elevations will be used [see plans on pages 76-78 of the Agenda]. The plans also detail the proposed Luminaire Schedule. Neither of Council's experts, Ms Blair or Mr Christos, raised concerns regarding the proposed lighting. No lighting is proposed in the Right-of-Way area so Ms Lee's and G & A Wilmshurst's observations, that the lighting is hard up against a number of quiet residential properties, are unsupported.
28. It is the applicant's preference to have no restrictions imposed on lighting given the proposed lighting plan and, especially, as this lighting will be required as safety lighting. However, the applicant would accept a review condition which could be triggered should the lighting result in a demonstrable nuisance effect.

29. With regard to hard surfacing, Mr Roberts notes that there is a potential rule breach relating to impermeable surfacing [Paragraph 57 of the S42A report] and seeks clarification on this matter. Mr Roberts is correct that there is a breach of site coverage but I note that draft Condition 6 requires hard surfacing of the car parking area and so this is a breach by design and condition.
30. The Council's 3-Waters Policy Analyst, Chelsea McGaw, did not identify any issues associated with the site coverage or require any stormwater management conditions [Paragraph 109 of the S42A report and Page 146 of the Agenda]. The recommended advice note from Ms McGaw regarding a drainage plan with sump with filters has not been carried over into Mr Roberts' recommendation but the inclusion of this advice note is not opposed, if required by the Hearings Panel.

Hazards and Earthworks

31. The evidence by Stantec is accepted, as are draft Conditions 10 – 21.

Effects on the Environment Conclusion

32. Overall, it is determined that, with the removal of the recreation component and relying on the expert evidence relating to this proposal, the effects of the car parking and entranceway and associated site works are able to be managed by condition of consent such that the effects on the environment will be no more than minor.

OBJECTIVE AND POLICY FRAMEWORK

33. After assessing Mr Roberts' policy analysis of both district plans and both RPSs, I note that where he has found the proposal to be inconsistent with the particular objectives and policies, this appears to be directly related to the use of the site as a recreational area. With the exclusion of the recreation use from the application, Mr Roberts finds that the proposal is consistent with the relevant objective and policies [Paragraphs 176 and 177 of the S42A report].
34. I note that my original objectives and policy assessment was completed prior to the preparation of the noise evidence, and with this evidence I may have formed a different view. However, when re-assessing the objectives and policies, I consider that the proposal (without the recreational use) to be consistent with the objectives and policies of both district plans. In terms of weighting, I agree with Mr Roberts that reasonable weight may now be given to the 2GP. No other expert planning evidence has been submitted at the time of preparing this evidence.

RESOURCE MANAGEMENT ACT 1991

35. With the acceptance of Mr Roberts refined approach to the activity status analysis, I now consider that the proposal to be a discretionary activity and should be assessed under Section 104 and 104B of the Act. There is no need to refer to Section 104D of the Act.
36. With regard to part 2 of the Act, I note that case law has advanced since the application was prepared. I consider that there is sufficient policy direction in the lower order planning instruments to give effect to Part 2, such that additional analysis under Part 2 would contribute little more to the overall assessment.

CONCLUSION

37. Having completed a full planning assessment of relevant planning instruments, the submission points, and the assessment and recommendations contained with the S42A report, I concur with Mr Roberts assessment and consider that there are no obvious resource management reasons why consent cannot be granted for the carpark and entranceway and associated site works as detailed in the application, subject to fair and reasonable conditions.



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