

HEARINGS COMMITTEE AGENDA

FRIDAY, 27 JANUARY 2023, 10.00 AM
Council Chambers, Dunedin Public Art Gallery,
30 The Octagon, Dunedin

MEMBERSHIP:

Commissioner Ros Day-Cleavin (Chairperson), Crs Jim O'Malley and Steve Walker

IN ATTENDANCE:

Campbell Thomson (Senior Planner/Committee Advisor)
Madeline Seeley (Planner) and Lauren Riddle (Governance Support Officer)

PART A (Committee has the power to decide these matters):

1 RESOURCE CONSENT APPLICATION – LUC-2022-446, 966 Taieri Mouth Road, Kuri Bush

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Report from Madeline Seeley

Refer to pages 1 - 25

The Applicant's Presentation

Application

Refer to pages 26 - 52

Site Photographs

Refer to pages 53 - 58

The Planner's Review of their Recommendation

The Planner reviews their recommendation with consideration to the evidence presented

The Applicant's Response

The Applicant to present their right of reply

PLEASE NOTE: The **only** section of the hearing which is not open to the public is the Committee's final consideration of its decision, which is undertaken in private. Following completion of submissions by the applicant, submitters and the applicant's right of reply, the Committee will make the following resolution to exclude the public. All those present at the hearing will be asked to leave the meeting at this point.

RESOLUTION TO EXCLUDE THE PUBLIC

To be moved:

“That the public be excluded from the following parts of the proceedings of this meeting, namely, Item 1.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48 for the passing of this resolution.
1	Resource Consent application – 966 Taieri Mouth Road, Kuri Bush	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

TO: Consent Hearings Committee

FROM: Madeline Seeley, Planner

DATE: 16 December 2022

SUBJECT: **RESOURCE CONSENT APPLICATION:**
LUC-2022-446 – 966 Taieri Mouth Road, Brighton

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 16 December 2022. 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] In the assessment that follows, I have concluded that the environmental effects of the proposed activity will be less than minor, having taken into account the permitted baseline.
- [3] The planning considerations for this proposal primarily concern the policy framework of the Proposed Second Generation District Plan (2GP). Policy 16.2.1.8 of the Proposed 2GP provides a very specific directive about avoiding industrial activities, unless otherwise provided for, in the rural zones. The proposed activity is not otherwise provided for in the rural zones, only insofar as a working from home activity, but working from home allows no employees. The Proposed 2GP only permits working from home where all persons doing the work live on the same site. The employment of non-residents for the proposed activity tips it into the category of an industrial activity under the 2GP, which the Plan directs must be avoided under Policy 16.2.1.8.
- [4] The business subject of the present application is proposed to be very small in scale, and while it is in nature a light industrial activity, it involves the manufacture of specialised glass products. The business will be established at home by the applicants and is consented to operate as a home occupation (LUC-2022-350). Theoretically it could be operated with several people engaged in the business as long as they are all living on the same site. Nonetheless, Policy 16.2.1.8 does not support the granting of consent for any type of industrial activity, although overall, the proposed activity finds some support in the relevant policy provisions, and does not conflict with the other relevant objectives and policies.
- [5] Allowing the business to expand (in terms of staff numbers) to a level of operation that is no more than what could theoretically be supported by a *working from home* activity (4-5 people living on the same site), should not allow for the setting an undesirable precedent. The scale and context of the activity is relevant and distinguishes the proposal from other applications seeking to establish industrial activities in the rural zones.
- [6] As a result, I have concluded that the proposal to allow up to 3 employees on the site at a maximum of 2 F.T.E overall should be **granted**.
- [7] I further recommend that conditions of consent ensuring the proposed scale of the activity remains at a maximum of 3 staff to ensure it does not expand further into a scale of industrial activity that is not compatible with a location in the rural zones, that the 2GP specifically seeks to avoid. Another recommendation is to personalise the consent to the applicants, as it is the specialised nature of

the business which I consider is a critical factor as to why the business may be appropriate on the subject site.

BACKGROUND TO THE APPLICATION AND ACTIVITY

Application history

- [8] The initial application received by Council on has been divided into 2 resource consents; LUC-2022-350 and this consent; LUC-2022-446. Resource consent LUC-2022-350 was granted on 19 October 2022 for breach of the maximum ground floor area rule applying to *working from home* activities. The scale of *working from home* activities is controlled by a maximum amount of space a *working from activity* may occupy (*Maximum Ground Floor Area Performance Standard*) and the hours any *working from home* activity may operate (*Hours of Operation Performance Standard*). This consent is for the ability to hire staff as an extension of the *working from home* business consented under LUC-2022-350. The *working from home* consent allowed a larger area to operate at home than permitted under the 2GP and it will continue to apply regardless of whether this decision requesting the ability to hire staff, is approved.

Activity history

- [9] At the time of the initial application, the business was operating from a North Dunedin commercial premises, however, the business has declined in recent years and the discounted rental premises ended due to the sale of the building. The applicants have bought the business recently and moving the business to a *working from home* operation was the “only viable option for the business” according to the application. The business does not currently employ staff, and has never employed staff, however, it is understood that moving to a non-commercial premises (the subject site) will allow the business to economically operate and expand marginally. The business was previously located at 15 Clyde Street for at least 10 years (as evidenced by the signage visible on Google Street View).

DESCRIPTION OF SITE AND ACTIVITY

- [10] The site is a long, irregular shaped rural lifestyle block, located on the corner of Taieri Mouth Road and McNab Road (a paper road). Taieri Mouth Road provides the principal street frontage located along the eastern boundary of the site and a driveway provides access from Taieri Mouth Road in the north-eastern corner of the site.
- [11] A dwelling with attached garage and standalone shed are located towards the front of the site, near the south-east corner. The shed has an approximate footprint of 144m², while the garage (with office) attached to the dwelling has a footprint of approximately 116m². These areas will be occupied by the glass manufacturing business/*working from home* activity, once established. Part of the site is shown in the image below from the application:



- [12] The rest of the site rises back to the west approximately 800m from Taieri Mouth Road and comprises a mixture of rolling hills in pasture and areas of gully with some vegetation/ indigenous vegetation located within the deeper valley sections. As shown above, a driveway has been cut into the site, wrapping around the front of the house providing access to the garage and house.
- [13] The application is to essentially to increase the scale of the *working from home* glass manufacturing business on the site through the employment of up to 3 staff, the equivalent to 2 F.T.E roles only (a maximum of 80 hours of work per week that will be undertaken by non-residents on the site). The nature of the activity is a specialist scientific and technical glassware company stocking and manufacturing scientific and technical glassware and materials. The glass business includes:
- Stocking – importing, stocking and reselling scientific and technical glassware (no door sales, all couriered).
 - Production Glass - bench and lathe glassblowing, centrifuging, profile forming, thread rolling, vacuum forming
 - Custom Glassware - the construction of common (and not so common) laboratory glassware.
 - Prototyping - for one-off projects (laboratory, technical or architectural).
- [14] The business trades as Technical Glass Products (TGP). The majority of the glass product manufactured is for specialist laboratory activities, according to the application. It is understood that it is one of 2 providers in New Zealand. It is proposed to hire specialist glass blowers (max 1.5 F.T.E) and an administration person or packer (max 0.5 F.T.E). Therefore, up to 3 staff are sought to be hired. Employees would only be onsite during working hours.
- [15] The proposal requires no changes to the exterior of the shed or garage (consented to be used for working from home glass fabrication under LUC-2022-350), however, the application notes the internal changes required, including connecting the shed to power, which has been undertaken and the installation of glass fabrication machinery, which is yet to occur. No signage or direct sales from the site are part of the business and a maximum of one delivery / courier will occur per day. It is understood that the employment of staff will not change any of these factors including courier/delivery visits and floor area occupied by the business. The hours of operation are 8am to 6pm Monday to Friday and the same hours are proposed with staff.
- [16] Some of the above information is not set out in the submitted application documents but was provided verbally to the report writer by the applicant, during a site visit on 15 December 2022.
- [17] The subject site is legally described as Lot 1 Deposited Plan 24990 (held in Records of Title OT17A/111) and has an area of 17.1677ha. No interests or burdens are recorded on the title (other than mortgage).

REASONS FOR APPLICATION

- [18] Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the “Operative District Plan”, and the Proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
- [19] The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the

provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

Operative District Plan

- [20] The subject site is zoned **Rural** in the Operative District Plan.
- [21] The rules of the Operative Plan have been superseded by those of the Proposed 2GP and accordingly the activity status of the proposal has not been assessed any further under the rules of the Operative Plan.

Proposed 2GP

- [22] The subject site is zoned **Rural – Coastal** and is and is subject to the following overlays:
- *Coastal Character Overlay Zone (Name: Kuri Bush; Type: Natural Coastal Character (NCC))*
 - *Archaeological Alert Layer Mapped Area (lower section of the site only)*
 - *Critical Electricity Distribution Infrastructure Corridor Mapped Area (runs through the lower section of the site)*
- [23] Taieri Mouth Road is an **Arterial Road** in the Planning Transportation Hierarchy.
- [24] The Proposed 2GP was notified on 26 September 2015, and some Proposed 2GP rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.
- [25] At the time of writing there are no outstanding appeals on the 2GP rules relating to the proposed activity. The 2GP rules are therefore considered to be fully operative insofar as they relate to the application, in accordance with Section 86F of the Resource Management Act 1991.
- [26] Under the Proposed 2GP, activities have both a land use activity and a development activity component. This activity has no development component, however, as the manufacturing activity is proposed to take place within an existing shed, with no site development works required beyond the existing buildings.

Land Use Activity

- [27] The proposed land use requires consent as a **non-complying** activity pursuant to Rule 16.3.3.46, because the employment of non-resident staff on site means the proposal would no longer meet the definition of working from home, defined as follows:

Working from Home

The use of land and buildings as a place of work, as part of an occupation, craft, profession, or service, ancillary to their use as a principal place of residence. For the sake of clarity, this means that the activity:

- *can only be carried out by a person or persons living on the site as their principal place of residence; and*
- *cannot employ any other person on-site, including by way of operating from the site (relying on equipment or vehicles stored on the site or making regular visits to the site).*

Working from home may include retail services but not direct retail sales except for goods produced on-site.

For the sake of clarity, this definition includes:

- *hosted visitor accommodation, in the form of homestays, bed and breakfast, or similar, for no more than five guests, provided the accommodation is contained within the same residential unit that is being used as the principal place of residence;*
- *early childhood education for five or fewer children; and*
- *animal breeding involving one breeding pair of dogs and/or cats.*

Working from home is an activity in the residential activities category.

- [28] As made explicitly clear in the definition of *working from home*; the work must be carried out by a person or persons living on the site as their principal place of residence and does not include the employment of any person onto the site. As a result, the activity cannot be classified as a 'working from home' activity and falls into the 'industry activity' category, defining in essence what the activity actually is:

Industry

The use of land and buildings for any of the following:

- *manufacturing, assembly, processing, storage, repair, maintenance, and packing of goods and materials, including machinery or vehicles*
- *transport facilities including distribution centres, collection points, courier depots and bus depots (except where passengers are picked up or dropped off)*
- *depots for the storage and dispatch of vehicles, equipment, and/or materials, and the administration and dispatch of workers using these in the field*
- *bulk fuel storage facilities*
- *laboratory or factory-based research*
- *waste management facilities including refuse transfer and recycling stations*
- *property and equipment maintenance services*
- *vehicle repair and testing stations; and*
- *wholesale.*

For the sake of clarity, this definition includes:

- *any ancillary offices and staff facilities*
- *the use of rail sidings as part of industry; and*
- *the generation of energy from the combustion of biomass waste that is the by-product of industry.*

This definition excludes:

- *bakeries ancillary to food and beverage retail; and laboratories ancillary to any major facility activities or office activity, which are included as part of those definitions, respectively*
- *activities otherwise defined as working from home*
- *direct 'customer facing' retail sales, which is provided for under the definition of retail and included in 19.3.3 activity status table as 'retail ancillary to industry'; and*
- *activities otherwise defined as operation, repair and maintenance of the rail network.*

The following activities are managed as sub-activities of industry:

- *industrial ancillary tourism*
- *rural contractor and transport depots; and*
- *rural industry.*

Industry is an activity in the industrial activities category.

Development Activity

- [29] No development activity applies to the proposal, all changes are internal (and are authorised to be undertaken to establish the working from home activity).

National Environmental Standards

- [30] The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 are not applicable to the proposal.

Overall Status

- [31] Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled and the most restrictive activity classification applied to the whole proposal.
- [32] In this case, there is only one rule involved, and the proposal is considered to be a **non-complying** activity.

National Policy Statement for Highly Productive Land 2022

- [33] The National Policy Statement for Highly Productive Land (NPS-HPL) was released recently and came into effect on 17 October 2022, only just following the lodgement of this application on the 13th October 2022 (the application after it was split into 2). This NPS is about ensuring the availability of New Zealand's most favourable soils for food and fibre production, now and for future generations. The objectives, policies and implementation clauses have immediate legal effect, and thus Council must take relevant provisions into account when considering consent applications and plan changes. The NPS contains direction around urban and rural lifestyle rezoning and subdivision, use and development of highly productive land.
- [34] Highly Productive Land (HPL) is defined in cl 1.3 of the NPS-HL as:

'.. land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative

regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land).

- [35] Clause 3.5(7) is currently relevant. In Dunedin, land currently treated as HPL as per cl 3.5(7) of the NPS is identified here: <https://www.dunedin.govt.nz/council/district-plan/monitoring-and-research/highly-productive-land-map>
- [36] The subject site is not identified within the HPL mapped area. As such, the NPS-HPL is not considered relevant to this proposal, but is noted for completeness, as the site involves the use of rural zoned land.

WRITTEN APPROVALS AND EFFECTS ASSESSMENT

Affected Persons

- [37] No affected persons forms were submitted with the application. No person or party is considered to be adversely affected by the activity. This is because the environmental effects of the proposal are internalised within the site boundaries, or are limited to effects on parties that are less than minor for the reasons described below under the section titled “Effects on the Environment”.

Permitted Baseline

- [38] Under sections 95D(b) and 104(2) of the Resource Management Act 1991, the Council may disregard an adverse effect of the activity on the environment if the district plan or a national environmental standard permits an activity with that effect. This is the permitted baseline.
- [39] In this situation the permitted baseline comprises working from home activity where several members of the same household could operate an industrial business from the site.
- [40] Another baseline is farming activity with farm workers coming to the site to work on a farm on a daily basis. Farming activity is a permitted activity in the rural zones. While it is unlikely that the subject property would be developed for intensive farming activity such as horticulture, given the coastal location, the property size, land type and character, it is conceivable that the property owners could choose to establish some farming operations requiring non-resident staff, such as an egg farm, as is the case further down the coast, or alternative conservation work, with employees or contractors planting /managing areas of the property such as indigenous vegetation.
- [41] Another permitted baseline in terms of industrial activity in the Rural Zones is *Rural Contractor and Transport Depots - Small Scale*. Rural contractor and transport depots are the use of land and buildings as a depot for rural contractor and transport services. Examples of *rural contractor and transport depot* services are; fencing; crop harvesting; rural drainage; and stock transport services. The activity includes the storage, maintenance, repair and refuelling of the vehicles, machinery and other materials associated with these activities as well as the administration and dispatch of workers. Small scale allows for up to two persons operating from the site (relying on equipment or vehicles stored on the site or making regular visits to the site) per day (other than persons living on the site as their principal place of residence); except that up to 5 people can operate from the site per day for no more than 20 days in one calendar year.
- [42] It is considered that this is the appropriate baseline against which the activity should be considered. As a result, it is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements for consideration.

Receiving Environment

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

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

[44] For the subject site, the existing receiving environment comprises a lifestyle block/small block of rural land utilised for residential activity and small-scale rural activities such as grazing and hay bailing. The reasonably foreseeable receiving environment comprises the same or similar activities, together with the consented working from home activity subject of LUC-2022350. The site is not of a sufficient size or appropriate topography to envisage any intensive productive activities as being likely to take place, although it is always possible.

[45] For adjacent land, the existing and reasonably foreseeable receiving environment comprises a mixture of residential and rural activities on sites of varying sizes. Across Taieri Mouth Road is the small residentially-zoned coastal settlement of Kuri Bush.

[46] It is against these that the effects of the activity, beyond the permitted baseline, must be measured.

Assessment Matters/Rules

[47] Consideration is required of the relevant assessment rules in the Proposed 2GP, along with the matters in any relevant national environmental standard. In carrying out this assessment, no regard has been given to any trade competition or any effects of trade competition.

Rural Character and Amenity Values

[48] The Rural Character Values for each 2GP Rural Zone are provided in Appendix A7. The Rural Coastal Zone is described as follows:

The Coastal Rural Zone is in two distinct sections north and south of the main urban area of Dunedin.

The southern section extends from close to Taieri Mouth along the coast to the built up urban area around Green Island and Corstorphine, and goes inland as far as Henley Hill and north to Chain Hills to include the dissected hill country between the Taieri Plain and the coast. Saddle Hill is located within this part of the Coastal Rural Zone.

The south coast part of this zone consists of the low hill range that follows the southern coast, bound by the coast on the eastern side and the edge of the Taieri Plain on the western side. It is unified by its landform, topography and soils, and the subsequent limitations of land use...

Both of the distinct north and south sections are highly significant areas for Kāi Tahu, and contain many cultural sites (Wāhi tupuna, see Appendix A4).

Values

1. *The general visual dominance of natural elements such as natural landforms, streams and remnant indigenous vegetation over human landscape elements e.g. buildings or shelter plantings.*
2. *The generally limited visual influence of any large scale structures or exotic plantings to diminish the impact of the natural landscape forms and features.*

3. *The extent and quality of the dramatic coastal landforms and views, with visual interest focused on the coastal edge.*
4. *The remote wilderness character of the beach landscapes and the visual separation of these areas from adjacent developed areas by dunes or other landforms.*
5. *The human-made features which are relics of the past, e.g. remnant shelter plantings and drystone walls.*
6. *Transient wildlife of interest, e.g. seals.*
7. *Areas which have significant habitat value, e.g. Aramoana salt marsh and Pūrākaunui Estuary.*
8. *The landscape and cultural values of the historically and culturally significant Quarantine Island/ Kamau-taurua and Goat Island/ Rakiriri, pā sites at Huriawa (Karitāne) and Māpoutahi (Pūrākaunui Bay) and site of early European settlement at Matainaka (Matanaka).*

- [49] The proposed operation of the business from the subject site will be no different to the operation without staff, according to the application. No new structures will be introduced to the site and the business will be operated within the garage/office and shed buildings located on the site. The balance of the site will continue to be used as currently. The applicants have 12 heritage sheep and 5 horses grazing in the back paddocks and grow out the grass for hay bailing. As such, it is considered that the proposed employment of staff will not conflict with any of the values identified above, as these largely relate to bulk and location of buildings/structures and the visual amenity of the landscape (which will remain the same). The applicants have recently purchased the property and have expressed an interest in restoring the native bush along the gully areas at some point in the future.
- [50] Rural amenity could also broadly be described in contrast to an urban environment; rural environments are usually more remote and have fewer traffic movements than that associated with denser/urban environments. While the number of vehicle movements to and from the site will increase, a baseline for farm workers in the rural zones exists. A baseline for up to 2 staff and (not including those working from home) and up to 5 staff for 20 working days of the year exists also (*Rural Contractor and Transport Depots – small scale*). The effects caused by the vehicle movements of up to 3 employees coming and going from the site would be no different to farm workers arriving and leaving a farm site every day or a large family living on the same property and travelling to school or work daily within up to 3 vehicles. As such, the amenity effects from vehicle movements are considered insignificant. While the driveway has a shared entrance with the neighbouring properties, the driveway into the site is not largely visible from beyond the site – including for immediate neighbours, due to the topography and planting. This assessment of amenity has taken into consideration the scale of the proposed activity.
- [51] It is important to note that the scale of the proposed business has been assessed relative to the size of the site. The context of the site is such that the permitted baseline can be used for farm activities. Beyond the proposed scale of operations, I consider the activity would reach a level where there is no meaningful comparison to a situation with farm workers working on a farm. If the proposed business were to operate with more than 80 hours of work per week/3 workers on a rural property of only around 17ha and constrained by topography in terms of the intensity of any activity, any such comparison would appear fanciful.
- [52] Overall, I consider that the potential for adverse effects from the proposal at the proposed scale on rural character and amenity values is less than minor.

Effects on amenity of surrounding properties

[53] Any adverse effects from the activity on the amenity of surrounding sensitive activities would be limited to noise, traffic, odour and dust contaminants. Surrounding sensitive activities would only likely include the residential activity on the surrounding sites, no other sensitive activities have been identified on the surrounding sites. The property at 964 Taieri Mouth Road has a dwelling located around 100m to the northeast of the garage/office on land around 10-13m lower than the dwelling on the subject site (the shed is located further away). The properties at 978 and 982 Taieri Mouth Road are located around 130m to the south of the shed on the subject site, also on land much lower than the subject site (around 10m). Traffic/vehicle movements have been discussed above under the section titled 'Rural character and amenity values'. The application notes the frequency of any courier would remain as once per day only, as consented/permitted under the *working from home* activity. This is not sought to change.

[54] In terms of noise, the application provides the following description/assessment:

Any noise effects will be less than minor due to the internal nature of the activity (i.e. equipment located inside) and the quiet nature of the activity. In addition, the existing separation distances (over 100m) and land form (including bush) assists to separate the proposal from the neighbouring dwellings (the closest neighbour is discussed further below). It is noted that the activity has operated from 15 Clyde Street, Dunedin for a number of years, and that site has residential activity on the opposite side of Clyde Street and as boundary neighbours (on both Clyde and Harrow Streets). That building is an older style industrial building with no known acoustic insulation. It is understood that the subject activity when located in Clyde Street, in very close proximity to residential neighbours, has raised no concerns in relation to noise.

[55] The applicant describes the activity as having a 'quiet nature' and highlights the large distance of the activity to surrounding sensitive activities. This assessment is accepted; although there is a party wall between the previous premises in Dunedin, and the closest adjoining residential neighbour at that location, it is understood from the application that the activity does not make a lot of noise in the context of what is reasonable in a much denser residential environment. It should be noted that the purpose of this application is to only examine the effects deriving from the additional employees. The application does not suggest that any additional noise will be emitted as a result of the employment of staff, as the work itself will not change, but it could be reasonably surmised that the frequency of noise may increase. However, as noted by the applicant, the activity does not emit much noise and the topography and buffer in terms of distance between the activity and surrounding sensitive activities is such that any noise should be adequately mitigated. It is noted that there are no noise complaints recorded against the property for 15 Clyde Street (previous premises) since 2008. One noise complaint in 2016 was after hours and was from a radio/tv so it is not relevant. While the shed on the subject site is not setback the required amount from the boundary to McNabs Road (the shed is located 7m to the northeast of this boundary), overall, the shed is setback over 100m in any direction from other residential structure/building (other than that on the site). It is considered that any noise or nuisance effects on to surrounding properties will be adequately mitigated by the distance between the proposed location of the business/staff working and surrounding properties. There is no evidence suggesting the activity emits an odour that would be discernible beyond the site or other nuisance effects such as dust that would travel beyond the site.

[56] The hours of operation of the business will remain the same as the *working from home* hours and the proposal is within the hours of operation listed for deliveries/customers associated with *working from home* activities but also for other non-rural activities such as *Rural Tourism* and *Rural Ancillary Retail*, which all have a 7am to 7pm restriction on their operation in terms of visitors and customers.

- [57] Overall, the effects from the proposal on amenity are considered to be limited to vehicle movements and noise effects, these have both been assessed as generating effects akin to the effects permitted by the Plan (this is known as the permitted baseline) and not overall having an acceptable/anticipated level of effect (in a rural context) on the amenity of surrounding properties.

Reverse Sensitivity

- [58] The proposed activity will be/is undertaken within existing buildings on the site. In terms of rural activities undertaken in the vicinity of the site there do not currently appear to be any particularly intensive operations such as intensive farming (e.g. pig and poultry farming), mining or landfills in close proximity to the site that would be a nuisance to employees of the business, leading them to complain. The applicant has noted the neighbour to the south has cows that sometimes graze in the paddock adjoining the site to the south. It is not a large herd or part of an intensive farming operation. Further, generally speaking, the activity is not one requiring a high level of amenity - staff are undertaking an industrial type activity at work and the level of comfort anticipated in these environment is not high, and will often involve noise, odours and potentially dust. The likelihood of existing rural uses surrounding the site bothering the employees of the business operation, which takes place indoors and is an industrial activity itself, is very unlikely.
- [59] Based on the above factors I consider that the introduction of staff creating a conflict between the industrial activity occurring on the site and any surrounding rural or intensive activities would be extremely unlikely.

Effects on Rural Productivity

- [60] Section 16.1 of the 2GP identifies *non-productive land uses or activities that would ordinarily be expected to locate in the urban parts of Dunedin seeking to locate in rural areas as a key issue facing the rural environment. This has the potential to diminish the productive capacity of the rural environment through the loss of land to less productive residential or lifestyle purposes.*
- [61] The site is 17.1677ha in area and it is understood that it is not really being used for any productive rural purposes (with the exception of some hay-making). The site has been established as more of a 'lifestyle' site some time ago (when it was subdivided and residential activity was established). This is similar to surrounding properties. The application states:

Ability of rural land to be used for productive purposes – the proposal does not use productive land...Viability of productive rural activities - the proposal will not restrict any rural activity on the subject site or surrounding sites.

- [62] As described, the application emphasises that no productive land will actually be occupied as a result of the application. The buildings already exist and the no further rural land will be covered. Further to this, the land is not within an area of high class soils as mapped in the 2GP. There are no obvious impediments to the continued use of the site for rural or productive rural purposes in the future, the business will occupy the only shed on the site, however, this could be re-adapted back to a farm or utility shed if the business or site was sold.
- [63] The *working from home* activity has already been consented on the site to occur within the buildings to be used for the business, any employment of staff is unlikely to reduce the productivity of the site, although it may solidify the glass fabrication business as a primary activity on the site. The fit-out has not already occurred but no external physical changes to the premises are anticipated, thus, the effect of establishing the activity on land that could potentially be used productively has already occurred. The 2GP Planning Maps do not indicate any high-class soils on the site and the employment of staff to bolster this activity does not prevent any rural/productive activities on the site also co-existing.

- [64] The surrounding sites along the coast do not appear to be used for productive rural purposes, other than some low scale farming and chicken farming. The topography of the land is such that the ability to use it for highly productive purposes is limited.
- [65] Overall, any productive capacity that the site has will not be compromised by the employment of staff to support a business that is consented to begin soon. The proposal does not encourage/facilitate long term management and utilisation of the site for productive purposes. However, it is small scale activity using existing buildings, and it does nothing to prevent rural productive activities co-existing. Rather, the status quo will be maintained in terms of any productive use of the site regardless of the outcome of this application.

Transportation

- [66] The application was not forwarded to Council's Transportation Operations Department for comment. The applicant will use the existing vehicle access from Taieri Mouth Road to the site and the applicant proposes no changes to the access. Sufficient area is provided on-site for staff parking and manoeuvring.
- [67] I am satisfied that the proposal will have less than minor effects on the transportation network.

Hazards

- [68] Section 6(h) of the Resource Management Act 1991 requires the Council to recognise and provide for the management of significant risks from natural hazards, as a matter of national importance.
- [69] The assessment of the risk from natural hazards requires a combined assessment of:
- (a) *the likelihood of natural hazards occurring (whether individually or in combination); and*
 - (b) *the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and*
 - (c) *any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).*
- [70] The site is not annotated in the Hazards Register as being subject any hazard other than a small area of:
- Hazard ID: 11407 Class: Seismic – Liquefaction; Subclass: Domain A*
- [71] As such, natural hazards are not considered a relevant issue.

Cumulative Effects

- [72] 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".*
- [73] Similarly, some effects may not presently seem an issue, but after having continued over time those effects may have significant impacts on the environment. In both of these scenarios, the effects can be considered to be 'cumulative'.

- [74] In this case a relevant question is whether the employment of staff, expanding a *working from home business* in a rural area represents a tipping point where the character of the locality changes from rural to more of an urban character. In this situation I do not consider that the proposed industry activity/employment of up to 3 staff will lead to this tipping point given the permitted baseline, allowing for farm workers to come and go from rural sites as a place of work.
- [75] Overall, I consider that any cumulative effects on rural character and amenity would likely be less than minor.
- [76] No loss of productive rural land is anticipated as a result of the application and thus cumulative effects on loss of productive land from the proposal is not considered.

Directive Assessment Criteria

- [77] The 2GP assessment criteria for non-complying industrial activities (other than *rural industry* and *Rural contractor and transport depots*) directly refers to certain Strategic Directions objectives and policies. Generally speaking, the Strategic Direction objectives and policies are not taken into consideration/have no relevance to most resource consent decision making as they generally relate to the way the District Plan should be written and provide guidance where it is uncertain, however, in this case the assessment criteria refers directly to Strategic Directions Objectives 2.3.2 and 2.4.3 and Policies 2.3.2.2 and 2.4.3.4 as relevant to the assessment of effects. Rural Zones Policy 16.2.1.8 is also referred to within the assessment criteria but this is assessed below under the Objective and Policy analysis. Objective 2.3.2 and its Policy 2.3.2.2 state as follows:

Objective 2.3.2 Centres Hierarchy

Dunedin has a hierarchy of vibrant centres anchored around one Central Business District Zone (CBD), which provides a focus for economic and employment growth, driven by:

- a) attraction of businesses to these areas based on the high level of amenity and density of activity in the area;*
- b) opportunities for social interaction, exchange of ideas and business cooperation;*
- c) public investment in public amenities and other infrastructure in the CBD; and*
- d) opportunities for agglomeration benefits from the co-location of activities.*

Policy 2.3.2.2

Maintain or enhance the density and productivity of economic activity in the CBD and centres through rules that restrict retail and office activities outside these areas unless:

- a) they are unlikely to contribute to, or may detract from, the vibrancy of centres; or*
- b) as provided for under Policy 18.2.1.3 or 15.2.1.5.*

- [78] The Objective and Policy are about establishing and maintaining areas/zones for employment and economic growth through various rules, including those that restrict commercial activities outside of these areas/commercial zones. The intention is to keep these commercial activities within commercial zones due to the some of the public benefits it provides (listed in Objective 2.3.2). The Objective and Policy have little relevance to the proposal as the proposal is an industrial activity that would be unlikely to establish in a commercial zone. The subject business has relocated from an industrial/ commercial type building within a residential zone near Otago University. This is unusual but has managed to co-exist with residential activity. It is unlikely that if the business was to relocate back away from the subject site, it would establish in a residential area or within any customer-facing building, but it is a light industrial activity that could re-establish in a commercial

mixed-use zone. It may also re-establish in an industrial zone, although this would not be necessary given the characteristics of the activity (and the history of the activity in the residential zone).

[79] Objective 2.4.3. and Policy 2.4.3.4 are as follows:

Objective 2.4.3 Vibrant CBD and Centres

Dunedin's Central Business District is a strong, vibrant, attractive and enjoyable space that is renowned nationally and internationally for providing the highest level of pedestrian experience that attracts visitors, residents and businesses to Dunedin. It is supported by a hierarchy of attractive urban and rural centres.

Policy 2.4.3.4

Maintain or enhance the vibrancy and density of activity in the CBD and centres through rules that restrict the distribution of retail and office activity.

[80] Similar to the other Strategic Direction Objective and Policy discussed above, this Objective and Policy are about facilitating vibrant commercial zones such as through providing good pedestrian spaces and rules that restrict commercial activity retail and office activity outside of these areas. Again, these are of little relevance to the subject activity/proposal, which has no customer facing component, would be unlikely to locate in a commercial zone due to its light industrial nature and thus allowing the activity to expand in the rural zones is of little consequence to the vibrancy of the commercial zones – CBD and Centres.

[81] Overall, the Strategic Directions cross referred to in the assessment criteria for a range of non-complying activities in the rural zones, including industrial activities, are of little relevance to the subject activity, and are more focussed on the commercial activities locating in the rural zones.

Effects Assessment Conclusion

[82] Section 16.1 of the 2GP explains that ‘*The principal functions of the rural environment are firstly to provide for productive rural activities such as pastoral farming, livestock, horticulture, forestry, and mining and associated resource-based activities; and secondly, the provision of ecosystem services - soil, water and air resources and the setting for the vast majority of the city's indigenous vegetation and habitat for indigenous species*’ and later describes one of the key issues facing the rural environment as ‘*non-productive land uses or those activities that would ordinarily be expected to locate in the urban parts of Dunedin seeking to locate in rural areas.*’ The reason non-productive land uses locating in the rural zone instead of the urban zone is identified as an issue is for the four following issues listed within the introduction to the rural zoning; diminishment of the productive capacity of the environment, non-rural uses can adversely affect rural amenity and landscape values and natural environmental functions and values; reverse sensitivity effects and demand for inefficient provision of infrastructure.

[83] The proposal does not introduce any issues relating to productive capacity of the environment as the property is already subdivided to a lifestyle size, is not currently used for productive purposes (or those uses are limited) and is not within an area identified as having high class soils or being an appropriate site for highly productive rural use (given the topography and size). Further to this, the proposal involves no development component so no (further) potentially productive land will be covered/converted to non-rural use. Likewise, the potential for reverse sensitivity effects has been assessed as low due to many similar sized lifestyle properties (with no intensive farming/similarly intensive rural activities appearing to occur in close proximity) adjoining the site but also a residential zone across the road, already constraining these types of intensive activities. The proposed employment of staff has been assessed as unlikely to affect the rural amenity and character of the area and the property is not reliant on Council infrastructure, nor would allowing

up to 3 staff to be employed lead to a pressure to establish public infrastructure to serve/drain the site. The assessment of effects has of course been undertaken on the basis that a maximum of 3 staff could be employed to cover the proposed 1.5 F.T.E for glass blower assistance (being up to 2 glass blowers covering a maximum of 60 hours per week) and 0.5 F.T.E administration support (being a maximum of 1 administrative staff member, 20 hours per week). At this proposed scale, the effects are very close to the effects that will be generated on-site from the *working from home* activity.

- [84] On balance, I consider that any adverse effects arising from the proposal will generally be less than minor. Should consent be granted, conditions to maintain/limit the future scale of the activity are recommended.

NOTIFICATION ASSESSMENT

Public Notification

- [85] Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification. Each step is considered in turn below.

Step 1: Mandatory public notification in certain circumstances

- Public notification has not been requested.
- There has been no failure or refusal to provide further information.
- There has been no failure to respond or refusal to a report commissioning request.
- The application does not involve the exchange of recreation reserve land.

Step 2: If not required by Step 1, public notification precluded in certain circumstances

- There are no rules or national environmental standards precluding public notification.
- The application does not involve: a controlled activity, nor a boundary activity. As a result, public notification is not precluded under Step 2.

Step 3: If not precluded by Step 2, public notification required in certain circumstances

- There are no rules or national environmental standards requiring public notification.
- The activity will not have, or be likely to have, adverse effects on the environment that are more than minor.

Step 4: Public notification in special circumstances

- There are no special circumstances that warrant the application being publicly notified. There is nothing exceptional or unusual about the application that makes public notification desirable.

Limited Notification

- [86] Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. Each step is considered in turn below.

Step 1: Certain affected groups and affected persons must be notified

- The activity is not in a protected customary rights area; the activity is not an accommodated activity in a customary marine title area; and, the activity is not on or adjacent to, or might affect, land that is the subject of a statutory acknowledgement.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- There are no rules or national environmental standards precluding limited notification.

- The application does not involve a controlled activity that is not a subdivision.

Step 3: If not precluded by Step 2, certain other affected persons must be notified

- The application does not involve a boundary activity.
- There are no persons where the activity's adverse effects on the person are minor or more than minor (but are not less than minor).

Step 4: Further notification in special circumstances

- There are no special circumstances that warrant the application being limited notified. There is nothing exceptional or unusual about the application that makes limited notification to any other persons desirable.

SUBSTANTIVE DECISION ASSESSMENT

Effects

[87] In accordance with section 104(1)(a) of the Resource Management Act 1991, the actual and potential adverse effects associated with the proposed activity have been assessed and outlined above. It is considered that the adverse effects on the environment arising from the proposal are no more than minor.

Offsetting or Compensation Measures

[88] In accordance with section 104(1)(ab) of the Resource Management Act 1991, there are no offsetting or compensation measures proposed or agreed to by the applicant that need consideration.

Objectives and Policies

[89] In accordance with section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Operative District Plan and the Proposed 2GP were taken into account when assessing the application.

Operative District Plan

[90] Due to the advanced stage of the Proposed 2GP, wherein the rules of relevance to this proposal, and the majority of the objectives and policies are now fully operative, a full assessment of the Operative Plan objectives and policies has not been undertaken. However, given that 2GP Rural zone Policy 6.2.2.1 is under appeal, a brief assessment of the proposal against those Operative Plan Rural zone provisions that could be considered to correspond with the provision under appeal is provided below for context.

Provision reference	Summary of provisions	Assessment
Policy 6.3.1.2	This seeks to ensure the 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 is avoided or minimised.	The proposal is considered to be consistent with this provision as the adverse effects generated by this activity have been assessed as potentially affecting the amenity of neighbouring sites in a less than minor way. The proposed employment of staff should not prevent the use of land for productive purposes or reduce the productivity or viability of rural activities on surrounding sites or on the subject site. The proposal to employ staff onto the site is not considered to be the

		establishment of a sensitive activity, as it is not a sensitive activity in its nature and occurs inside, therefore it is not thought that the proposal will result in reverse sensitivity effects on other potentially incompatible existing activities.
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Proposed 2GP

[91] Below is an assessment of the relevant objectives and policies of the 2GP, and the proposal's compliance with these provisions.

Transportation

Provision reference	Summary of provisions	Assessment
Objective 6.2.3 and Policies 6.2.3.3, 6.2.3.9 and 6.2.3.10	These seek to ensure that land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods, including by providing sufficient on-site manoeuvring.	The proposal is considered to be consistent with these provisions. There are no changes proposed to the roading network or site access. There is ample space on site to accommodate parking and manoeuvring associated with the proposed activity/new staff. This is evident in photographs of the site and after a site visit.

Public Health and Safety

Provision reference	Summary of provisions	Assessment
Objective 9.2.1 and Policy 9.2.1.1	These seek to ensure that land use activities maintain or enhance the efficiency and affordability of public water supply, wastewater and stormwater infrastructure, and will not lead to future pressure for unplanned expansion of infrastructure.	The proposal is considered to be consistent with this objective and policy. The proposal would be self-reliant with respect to services and is not expected to lead to future pressure for expansion of infrastructure.
Objective 9.2.2 and Policies 9.2.2.1, 9.2.2.4, 9.2.2.7, 9.2.2.9 & 9.2.2.X	These seek to ensure that land use and development activities maintain or enhance people's health and safety, including by ensuring the following: • That activities are designed to properly manage noise and light spill; • that wastewater and stormwater are properly disposed of; • that new residential buildings have access to adequate firefighting water supply;	The proposal is considered to be consistent with this objective and policies. The proposal does not present any particular concern in relation to noise or light spill from this or adjoining properties. No potential sources of soil contamination have been identified at the time of writing, however, the application does not involve any soil disturbance.

	and that potential contaminants in soil are identified and properly managed.	
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Natural Environment

Provision reference	Summary of provisions	Assessment
Objective 10.2.1 and Policies 10.2.1.1 and 10.2.1.5	These seek to maintain or enhance biodiversity values by ensuring that activities are only allowed where biodiversity values would be maintained or enhanced, including by encouraging conservation activities in all zones and limiting indigenous vegetation clearance.	The proposal is considered to be consistent with these provisions. No indigenous vegetation would be cleared or affected and no building or structure is to be erected, thus no real change to the natural environment is anticipated as a result of the employment of staff.

Natural Hazards

Provision reference	Summary of provisions	Assessment
Objective 11.2.1	This objective seeks to develop and locate land use activities in such a way as to ensure that only risk from natural hazards is no more than low in the short to long term.	The subject site although identified as being subject to liquefaction over a small area, is not located within any identified hazard overlay in the Proposed 2GP. The Council's consultant Geotechnical Engineer did not comment on the application and the proposal is considered to be consistent with this objective as a result.

Rural Zones

Provision reference	Summary of provisions	Assessment
Objective 16.2.1 and Policy 16.2.1.1	These seek to reserve rural zones for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment, through enabling farming, grazing and conservation in the rural zones.	The proposal is considered to be generally consistent with this policy as small-scale farming and grazing that currently occur on the site will still be possible at the same time as the proposal.
Policy 16.2.1.3	This policy seeks to ensure that rural ancillary retail, rural tourism and working from home activities are at a scale that: is ancillary to and supportive of productive rural activities or conservation activity on the same property; and supports objectives 2.3.2 and 2.4.3 and their policies.	The proposal is considered to be consistent with this policy in that while the proposed employment of staff doesn't meet the definition of <i>working from home</i> , it is at a <i>working from home</i> scale whereby 3 or 4 people from the same family/ household/site could plausibly work for a business from the same site. The scale of the activity is such that it could be ancillary and supportive of a productive rural activity on the site co-existing (if one were to occur), the business occupies only 260 square meters of a 17ha+ site and that is not sought to

		change through the employment of staff. It has also been established that Objectives 2.3.2 and 2.4.3 have no real application on the activity.
Objective 16.2.1 Policy 16.2.1.8	This Objective seeks to reserve rural zones for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment. Policy 16.2.1.8 seeks to ensure supported living facilities, commercial activities, industrial activities, and major facility activities, are avoided in the rural zones unless they are otherwise provided for.	The proposal is considered to be contrary to Policy 16.2.1.8, which provides no real exception to the direction to avoid, other than where the activity is specifically provided for. The proposed industrial activity is not provided for. The proposal is generally consistent with the Objective the policy serves when read in isolation, as the proposal does not introduce any threat to the reservation of the rural zone for productive rural activity or an activity to protect or enhance the natural environment. These activities can co-exist on the site with the business at the proposed scale. Interpreting the policy in light of the objective, it could be concluded that industrial activities should be avoided in the rural zones insofar as they don't meet the objective – to reserve rural zones for productive rural activities/enhancement of natural environment. Therefore, industrial activities that present a threat to the reservation of the rural zones for productive rural activities and/or the enhancement of natural environment should be avoided, but some industrial activities that are small scale and present no threat to the productive rural use of a site may be appropriate, provided that they are not likely to expand into an activity that would become a threat and present no obstacle to rural productive activities co-existing on the site. It is clear that preservation of the rural zones for productive rural activities and conservation is a paramount consideration in the policy provisions of the Plan for rural zones. Both the Objective and Policy recognise exceptions to this however, thus it could be said that it need not be interpreted as an exhaustive /definitive avoidance.
Objective 16.2.2 and Policy 16.2.2.4	These seek to minimise conflict between activities in rural zones by ensuring the potential for reverse sensitivity issues is minimised and a reasonable level of amenity for residential activities is maintained, including by requiring residential buildings to be setback an adequate distance from site boundaries and activities operating in a way (including hours of operation or, for	The proposal is considered to be consistent with these provisions. As outlined in the assessment of effects, any risk of reverse sensitivity issues arising is anticipated to be low. Further, the adverse effect of the proposal on the amenity of surrounding sensitive activities has been assessed as insignificant.

	mineral exploration, use of blasting) that avoids or, if avoidance is not practicable, adequately mitigates noise or adverse effects on the amenity of sensitive activities on surrounding properties.	
Objective 16.2.3 and Policies 16.2.3.2 and 16.2.3.9	These seek to maintain and enhance rural character values and amenity through requiring residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones and Require activities to be designed and operated to ensure that any adverse effects from light spill on rural character and amenity, and the ability of people to view the night sky, will be no more than minor.	The proposal is considered to be consistent with these provisions. The adverse effects of the proposal on rural character and amenity has been assessed as less than minor. The activity is already occurring within existing buildings, the only real difference from the outside will be an increase in vehicle movements to and from the site and that will only be visible to immediate neighbours. The proposal does not introduce any new residential activity.
Objective 16.2.4 and Policy 16.2.4.4	These seek to maintain or enhance the productivity of rural activities in rural zones including by only allowing activities other than farming on highly productive land where: - the scale, size and nature of the activity means that any loss of current or potential future rural productivity would be: - insignificant in any high class soils mapped area; and no more than minor in other areas of highly productive land; unless for mining the activity must locate on highly productive land due to operational requirements and there are no practicable alternative locations.	The objective seeks to maintain or enhance productivity in the rural zone. Policy 16.2.4.4 seeks to ensure that residential activity in the rural zones is at a density that will not, over time and cumulatively, reduce rural productivity by displacing rural activities. Although the proposal will not breach the density requirement for the zone, the site is an existing, under-sized site and accordingly I consider that the level of displacement of rural activities is already existing and this proposal will not further displace rural activities over time – the site location has existing constraints. Therefore, it is considered that the proposal is consistent with this objective and Policy.

Conclusion with regards to Objectives and Policies

- [92] As the relevant rules in the proposed District Plan (2GP) are deemed operative and the relevant rules in the Operative District Plan are deemed inoperative, significantly more weight is given to the objectives and policies of the 2GP. However, some weight is given to the Operative Plan because 2GP Policy 16.2.2.1 is subject to appeal.
- [93] When looked at on the whole, the application is consistent with the majority/all of the relevant objectives and policies of the 2GP, with the exception of Policy 16.2.1.8, to which it is contrary. Policy 16.2.1.8 is a key rural policy but in light of the overall policy direction, and the lack of any impact from the proposal on rural productivity, I consider that it could be afforded less weight in this instance. This is because the overall 2GP policy direction suggests that small scale industrial

activities that present no threat to rural productive use of the site or rural productive use on surrounding sites could be acceptable.

- [94] Policy 16.2.1.8 directs the avoidance of industrial activities. The proposal is a light industrial activity, meeting the definition of industrial activities, but the scale and context of the proposal is considered relevant to the policy interpretation. Strategic Directions Objective 2.3.1 and Policy 2.3.1.2 provide context to the zoning and exclusion of classes of activities from the rural zones, unless specifically provided for. The key relevant issue identified in Objective 2.3.1 is that rural productive land (among other activities listed) is important for economic productivity and social well-being and therefore must be protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity. From this objective it is clear that it is the productive rural land that is important (not necessarily any rural land) and the other important point is preventing the potential for reverse sensitivity effects as these effectively lead to constraining rural activities/productive rural activities within the very zone that they are provided for (the rural zones). Reverse sensitivity effects are insidious and lack of control on the scale of any out of zone activity could lead to reverse sensitivity effects down the line and ultimately the prevention of rural productive activities operating on surrounding sites. It should be noted that the context of the existing site and surrounding sensitive activities is such that intensive activities are already somewhat constrained. This is not to say that where the proposed activity were allowed to expand beyond the proposed scale that the risk of reverse sensitivity effects would not increase, but the propensity for reverse sensitivity effects given the context of the site and scale of the activity proposed is not high.
- [95] Strategic Direction Policy 2.3.1.2 falls under Objective 2.3.1 and seeks to *maintain or enhance the productivity of farming and other activities that support the rural economy through...zoning and rules that limit ... land use activities based on: the nature and scale of productive rural activities in different parts of the rural environment; the location of highly productive land; potential conflict with rural water resource requirements...* This policy highlights the criteria used for deciding what activities are in or out of the rural zones depending on the nature and scale of the productive land use in different parts of the rural zones and on where the highly productive land is. The subject site is not highly productive land under the NPS-HL and is not used for highly productive use. Further, the surrounding land uses are similar to that of the subject site; conservation, low scale farming as rural residential lifestyle properties.
- [96] After considering the underlying issues for the rural zones expressed in the Plan via the Strategic Direction objectives and policies and the Introduction, I have concluded that the context and scale of the proposed industrial activity are relevant to the interpretation of the rural zone objectives and policies. It is broadly concluded that activities within the rural zones that do not lead to loss of productive rural land or reverse sensitivity effects should not be treated with the same degree of exclusion from the rural zones as those industrial activities that do present these issues. The Plan does not contemplate no industrial activities occurring in the rural zones. The industrial activities provided for in the rural zones are small scale (*working from home*) or small to medium scale and supportive of the rural economy (*rural contractor and transport depots - small scale*). These are both permitted activities, although *working from home* is limited in area and hours of operation to ensure it is/remains small scale. The activity is a specialist glass fabrication activity, which is reasonably unique and one of only 2 providers in the county. The activity is proposed to occur indoors, within existing buildings. It will not prevent the productive use of the site. It will not create reverse sensitivity effects at the proposed scale. As such, it is concluded that the proposal is consistent with the objectives and policies of the 2GP overall and support is found for the granting of consent.
- [97] Accordingly, I consider that when focusing on the objectives and policies overall and considering the low level of adverse effects on the environment, the objectives and policies of the Proposed Plan support the granting of consent at the proposed scale.
- [98] The Operative Plan objectives and policies are considered to be less directive than those of the Proposed 2GP. The proposal is consistent with the relevant objectives and policies of that Plan.

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

- [99] The objectives and policies of the Partially Operative Otago Regional Policy Statement (“RPS”) were taken into account in assessing the application. The RPS was made partially operative in January 2019.
- [100] The 2GP provisions of central importance to the application are generally beyond appeal, and as such are deemed to give effect to the relevant objectives and policies of the RPS. The policy assessment above has found that the proposal is contrary to a key policy of the 2GP, however this is more directive than objectives and policies of the RPS. I consider that the proposal is consistent with the relevant objectives and policies of the RPS (Objective 5.3 and Policy 5.3.1 in particular).

DECISION MAKING FRAMEWORK

Part 2 Matters

- [101] It is considered that there is no invalidity, incomplete coverage or uncertainty within either the operative Dunedin City District Plan or the Proposed 2GP. As a result, there is no need for an assessment in terms of Part 2 of the Resource Management Act 1991.

Section 104D

- [102] Section 104D of the Resource Management Act 1991 specifies that resource consent for a non-complying activity must not be granted unless the proposal can meet at least one of two limbs. The limbs of section 104D require that the adverse effects on the environment will be no more than minor, or that the proposal will not be contrary to the objectives and policies of both the district plan and the proposed district plan. It is considered that the proposal meets both limbs as any adverse effects arising from this proposed activity will be no more than minor, and overall, the proposal is not considered contrary to the objectives and policies (despite the conflict with Policy 16.2.1.8) and Council can exercise its discretion under section 104D to grant consent.

Section 104(1)(c)

- [103] Section 104(1)(c) of the Resource Management Act 1991 requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application. The matters of precedent and Plan integrity are considered relevant here. These issues have been addressed by the Environment Court (starting with *Russell v Dunedin City Council* C092/03) and case law now directs the Council to consider whether approval of a non-complying activity will create an undesirable precedent. Where a plan’s integrity is at risk by virtue of such a precedent, the Council is required to apply the ‘true exception test’. This is particularly relevant where the proposed activity is contrary to the objectives and policies of the district plan and/or the proposed district plan. The proposal is not considered to be contrary to the objectives and policies of the district plan and/or the proposed district plan overall but is considered contrary to one policy.
- [104] The 2GP sets a clear policy direction in terms of circumstances wherein industrial activity is acceptable/anticipated in the rural zones. There is a risk of an undesirable precedent being established in the absence of clear evidence to distinguish the application, or in the absence of clear policy support that can be considered to outweigh the ‘avoid’ provision in the Rural Section of the 2GP. The latter has been found to exist, the proposal generally finds support in the overall policy direction for these zones, thus the true exception test need not be met to avoid precedent effects, however, it is considered to have characteristics that set it apart from generality of other applications.
- [105] In this case, the proposal is non-complying because it involves the employment of staff for a non-rural activity, expanding it beyond what is considered a *working from home* activity and classifying it as an industry activity, which are generally avoided in the rural zones.

- [106] Neither the Operative Plan nor the 2GP provides for 'industrial activities' on a rural site, other than those specifically provided for, but these generally have some connection to the rural zone and do not have any other zone to locate in such as Rural Industry activities, which includes saw mills and timber processing etc. Smaller scale industrial activities are allowed for such as working from home and rural transport depot activities.
- [107] I do consider the proposal to have characteristics that mean it could be considered a true exception. The proposal is unique in that it is a rare specialist industrial activity within a limited industry of technical glass. The application states that the business' only viable option is to operate from the same address as where they live and the activity is moving from a residential zone premises, which is unusual for an industrial activity, but suggests the unique nature of the industrial activity. These characteristics mean the proposal can be distinguished from other industrial activities that may seek to locate in the rural zones.
- [108] Based on the above, and notwithstanding the effects of the proposal, which I consider to be less than minor, it is my opinion that approval of the application would not create an undesirable precedent and undermine the integrity of the 2GP.

RECOMMENDATION

After having regard to the above planning assessment, I recommend that:

- [109] ***Pursuant to Part and sections 34A(1), 104 & 104C of the Resource Management Act 1991, the Dunedin City Council grants the proposal to employ up to 3 staff for the glass fabrication business at 966 Taieri Mouth Road, Dunedin subject to the conditions as outlined in Appendix 1.***
- [110] ***That should the Panel exercise its discretion under section 104D to grant consent, that the draft conditions included in Appendix 1 should be imposed.***

REASONS FOR RECOMMENDATION

- [111] Effects of the proposal associated with the potential for loss of rural productive land, rural character and amenity and reverse sensitivity when considered in terms of the definition of 'effects' provided under the RMA have been assessed as less than minor.
- [112] The proposal is considered a small-scale and specialised industrial activity, and will be similar in effect to what is authorised on site as a *working from home* activity and recommended conditions can maintain the activity at this scale.
- [113] The proposal is deemed to be contrary to a key policy of the Rural section of the 2GP as the proposal is an industrial activity in the rural zones, which Policy 16.2.1.8 states to avoid. However, when the key policy is interpreted in light of its Objective 16.2.1 and as part of an overall assessment of relevant objectives and policies, which provide support for the proposal, the proposal is not considered contrary to the 2GP policy direction overall.
- [114] The activity and application have unique features and context and thus can be distinguished from the generality of applications.
- [115] Therefore, the granting of consent, should not create an undesirable precedent. I therefore consider that to grant consent would not undermine the integrity of the District Plan, as the granting of consent will not detract from the outcomes sought for the Rural zone.
- [116] I consider that the proposed employment of staff covering 2.0 F.T.E (80 hours per week) to support the *working from home* business can be granted.



Madeline Seeley
Planner

Date: 16 December 2022

Reviewed by:



Campbell Thomson
Senior Planner

Date 16 December 2022

Appendix 1: Proposed draft conditions and advice notes LUC-2022-446

1. The proposed activity must be undertaken in general accordance with the approved plans attached to this certificate as Appendix One, and the information provided with the resource consent application received by the Council on 13 October 2022, and further information received during the site visit on 15 December 2022, except where modified by the following conditions.
2. The consent must be personal to the applicants, [REDACTED]. In the event the property is sold this consent will expire and the Technical Glass Product Ltd. business activity may only continue on site as a working from home activity pursuant to LUC-2022-350.
3. A maximum of 3 staff that do not live at the subject property may be employed to work at the subject property for Technical Glass Products Ltd. A maximum of 80 hours per week may be worked by non-resident staff at the subject property for Technical Glass Products Ltd (2 Full Time Equivalent positions at 40 hours per week).

Advice Notes

1. The access from Taieri Mouth Road appears to cross a small section of driveway to 964 Taieri Mouth Road, the property adjoining the site to the north. No easements are reported on the title. However, this may be an error in terms of the alignment of cadastral data and aerial photography information.

Appendix 2 - Application



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

Application details

I/We

(must be the FULL name(s) of an individual or an entity registered with the New Zealand Companies Office. Family Trust names and unofficial trading names are not acceptable: in those situations, use the trustee(s) and director(s) names instead) hereby apply for:

☒ Land Use Consent ☐ Subdivision Consent

I opt out of the fast-track consent process: ☒ Yes ☐ No

(only applies to controlled activities under the district plan, where an electronic address for service is provided)

Brief description of the proposed activity:

This application seeks resource consent for a small scale industrial activity in the rural zone.

Have you applied for a Building Consent? ☐ Yes, Building Consent Number ABA

☒ No

Site location/description

I am/We are the: (☒ owner, ☐ occupier, ☐ lessee, ☐ prospective purchaser etc) of the site (tick one)

Street address of site: 966 Taieri Mouth Road Brighton

Legal description: Refer attached

Certificate of Title: OT17A/111

Contact details

Name: Conrad Anderson

(☐ applicant ☒ agent (tick one))

Address: PO Box 5933, Dunedin

Postcode: 9058

Phone (daytime): 027 252 0141

Email: conrad_a@xtra.co.nz

Chosen contact method (this will be the first point of contact for all communications for this application)

I wish the following to be used as the address for service (tick one): ☒ Email ☐ Post ☐ Other:

Ownership of the site

Who is the current owner of the site? The Applicant

If the applicant is not the site owner, please provide the site owner's contact details:

Address:

Postcode:

Phone (daytime): tba

Email: tba

Planning Application Fees Payment Details (Who are we invoicing)

THIS FORM MUST BE COMPLETED FOR ALL PLANNING APPLICATIONS THAT ATTRACT A FEE. ALL FIELDS ARE MANDATORY.

This information is required to assist us to process resource consent invoices and refunds at lodgement and the end of the process. If you have any queries about completing this form, please email planning@dcc.govt.nz

Deposit Payment Payee Details:

Full Name of Deposit Payee (Person or Company):

Mailing Address of Deposit Payee (please provide PO Box number where available):

c/- PO Box 5933 Dunedin 9058

Email Address of Deposit Payee: conrad_a@xtra.co.nz

Daytime contact phone number: tba

Important Note: The Payee will automatically be invoiced for the deposit and/or any additional costs. Should a portion of the deposit be unspent, it will be refunded to the payee.

Fees

Council recovers all actual and reasonable costs of processing your application. Most applications require a deposit and costs above this deposit will be recovered. A current fees schedule is available on www.dunedin.govt.nz or from Planning staff. Planning staff also have information on the actual cost of applications that have been processed. This can also be viewed on the Council website.

Development contributions

Your application may also be required to pay development contributions under the Council's Development Contributions Policy. For more information please ring 477 4000 and ask to speak to the Development Contributions Officer, or email development.contributions@dcc.govt.nz.

Occupation of the site

Please list the full name and address of each occupier of the site:

See attached AEE

Monitoring of your Resource Consent

To assist with setting a date for monitoring, please estimate the date of completion of the work for which Resource Consent is required. Your Resource Consent may be monitored for compliance with any conditions at the completion of the work. (If you do not specify an estimated time for completion, your Resource Consent, if granted, may be monitored three years from the decision date).

tba

(month and year)

Monitoring is an additional cost over and above consent processing. You may be charged at the time of the consent being issued or at the time monitoring occurs. Please refer to City Planning's Schedule of Fees for the current monitoring fee.

Detailed description of proposed activity

Please describe the proposed activity for the site, giving as much detail as possible. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please provide proposed site plans and elevations.

See attached AEE

Description of site and existing activity

Please describe the existing site, its size, location, orientation and slope. Describe the current usage and type of activity being carried out on the site. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please also provide plans of the existing site and buildings. Photographs may help.

See attached AEE

(Attach separate sheets if necessary)

District plan zoning

What is the District Plan zoning of the site? See attached AEE

Are there any overlaying District Plan requirements that apply to the site e.g. in a Landscape Management Area, in a Townscape or Heritage Precinct, Scheduled Buildings on-site etc? If unsure, please check with City Planning staff.

See attached AEE

Breaches of district plan rules

Please detail the rules that will be breached by the proposed activity on the site (if any). Also detail the degree of those breaches. In most circumstances, the only rules you need to consider are the rules from the zone in which your proposal is located. However, you need to remember to consider not just the Zone rules but also the Special Provisions rules that apply to the activity. If unsure, please check with City Planning staff or the Council website.

See attached AEE

Affected persons' approvals

I/We have obtained the written approval of the following people/organisations and they have signed the plans of the proposal:

Name:

Address:

Name:

Address:

Please note: You must submit the completed written approval form(s), and any plans signed by affected persons, with this application, unless it is a fully notified application in which case affected persons' approvals need not be provided with the application. If a written approval is required, but not obtained from an affected person, it is likely that the application will be fully notified or limited notified.

Assessment of Effects on Environment (AEE)

In this section you need to consider what effects your proposal will have on the environment. You should discuss all actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effect. i.e. small effect equals small assessment.

You can refer to the Council's relevant checklist and brochure on preparing this assessment. If needed there is the Ministry for the Environment's publication "A Guide to Preparing a Basic Assessment of Environmental Effects" available on www.mfe.govt.nz. Schedule 4 of the Resource Management Act 1991(RMA) provides some guidance as to what to include.

See attached AEE

The following additional Resource Consents from the Otago Regional Council are required and have been applied for: ☐ Yes ☒ No
☐ Water Permit ☐ Discharge Permit ☐ Coastal Permit ☐ Land Use Consent for certain uses of lake beds and rivers ☒ Not applicable

Assessment of Objectives and Policies

In this Section you need to consider and assess how your application proposal aligns with the relevant objectives and policies in the District Plan relating to your activity. If your proposal is a discretionary or non-complying activity under the District Plan more attention to the assessment will be necessary as the objectives and policies of the District Plan may not always be in support of the proposed activity.

See attached AEE

Declaration

I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.

I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.

Subject to my/our rights under section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Dunedin City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid.

Signature of: ☐ Applicant ☒ Agent (tick one):



Date: 13/10/2022

Privacy – Local Government Official Information and Meetings Act 1987

You should be aware that this document becomes a public record once submitted. Under the above Act, anyone can request to see copies of applications lodged with the Council. The Council is obliged to make available the information requested unless there are grounds under the above Act that justify withholding it. While you may request that it be withheld, the Council will make a decision following consultation with you. If the Council decides to withhold an application, or part of it, that decision can be reviewed by the Office of the Ombudsmen.

Please advise if you consider it necessary to withhold your application, or parts of it, from any persons (including the media) to (tick those that apply):

- ☐ Avoid unreasonably prejudicing your commercial position
- ☐ Protect information you have supplied to Council in confidence
- ☐ Avoid serious offence to tikanga Māori or disclosing location of waahi tapu

What happens when further information is required?

If an application is not in the required form, or does not include adequate information, the Council may reject the application, pursuant to section 88 of the RMA. In addition (section 92 RMA) the Council can request further information from an applicant at any stage through the process where it may help to a better understanding of the nature of the activity, the effects it may have on the environment, or the ways in which adverse effects may be mitigated. The more complete the information provided with the application, the less costly and more quickly a decision will be reached.

Further assistance

Please discuss your proposal with us if you require any further help with preparing your application. The Council does provide pre-application meetings without charge to assist in understanding the issues associated with your proposal and completing your application. This service is there to help you.

Please note that we are able to provide you with planning information but we cannot prepare the application for you. You may need to discuss your application with an independent planning consultant if you need further planning advice.

City Planning Staff can be contacted as follows:

IN WRITING: Dunedin City Council, PO Box 5045, Dunedin 9054

IN PERSON: Customer Services Centre, Ground Floor, Civic Centre, 50 The Octagon

BY PHONE: (03) 477 4000

BY EMAIL: planning@dcc.govt.nz

There is also information on our website at www.dunedin.govt.nz

Information requirements

- ☒ Completed and Signed Application Form
- ☒ Description of Activity and Assessment of Effects
- ☐ Site Plan, Floor Plan and Elevations (where relevant)
- ☐ Written Approvals
- ☒ Payee details
- ☐ Application fee (cash, eftpos, direct credit or credit card (surcharge may apply))
- ☒ Certificate of Title (less than 3 months old) including any relevant restrictions (such as consent notices, covenants, encumbrances, building line restrictions)
- ☐ Forms and plans and any other relevant documentation signed and dated by Affected Persons

In addition, subdivision applications also need the following information:

- ☐ Number of existing lots
- ☐ Number of proposed lots
- ☐ Total area of subdivision
- ☐ The position of all new boundaries

In order to ensure your application is not rejected or delayed through requests for further information, please make sure you have included all of the necessary information. A full list of the information required for resource consent applications is in the Information Requirements Section of the District Plan.

OFFICE USE ONLY

Has the application been completed appropriately (including necessary information)? ☐ Yes ☐ No

Application: ☐ Received ☐ Rejected

Received by: ☐ Counter ☐ Post ☐ Courier ☐ Other:

Comments:

(Include reasons for rejection and/or notes to handling officer)

Planning Officer:

Date:

RESOURCE CONSENT APPLICATION

Assessment of Environmental Effects
Including
Commentary of the Relevant Provisions
of the
Dunedin City District Plan

Application
by



at
966 Taieri Mouth Road Brighton

Anderson & Co Resource Management

Advising on Planning and Resource Management

www.RMApro.co.nz *your RMA professionals*

P O Box 5933

Dunedin 9058

Ref:\2992

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AUTHOR:

1. My name is Conrad Anderson, and I am a director of Anderson & Co (Otago) Limited.
2. I hold a Masters in Planning from the University of Otago. I have over 9 years of professional experience in planning, and I am a member of the New Zealand Planning Institute.
3. I completed this Assessment of Environmental Effects (AEE).
4. While this AEE is not for an Environment Court hearing, I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it.
5. 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. The following covers both planning matters and other matters. With regards to the planning matters, these are within my area of expertise, however, it is important to note that I am not a qualified in non-planning matters. Therefore, any comments regarding non-planning matters are to be read as lay comments.

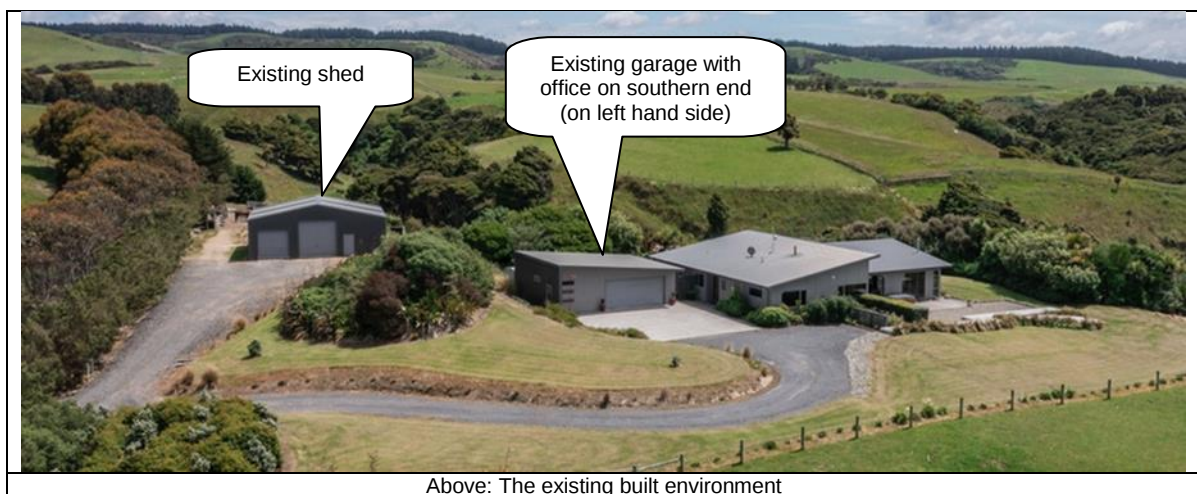
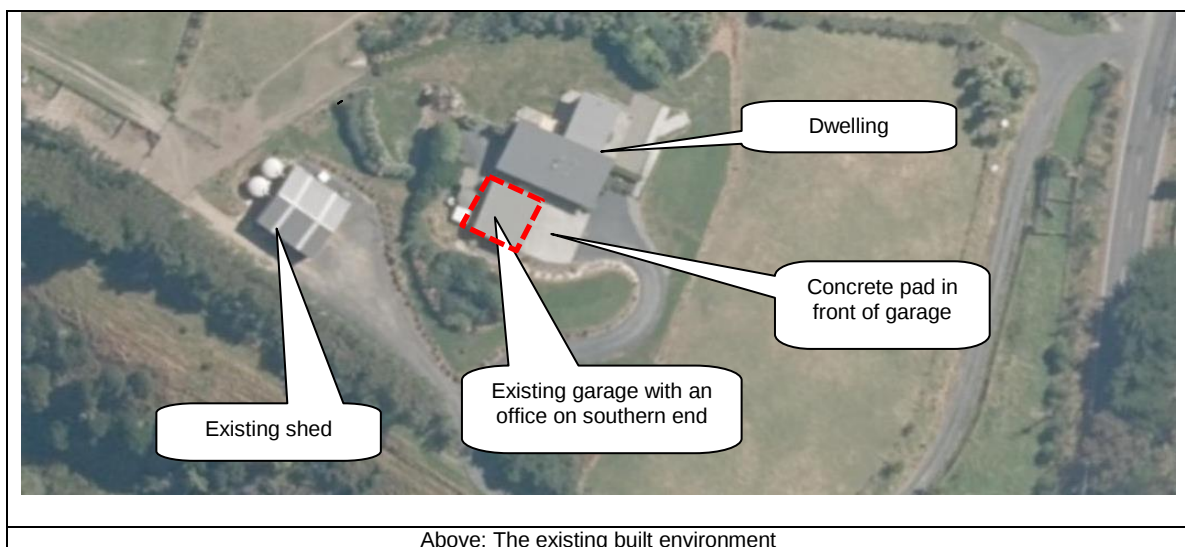
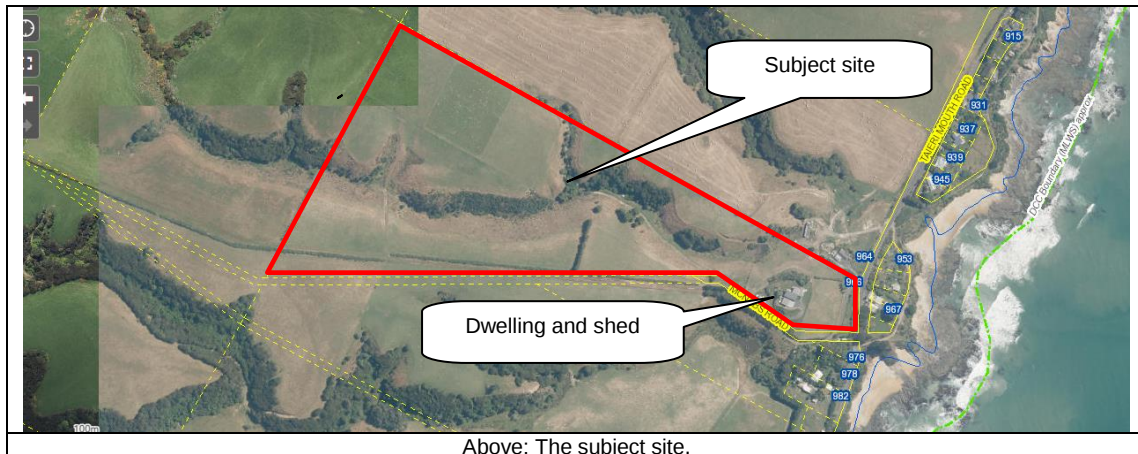
SUMMARY:

6. The subject site is a lifestyle block, some 11.5km south of Brighton, on the corner of Taieri Mouth Road and McNabbs Road (a paper road).
7. The site contains an existing dwelling (with adjoin garage and office) and a standalone shed.
8. A resource consent (LUC-2022-350) is pending to use the garage, office and shed for a 'working from home' activity. Note – the application associated with LUC-2022-350 initially included the ability to employ a limited number of staff, however following discussions with Council staff and due to the urgency for the working from home application, the staffing component was withdrawn from application associated with LUC-2022-350.
9. This application seeks resource consent for a 'working from home' activity to have the ability to employ a limited number of staff. As discussed later in this AEE, this results in the activity being defined as an industrial activity.
10. Resource consent is required due to:
 - Land Use Activities:
 - i. Industrial Activity
 - Development Activities:
 - i. n/a
 - Subdivision Activities:
 - i. n/a
 - Hazards:
 - i. n/a
 - Earthworks
 - i. n/a
 - HAIL
 - i. n/a
11. The proposal has a **non-complying** activity status.

DESCRIPTION OF THE SITE AND LOCATION

12. The site is located at 966 Taieri Mouth Road Brighton and is held in OT17A/111.

13. The Applicant is the owner of the site. The Applicants address is c/- Anderson & Co, PO Box 5933, Dunedin 9058.
14. The site is located on the corner of Taieri Mouth Road and McNabbs Road (a paper road), with the existing dwelling and shed located towards the south-east corner of the site. Refer below. The shed has an approximate footprint of 144m², while the garage (with office) attached to the dwelling has a footprint of approximately 120m². Refer below.



15. While LUC-2022-350 is pending, it is anticipated to provide for a working from home activity within the existing structures (which exceeds the permitted floor area for a working from home activity). That underlying activity mirrors the activity contemplated by this application, but without staff.

DESCRIPTION OF THE PROPOSAL:

16. In the most simplest form, the proposal is for working from home with a limited number of staff (2 Full Time Equivalents, FTEs).
17. However, due to the structure of the 2GP (as explained later in this AEE) the proposal is for an industrial activity in the rural zone.
18. The nature of the activity is a specialist scientific and technical glassware company stocking and manufacturing scientific and technical glassware and materials. In terms of the activity this includes:
- Stocking – importing, stocking and reselling scientific and technical glassware (no door sales, all couriered).
 - Production Glass - bench and lathe glassblowing, centrifuging, profile forming, thread rolling, vacuum forming
 - Custom Glassware - the construction of common (and not so common) laboratory glassware.
 - Prototyping - for one-off projects (laboratory, technical or architectural).
19. The activity trades as Technical Glass Products (TGP), and for more information, please see: www.tgpglass.co.nz
20. The activity will use the existing garage (with office) and the existing shed, with a total floor area of approximately 260m². This mirrors with anticipated consented working from home activity. The space requirement is largely due to stocking and equipment layout requirements, rather than staffing, hence the employment of staff will not increase the floor space.
21. The Applicants have recently purchased the business, and intend to establish the business as an owner operator (i.e. working from home). However, as background, the following is noted:
- Prior to the Applicants purchase, the business has declined in recent years. The activity is currently supported by discounted premises rental, and that agreement will soon be ending (due to the sale of the building).
 - Moving the business to a 'work from home' operation is the only viable option for the business.
 - To establish the business on the site requires some upgrades to the existing shed (such as to connect to mains power) along with the installation of various bits of equipment associated with specialises glass manufacturing.
 - While the business does not currently employ staff, the ability to employ a limited number of staff will assist to 'future proof' the business. Relocating the business in the future to commercial premises, to allow the employment of a limited number of staff, is unlikely to make economic sense.

The activity parameters include:

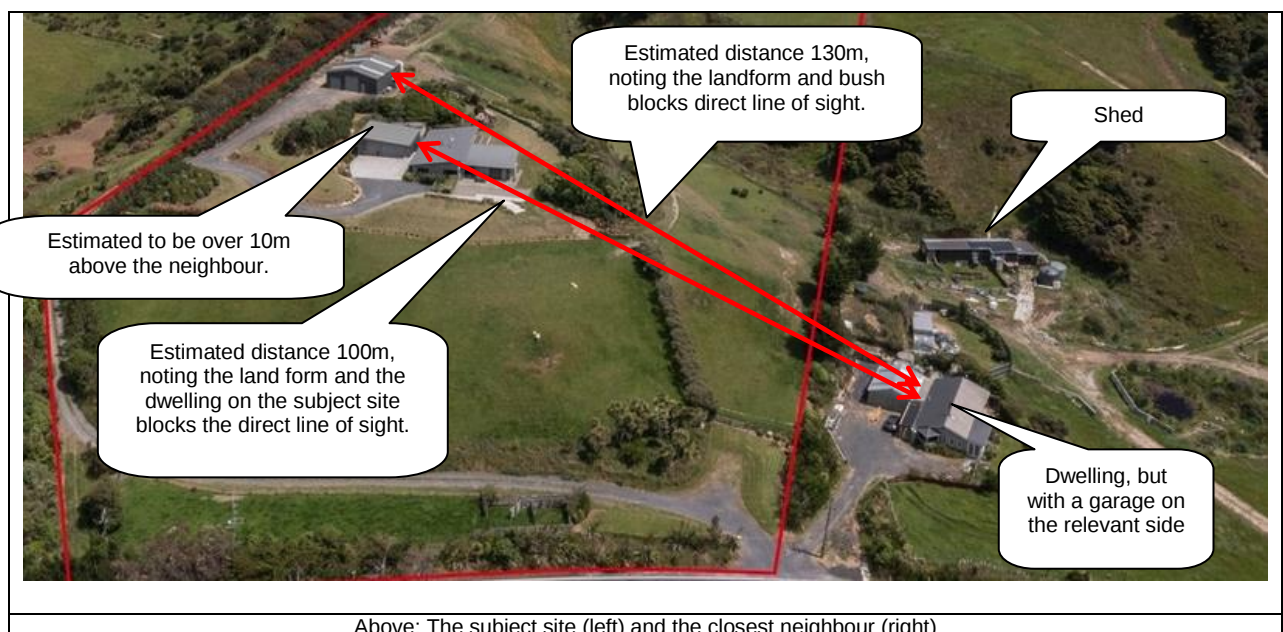
- The activity is to be associated with the owner and occupant of the dwelling.
- The activity will be undertaken in the existing shed (approximate footprint of 144m²) and existing garage (with office) which is attached to the dwelling (footprint of approximately 120m²).
- Employees would be specialist glass blowers (max 1.5 FTEs) and admin/packer (max 0.5 FTE). Employees would only be onsite during working hours (defined below).
- No direct sales from the site i.e. no customers coming to the site.
- No signage.

- Couriers/deliveries: maximum of one per day, between 8am to 6pm, Monday to Friday.
- Hours of operations: 8am to 6pm, Monday to Friday.

22. In terms of effects:

- Noise: Any noise effects will be less than minor due to the internal nature of the activity (i.e. equipment located inside) and the quiet nature of the activity. In addition, the existing separation distances (over 100m) and land form (including bush) assists to separate the proposal from the neighbouring dwellings (the closest neighbour is discussed further below). It is noted that the activity has operated from 15 Clyde Street, Dunedin for a number of years, and that site has residential activity on the opposite side of Clyde Street and as boundary neighbours (on both Clyde and Harrow Streets). That building is an older style industrial building with no known acoustic insulation. It is understood that the subject activity when located in Clyde Street, in very close proximity to residential neighbours, has raised no concerns in relation to noise.
- Transportation: Due to the location, any transportation effects will be less than minor due to a combination of: the limited number of staff, no customers coming to site, and due to couriers being infrequent (maximum of one per day).
- Neighbours: The closest neighbour is at 964 Taieri Mouth Rd – refer below. In terms of 964 Taieri Mouth Road, the following is noted:
 - Is estimated to sit over 10m lower than the subject garage and shed.
 - Has an attached garage on the closest wall to the subject site.
 - The distance from neighbouring dwelling to the subject garage is estimated to be 100m, noting the subject dwelling acts as a buffer.
 - The distance from neighbouring dwelling to the subject shed is estimated to be 130m, noting land contours and bush block a direct line of sight.

There is a considerable buffer between the shed/garage and the neighbouring dwelling including distance, land form, bush, the garage attached to the neighbours house and the house on the subject site. In terms of effects, the proposal will be internal to the shed/garage and does not seek to exceed the permitted noise levels. Overall, the activity is small scale, internal to buildings, and made from glass (i.e. quiet). At best there will be no effects to the neighbour and at worst they will be de minimis.



RELEVANT SITE HISTORY / BACKGROUND TO THE APPLICATION

23. The site was created in 1995, with residential activity approved in 2005 (refer LUC-2005-1189, which was varied via LUC-2006-0267 to correct/confirm the location of the dwelling).
24. In 2012 consent was given for the erection of the shed (LUC-2012-553).
25. The application associated with LUC-2022-350 seeks to allow the use of the garage and shed for working from home activity, with the consent pending.

ACTIVITY STATUS

26. Dunedin currently has two district plans: the operative Dunedin City District Plan, and the Proposed Second Generation Dunedin City District Plan (the "2GP"). Until the 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.
27. In situation where rules and/or zoning/overlays that apply to a site are subject to appeal, both the 2GP and operative District Plan rules apply.
28. In situations where there are no appeals on the rules and/or zoning/overlays that apply to a site, then only the required 2GP to be considered (in terms of determining the activity status).
29. To follow is consideration of the activity status under the operative District Plan and/or the 2GP, the activity status applied by the National Environmental Standard is considered.

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

30. The 2GP maps shows the site is zoned Rural Coastal, with the following overlays:
- Archaeological Alert Layer Mapped Area (part site only)
 - Coastal Character Overlay Zone (part site only)
 - Critical Electricity Distribution Infrastructure Corridor Mapped Area (part site only)
31. The roads adjacent to the site are:
- Taieri Mouth Road: Arterial
 - McNabb Road: paper road
32. In terms of the ability to employ staff, the 'working from Home' activity definition states that Working from Home cannot employ any other person on-site (as opposed to having that requirement as a performance standard). As a result, if staff are to be employed then 'Working from Home' activity is not the appropriate land use activity.
33. Therefore, if staff are to be employed, notwithstanding that the proposal is associated with the owner and occupier of the site, the most appropriate land use activity is Industrial.
34. In terms of activity status, the applicable rule is Rule 16.3.3.46 "All other activities in the industrial activities category", which has a **non-complying** activity status.
35. As a non-complying activity there are no specific performance standards, however the following Working From Home Standards may assist with matters of importance:

	Working from Home Performance standard	Proposed	Comment
Customers	Provided for by Rule 16.3.3.28.a.i	No customers coming to site.	This has beneficial effects.
Deliveries	No maximum number per day.	Limited to a maximum of 1 per day.	This has beneficial effects.
Deliveries	Only between 7am and 7pm, 7 days a week.	Limited to 8am to 6pm, Monday to Friday	This has beneficial effects.

36. The Development, Subdivision, Hazard and Earthwork matters are not relevant.

Operative Dunedin City District Plan

37. As the relevant 2GP zoning is not subject to appeal, there is limited need to refer back to the operative District Plan in terms of activity status.

38. Within the operative District Plan, the site is zoned Rural.

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

39. The proposal is not seeking to introduce a more sensitive activity to the site (which is already associated with residential activity) nor subdivision or soil disturbance.

40. Therefore the HAIL regulations are not relevant.

Overall Activity Status

41. Overall, the proposal is a **non-complying** activity.

NOTIFICATION

42. The matter of both public and limited notification are discussed below:

Public Notification (s95A)

43. In terms of Step 1: Mandatory public notification in certain circumstances

- Public notification has not been requested.
- There has been no failure or refusal to provide further information.
- There has been no failure to respond or refusal to a report commissioning request.
- The application does not involve the exchange of recreation reserve land.

Therefore Step 2 is to be considered.

44. In terms of Step 2: If not required by Step 1, public notification precluded in certain circumstances

- There are no rules or national environmental standards precluding public notification.
- The application does not involve: a controlled activity, nor a boundary activity. As a result, public notification is not precluded under Step 2.

Therefore Step 3 is to be considered.

45. In terms of Step 3: If not precluded by Step 2, public notification required in certain circumstances

- There are no rules or national environmental standards requiring public notification.
- The activity will not have, or be likely to have, adverse effects on the environment that are more than minor.

Therefore, Step 4 is to be considered.

46. In terms of Step 4: Public notification in special circumstances

- There are no special circumstances that warrant the application being publicly notified. There is nothing exceptional or unusual about the application that makes public notification desirable.

Limited Notification (s95B)

47. In terms of Step 1: Certain affected groups and affected persons must be notified

- The activity is not in a protected customary rights area; the activity is not an accommodated activity in a customary marine title area; and, the activity is not on or adjacent to, or might affect, land that is the subject of a statutory acknowledgement.

Therefore, Step 2 is to be considered.

48. In terms of Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- There are no rules or national environmental standards precluding limited notification.
- The application does not involve a controlled activity that is not a subdivision.

Therefore, Step 3 is to be considered.

49. In terms of Step 3: If not precluded by Step 2, certain other affected persons must be notified

- The application does involve a boundary activity, but this is a road boundary.
- There are no persons where the activity's adverse effects on the person are minor or more than minor (but are not less than minor).

Therefore, Step 4 is to be considered.

50. In terms of Step 4: Further notification in special circumstances

- There are no special circumstances that warrant the application being limited notified. There is nothing exceptional or unusual about the application that makes limited notification to any other persons desirable.

EFFECTS ON THE ENVIRONMENT

51. To follow is a review of both the permitted baseline and the receiving environment. That review informs the assessment of effects.

Permitted Baseline

52. Under Sections 95D(b) and 104(2) of the Resource Management Act 1991, the Council may disregard an adverse effect of the activity on the environment if the district plan or a national environmental standard permits an activity with that effect. This is called the permitted baseline.

53. The use of the site for working from home is anticipated, with a maximum footprint of 100m² and no staff.

Receiving Environment

54. The existing and reasonably foreseeable receiving environment is made up of:

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

55. The receiving environment includes the existing residential activity and built environment (and potentially the the pending consent for a larger floor area associated with the working from home activity).

Assessment of Effects

56. The relevant assessment matters are within Rule 16.12 and these are discussed below:

Rule 16.12.2.1 All non-complying land use activities

Standard	Details	Comment
16.12.2 Assessment of all non-complying activities		
16.12.2.1 All non-complying land use activities		
Relevant objectives and policies (priority considerations):		
16.12.2.1.a	Objectives 16.2.1 Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment. Objectives 16.2.2 The potential for conflict between activities within the rural zones, and between activities within the rural zones and adjoining residential zones, is minimised through measures that ensure: • the potential for reverse sensitivity in the rural zones is minimised; • the residential character and amenity of adjoining residential zones is maintained; and • a reasonable level of amenity for residential activities in the rural zones. Objectives 16.2.3 The rural character values and amenity of the rural zones are maintained or enhanced... Objectives 16.2.4 The productivity of rural activities in the rural zones is maintained or enhanced.	Due to the proposal utilising existing buildings, the proposal will not impact on 'productive rural activities'. Due to the proposal utilising existing buildings, the proposal will not impact the protection and enhancement of the natural environment. Consent is required because the proposal is not a permitted activity that supports the well-being of communities. While the proposal is inconsistent with part of the Objective, it is not assessed as being contrary. The most sensitive activity is residential, and the site is already associated with that activity. The effects to neighbours are assessed as nil or de minimis. Due to the activity using the existing built environment, along with the activity parameters (as discussed earlier in this AEE) no amenity issues are raised. Overall, no conflict is expected. Due to the proposal being internalised in existing buildings, along with the activity parameters, the amenity is at least maintained. Due to the proposal being internalised in existing buildings, rural productivity is at least maintained.
16.12.2.1.b	The activity does not detract from, or preferably contributes to, the strategic direction objectives, including, but not limited to, those	Objective 2.2.2 Environmental Performance and Energy Resilience, has limited relevance.

	related to: Objectives 2.2.2, 2.2.3, 2.2.4, and 2.3.1.	Objective 2.2.3 Indigenous Biodiversity, is not relevant. Objective 2.2.4 Compact and Accessible City is not relevant. Objective 2.3.1 Land and Facilities Important for Economic Productivity and Social Well-being, is not relevant. However, it could be argued that the proposal results in a more efficient use of the site, without reducing the rural productivity, with no matters of reverse sensitivity being raised. Objective 2.3.2 Centres Hierarchy, is not relevant. Objective 2.4.3 Vibrant CBD and Centres, is not relevant. Objective 2.4.6 Character of Rural Environment, due to the proposal being internalised in existing buildings, along with the activity parameters, the character and amenity is at least maintained.
General assessment guidance:		
16.12.2.1.c	In assessing the significance of effects, consideration will be given to: • short to long term effects, including effects in combination with other activities; and • the potential for cumulative adverse effects arising from similar activities occurring as a result of a precedent being set by the granting of a resource consent;	Noted, with the following comments made: • The long terms effects are not anticipated to be beyond those within this application. • In terms of cumulative effects, any risk is assessed as being low, due to the specialist nature of the activity, the existing structures on the site and the parameters of the proposal.
16.12.2.1.d	In assessing activities that are non-complying due to being in an overlay zone, mapped area, in a scheduled site, or affecting a scheduled item, that otherwise require resource consent, the assessment guidance provided in relation to the underlying activity status will also be considered.	n/a
Relevant guidance from other sections (priority considerations):		
16.12.2.1.e	For activities taking place within the radio transmitters mapped area...	n/a
16.12.2.1.f	See Section 6.13 for guidance on the assessment of resource consents in relation to objectives 6.2.2 and 6.2.3, and effects related to accessibility and the safety and efficiency of the transport network and its affordability to the public.	n/a as the proposal raises no transportation matters of concern.

16.12.2.1.g	See Section 9.8 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects on health and safety.	n/a as the proposal raises no health and safety matters of concern.
16.12.2.1.h	For activities that may have effects on biodiversity values...	n/a
16.12.2.1.i	For activities adjacent to water bodies and the coast...	n/a
16.12.2.1.j	See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on cultural values of Manawhenua.	n/a as the proposal raises no cultural matters of concern.

Rule 16.12.3.2 Industrial Activity

Standard	Details	Comment
16.12.3 Assessment of non-complying land use activities		
16.12.3.2 Industrial activities (other than rural industry and rural contractor and transport depots)		
Relevant objectives and policies:		
16.12.3.2.a	Objective 2.3.2 and Policy 2.3.2.2.	Objective 2.3.2 Centres Hierarchy, is not relevant, as it focuses on CBD and Centres which don't provide for industrial activity. Policy 2.3.2.2 is not relevant as it relates to retail and office activities.
16.12.3.2.b	Objective 2.4.3 and Policy 2.4.3.4.	Objective 2.4.3 Vibrant CBD and Centres, is not relevant, as it focuses on the CBD, along with urban and rural centres, which don't provide for industrial activity. Policy 2.4.3.4 is not relevant as it relates to retail and office activities.
16.12.3.2.c	Objective 16.2.1. Refer above.	Refer above.
16.12.3.2.d	... industrial activities ... are avoided, unless otherwise provided for, in the rural zones (Policy 16.2.1.8).	This is a directive avoid policy. As a result the proposal is contrary to this Policy. Noting that the same activity, without staff, is provided for in the zone.

57. In terms of effects these are assessed as being less than minor, while allowing for an anticipated work from home activity, with the ability to employ a limited number of staff (2FTEs) – defined in the 2GP as an industrial activity. Positive effects include a more efficient use of the existing building resource, along with social and economic benefits.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

58. None.

OBJECTIVES AND POLICIES ASSESSMENT

59. In accordance with Section 104(1)(b) of the RMA, the objectives and policies of the operative District Plan and the 2GP were assessed below:

Operative District Plan:

60. Within the Operative District Plan the key section in terms of the Objectives and Policies is Section 6, which is reviewed below:

Section 6 (Rural)

Objective	Supporting Policy	Comment
Objective 6.2.1 Maintain the ability of the land resource to meet the needs of future generations.	Policy 6.3.2 Sustain the productive capacity of the Rural Zone by controlling the adverse effects of activities. Policy 6.3.3 To discourage ... the establishment of non-productive uses of rural land and to avoid potential conflict between incompatible and sensitive land uses by limiting the density of residential development in the Rural Zone.	The proposal will not use productive rural lands, and effects have been assessed as being less than minor. The proposal is a productive use (but not in a rural sense). Due to the surrounding density, no conflicts arise from the application.
Objective 6.2.2 Maintain and enhance the amenity values associated with the character of the rural area.	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) landscape Management Areas or Areas of Significant Conservation Values. Irrespective of the ability of a site to mitigate adverse effects on the immediately surrounding environment.	The proposal is assessed as at least maintaining amenity values, with no cumulative effects of concern.
Objective 6.2.5 Avoid or minimise conflict between different land use activities in rural areas.	Policy 6.3.3 See above. 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.	With regards to these matters: • Rural amenity – at least maintained. • Ability of rural land to be used for productive purposes – the proposal does not use productive land. • Viability of productive rural activities - the proposal will not restrict any rural activity on the subject site or surrounding sites.

61. Overall, it is assessed that the proposal is generally consistent with the relevant objectives and policies of the operative District Plan.

2GP:

62. Within the 2GP there are a number of sections that have relevance in terms of the Objectives and Policies. The relevant items are included below:

Strategic Directions (Section 2):

Objective	Supporting Policy	Comment
Objective 2.2.2		Noted/discussed above.
Objective 2.2.6	Objective 2.2.6.1	Objective 2.2.6 Public Health and Safety – is largely not relevant. Policy 2.2.6.1 is in relation to 'heavier industrial activities', which is not applicable to this application. It also seeks lighter industrial activities in mixed use zones, but not exclusively (i.e. it does not seek to avoid lighter industrial activities in other zones).
Objective 2.3.1		Noted/discussed above.
Objective 2.3.2	Policy 2.3.2.2	Noted/discussed above.
Objective 2.4.3	Policy 2.4.3.4	Noted/discussed above.
Objective 2.4.6	Policy 2.4.6.1 & 2	Objective 2.4.6 Noted/discussed above. Policy 2.4.6.1 seeks that important character and visual amenity values of different rural environments should be maintained, including matters associated with “nature, scale and types of productive uses”. While industrial activity is not provided for, the nature, scale and type of activity proposed does not distract from the character and visual amenity values of the area. Policy 2.4.6.2 seeks to maintain the identified values within different rural environments through mapping rural zones and using policies and assessment rules that require or encourage the consideration of effects on rural character and visual amenity associated with land use and development activities. As above, while industrial activity is not provided for, that the nature,

		scale and type of activity proposed does not distract from the character and visual amenity values of the area.
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Rural (Section 16):

Objective	Supporting Policy	Comment
Objective 16.2.1 Refer above.	Policy 16.2.1.8 Detailed above, but repeated below: Avoid supported living facilities, commercial activities, industrial activities, and major facility activities, unless otherwise provided for, in the rural zones.	Objective 16.2.1 Refer above. Policy 16.2.1.3 Discussed above, but repeated below: This is a directive avoid policy. As a result the proposal is contrary to this matter.
Objective 16.2.2 Refer above.	No relevant policies.	Objective 16.2.2 Refer above.
Objective 16.2.3 Refer above.	Policy 16.2.3.9 Require activities to be designed and operated to ensure that any adverse effects from light spill on rural character and amenity, and the ability of people to view the night sky, will be no more than minor.	Objective 16.2.3 Refer above. Policy 16.2.3.9 The internal nature of the activity, hours of operation, limited transportation matters etc will ensure the activities has adverse effects that are no more than minor (assessed as being less than minor).
Objective 16.2.4 Refer above.	No relevant policies.	Objective 16.2.4 Refer above.

63. Overall the proposal has good alignment with the policy direction; however Policy 16.2.1.8 is a directive avoid policy, to which the proposal does not align. Therefore the proposal is contrary to that single matter.

Operative and Proposed Regional Policy Statement for Otago

64. The Operative and Proposed Regional Policy Statement for Otago raises no matter of concern.

DECISION MAKING FRAMEWORK

Part 2 Matters

65. While it is considered that there is sufficient assessment guidance within both the operative District Plan and in the 2GP hence there is no need for an assessment in terms of Part 2 RMA, the following it noted for completeness:

- Section 5 – Purpose: The proposal will assist with the sustainable management of the physical resource, which will provide for enhanced social and economic outcomes, without adverse effects on the environment.
- Section 6 – Matters of national importance: n/a
- Section 7 – other matters: The proposal will result in a more efficient use of the physical resources, while maintaining amenity values.
- Section 8 – Treaty of Waitangi: n/a

Actual and Potential Effects

66. As noted above, the effects of the proposal are limited, and assessed as being less than minor, which is largely an anticipated use, resulting in an enhanced use of the existing resources, along with the beneficial social and economic effects.

Any Relevant Provision

67. The only relevant provisions relate to the district plans, and it is concluded that the proposal is contrary to a single directive policy.

Other Matters

68. None

Section 104D

69. S104D RMA requires an application for a non-complying activity to pass at least one of the s104D 'gateways': either the effects will be no more than minor, or the proposal is not contrary to the relevant objectives and policies.

70. As detailed above, the proposal is assessed as easily passing the effects gateway. Therefore, consideration to granting consent can be given under s104D.

71. However, the proposal is contrary to a single directive policy. In terms of the risk of setting an undesirable precedent, the proposal has elements which assist in this regard, including:

- The activity is to be associated with the owner and occupant of the dwelling.
- The proposal is specialist activity associated with scientific glass.
- The proposal is will be very small scale (maximum 2 FTEs, most of which is related to specialists skills).
- The underlying activity (without staff) is a permitted activity, subject to the matter of floor area.
- The activity will be undertaken within the existing structures on the site. The employment of a limited number of staff does not result in the need for increased work area.
- There is no requirement for outdoor storage.
- There are no signage requirements.
- There are no direct sales from the site, so no customers will come to site, which is less than the Working from Home parameters.
- The number and hours for deliveries are limited to less than the Working from Home parameters.

72. Thus, if consent is granted, the risk of setting an undesirable precedent is assessed as being very low.

Specific Considerations

73. Details of any permitted activity that is part of the proposal: Not applicable

74. S124 / S165ZH91(e): Not applicable

75. S85 of the Marine and Coastal Area: Not applicable

76. Subdivision Consent – Additional Information: Not applicable

77. Reclamation Consent – Additional Information: Not applicable

Written Approvals

78. As no person is identified as being affected by the proposal, this application does not include any written approvals.

AEE CONCLUSION

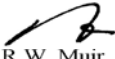
79. The Applicants have recently purchased the business, and moved to a 'work from home' operation as the only viable option for the business. LUC-2022-350 seeks a larger floor area, due to stock and equipment setup requirements.
80. This application seeks to allow a residential occupier to provide a work from home activity, with a very limited number of staff (most of which will be highly skilled).
81. The ability to employ a limited number of staff (as sought by this application) will assist to 'future proof' the business. Relocating the business in the future to commercial premises, to allow the employment of a limited number of staff, is unlikely to make economic sense.
82. As the 2GP does not provided for the 'working from home' with performance standards associated with staff, the proposal becomes a non-complying industrial activity.
83. The application is assisted by the small scale nature of the activity, along with the operational matters (no customers coming to site, no signage, and standard hours) that result in the proposal having no effects of concern. Thus, the proposal easily passes the effects gateway tests.
84. The directive nature of a single policy (Policy 16.2.1.8) requires consideration of the potential for setting an undesirable precedent. As detailed within this AEE, this is considered unlikely.
85. The granting of the consent will result in the more efficient use of subject area, with no concerns in terms effects or precedent arising, with resulting social and economic benefits. Therefore, the proposal is assessed as being suitable for consent to be granted.

Anderson & Co (Otago) Ltd



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




R.W. Muir
Registrar-General
of Land

Identifier OT17A/111

Land Registration District Otago

Date Issued 13 December 1995

Prior References

OT10D/906 OT1D/506

Estate Fee Simple

Area 17.1677 hectares more or less

Legal Description Lot 1 Deposited Plan 24990

Registered Owners

John Martin Rendel, Julie Marie Everett-Hincks and WR Trustees 13 Limited

Interests

9104001.3 Mortgage to Bank of New Zealand - 29.6.2012 at 3:41 pm

4. BACKGROUND: PURPOSE/GENERAL: STATEMENT OF CLIENT AND LAND INFORMATION: NEW ZEALAND

Appendix 3 – Site Photographs









