

TO: Consent Hearings Commissioner

FROM: Lianne Darby, Planner

DATE: 9 February 2017

SUBJECT: RESOURCE CONSENT APPLICATIONS:

SUBDIVISION	SUB-2016-58
LAND USE	LUC-2016-336
LAND USE	LUC-2017-24

78 CAPE SAUNDERS ROAD
PORTOBELLO

1. INTRODUCTION

[1] This report has been prepared on the basis of information available on 9 February 2017. The purpose of the report is to provide a framework for the Commissioner's consideration of the application and the Commissioner is not bound by any comments made within the report. The Commissioner 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.

2. DESCRIPTION OF ACTIVITY

[2] Council has received an application from the Peninsula Holdings Trust for the subdivision of 78 Cape Saunders Road, Portobello. The property is a large pastoral farm with an established quarry, and one existing dwelling. It is located between Hoopers Inlet and Papanui Inlet on the Otago Peninsula.

[3] The subject site is held in ten existing computer freehold registers as follows:

- **207075** (43.3047ha), being the land legally described as Part Section 28, 30, 32, 35, 37 Block III Portobello Survey District and Part Section 42 Block III and Section 33-34, 36, 38-41, 43 Block III Portobello Survey District. This title has frontage to Cape Saunders Road, Allans Beach Road, and Papanui Inlet Road. There is a quarry on-site and a dwelling, both accessed from Papanui Inlet Road with a second access to Cape Saunders Road. A third access is also available to Papanui Inlet Road but does not directly service the quarry.
- **95918** (34.0552ha), being the land legally described as Part Section 47, 49 Block III Portobello Survey District and Section 44-46, 48, 50-51 Block III Portobello Survey District. This title is held in three distinct areas separated by Cape Saunders Road and the land of CFR OT45/181. The land is vacant farm land.
- **95919** (2004m²), being the land legally described as Lot 2 Deposited Plan 323786. It is a narrow strip of land between CFR 95918 and Cape Saunders Road. CFRs 95918 and 95919 are held together by a covenant pursuant to s240 of the Resource Management Act 1991.
- **OT15C/195** (20.5432ha), legally described as Part Section 52-56 Block III Portobello Survey District. The title area is more or less rectangular, except for a pocket surrounding the house of 78 Cape Saunders Road which is held in another title unrelated to this subdivision proposal.

The land of CFR OT15C/195 is shown on the title diagram as having frontage to Cape Saunders Road along its northwest boundary, and two unformed legal roads on its northeast and southeast boundaries. In fact, there are small parcels of land between this title and Cape Saunders Road. These are Lots 3 and 4 DP 323786, held in CFR **95920**, which has an area of 1.3760ha. CFRs OT15C/195 and 95920 are held together by a covenant pursuant to s240 of the Resource Management Act 1991. This title was missed in the application and at the time of notification, but was shown on the application plan. A public notice advising of its presence and relevance to the proposal was published in the Otago Daily Times on 30 November 2016;

- **OT45/181** (5741m²), being the land legally described as Section 176R Block III Portobello Survey District. This is a 12m wide parcel, once defined as road, extending from Allans Beach Road in a north-easterly direction;
- **OT254/294** (18.2058ha), being the land legally described as Section 28-29 Block VI Otago Peninsula Survey District. The parcels have frontage to Cape Saunders Road, and contain a small forestry block;
- **OT254/295** (20.8768ha), legally described as Section 25 and Section 27 Block VI Otago Peninsula Survey District. The title has frontage to Cape Saunders Road, and is undeveloped;
- **OT205/103** (102.9627ha), being the land legally described as Section 20-21, 24 and Part Section 26 Block VI Otago Peninsula Survey District and Parts Lot 54 and Part Lot 55 Papanui Maori Reserve Block. The title parcels are held in three distinct areas. Sections 20 and 21 sit together and have frontage to legal road but no formed road. Section 24 is on its own, and likewise has frontage to legal road but not to formed road. Parts Section 54 and 55 are together at the north-eastern end of the property, and have frontage to the formed Cape Saunders Road (which separates the Parts Section 54). There is no occupation on this title; and
- **OT11B/1033** (16.9917ha), being the land legally described as Section 22 Block VI Otago Peninsula Survey District. This is a vacant site sitting between the parcels of CFR OT205/103. It has frontage to unformed legal roads at its northwest and southeast ends, but no access to formed legal road.

[4] The proposal as originally submitted was to subdivide the land into twelve lots, with new residential activity on defined building platforms proposed for nine of the lots. The application was then revised on 9 November 2016 by removing Lot 11 from the proposal. The revised proposal is to subdivide the above titles into eleven lots and one balance parcel, with amalgamations creating ten new sites as follows:

- Lot 1 (6.7ha), situated at the northwest end of the subject property. It will have a building site placed centrally within the site, and access to Papanui Inlet Road via right of way over proposed Lot 2.
- Lot 2 (3.8ha), also situated at the northwest end of the property, and will have a leg-in to Papanui Inlet Road. The building site is shown more or less centrally within the parcel. The lot will have a leg-in to Papanui Inlet Road and will share its access with proposed Lot 1.
- Lot 3 (38ha) will be a large lot containing the existing quarry and residential dwelling. It will have frontage to Allans Beach Road, Cape Saunders Road, and Papanui Inlet Road.
- Lot 4 (2.7ha) will be a lot situated at the corner of Papanui Inlet and Cape Saunders Roads. It will be crossed by a right of way serving Lot 3, and will also obtain access via this same route, therefore requiring right of way over Lot 3 from Cape Saunders Road. There is to be a building platform on this land.

- Lot 5 (2.0ha) will be situated on Cape Saunders Road. It is to have a building platform on its eastern corner.
- Lot 6 (2.7ha) will have frontage to an unformed legal road, but will obtain access via rights of way over Lot 7 and CFR 193350, being the house site of 78 Cape Saunders Road which is not part of this subdivision proposal. The right of way will follow the existing farm track in this location. A building platform will be situated on Lot 6, not far from an existing barn.
- Lot 7 will be a large site of 47ha having frontage to Cape Saunders Road, Allans Beach Road and two unformed legal roads. Direct access will be available to all the roads, with formed access available to Allans Beach Road, and to Cape Saunders Road via right of way over CFR 193350 (also used by Lot 6 and the house of CFR 193350). This land is to be amalgamated with proposed Lot 12, and the applicant proposes a covenant preventing its development with a residential dwelling.
- Lot 8 will be a site of 2.4ha with frontage to the coastal section of Cape Saunders Road and unformed legal road. A house site is proposed at the southeast end of the lot, at the far end from the formed road.
- Lot 9 will have an area of 2.4ha, and will also have access to the coastal section of Cape Saunders Road. A building platform is shown at the western end, close to the road.
- Lot 10 is a 2.2ha lot with frontage to Cape Saunders Road as the road climbs away from the coastal edge. A building platform is shown near the roadside. A 3.6ha parcel of land, being Part Section 54 Papanui Maori Reserve Blk (the balance land of CFR 205/103), on the opposite side of Cape Saunders Road is to be amalgamated with this lot to form a new site of approximately 5.8ha. No building platform is identified for the balance land.
- There is no Lot 11 as this has been removed from the proposal. The land of the former proposed Lot 11 is identified by its current appellation, Part Lot 54 Papanui Maori Reserve Block, and is the balance land being amalgamated with Lot 10, as described above.
- Proposed Lot 12 will be a lot of 147ha. It will have frontage to Cape Saunders Road and several of the unformed legal roads, with the primary vehicle access to be via Lot 7 and CFR 193350. Lot 12 is to be amalgamated with Lot 7 to create a new site of 194ha. The applicant proposes a covenant to restrict residential development of the land.

[5] The wetland and regenerating bush alongside Allans Beach Road (part of proposed Lots 3 and 7), plus a wetland within Lot 4, is to be covenanted for protection, and will be fenced to prevent stock access. These areas will be managed to protect and enhance their natural values. The wetland at the intersection of Papanui Inlet Road and Cape Saunders Road is also to be covenanted.

[6] A public pedestrian access is to be created over Lot 12, connecting Cape Saunders Road with an unformed legal road on the boundary of CFR OT205/295, allowing the public to access the Mt Charles summit. This access will be available for public use except during lambing in September and October.

[7] The existing quarry of CFR 207075 was issued consent, RMA 2006-1124 (now renumbered RMA-2006-370881), on 12 April 2007, having been processed on a notified basis. A subsequent application, LUC-2006-370881/A, for a variation to the consent conditions, was withdrawn on 6 March 2015 and replaced by a second application, LUC-2006-370881/B at the same time. The second variation proposal was

in regard to the extension of the quarry operations and the remediation of the western paddock. The consent was processed on a notified basis, and declined on 15 September 2015.

- [8] During the operation of the quarry, there have been a number of compliance issues arising where conditions of consent have not been met and/or there was a lack of clarity in the condition requirements. This has resulted in enforcement action being undertaken by the Council in 2015. The declining of LUC-2006-370881/B meant that the quarry had to remediate the works to comply with the original consent. A Quarry Remediation Plan was signed by the consent holder and the Resource Consents Manager on 2 June 2016.
- [9] This subdivision proposal will place the quarry operation on proposed Lot 3, and as such, new consent for the existing quarry operation on a new site is required. In effect, the existing quarry consent and its conditions are to be reissued in terms of the new site. The appropriateness of a quarry at this location has been well traversed through two publically notified hearings. Furthermore, any compliance or enforcement issues, relating to the operation of the quarry, fall outside of the scope of matters to be considered during the hearing of this application. As such, is it only the operation of the existing quarry within new Lot 3 that may be considered.
- [10] However, the applicant has sought to alter existing condition 4 of the quarry consent regarding landscaping requirements in response to the newly created boundary with proposed Lot 4. The applicant seeks to replace pine trees with native species in the area of proposed Lot 4, as outlined in the Landscape Assessment Report prepared by Mike Moore (pages 12-13). Condition 4 of LUC-2006-370881 reads:
4. *A Quarry Management Plan shall be prepared by a suitably qualified person(s) and submitted for the approval of the Resource Consents Manager within three months of the commencement of consent. The Quarry Management Plan shall outline the following:*
- a) *The species of plantings to be undertaken to mitigate adverse visual effects from public vantage points and from the property at 178 Papanui Inlet Road; and*
 - b) *The actions required to enhance and then maintain the existing screen plantings that are to remain to improve the likelihood of success of establishment; and*
 - c) *The locally sourced indigenous species that will be planted in the wetland areas shown on the application plan; and*
 - d) *The density and location of plantings within those areas; and*
 - e) *How monitoring will be undertaken to ensure that any adverse visual effects experienced from public roads and houses existing as at 20 March 2007 are being suitably mitigated; and*
 - f) *How monitoring will be undertaken to ensure that the ecological values of the wetland areas are being enhanced and that any adverse effects are being avoided.*
 - g) *How the site will be rehabilitated once quarry activity has ceased.*
- [11] This change is primarily concerned with the details of the existing Quarry Management Plan rather than varying the wording of the above condition. The original quarry consent, RMA-2006-370881 and the Quarry Management Plan are attached in Appendix E of this consent.
- [12] Finally, the applicant has identified that condition 22 of the original quarry consent gave the quarry consent a twenty-year lapse date. The applicant notes that this is more correctly identified as a 'duration' period rather than a lapse date, and seeks to have this wording corrected. Both these changes may be addressed as part of the replacement land use consent for the quarry.

- [13] The application includes an assessment of effects on the environment, geotechnical reports, a heritage assessment, landscape assessment, and an ecological assessment. A copy of the application is attached to this report in Appendix A.

3. ACTIVITY STATUS

- [14] Dunedin currently has two district plans: The Dunedin City District Plan and the Proposed Section Generation Dunedin City District Plan (the Proposed Plan). The Proposed Plan was notified on 26 September 2015 and is currently proceeding through the public process of becoming the operative plan. Until the rules of the Proposed Plan become operative, the current District Plan remains the operative plan. Where the rules of the Proposed Plan have been given effect, the provisions of both plans need to be considered.

- [15] Section 88A of the Resource Management Act 1991 states that the activity status of an application is determined at the time of lodging the consent. The activity status could, therefore, be determined by the current District Plan or the Proposed Plan, depending on which rules are operative at the time. Nevertheless, even if it is the current District Plan which determines the activity status of the application, the rules of a proposed plan must be considered during the assessment of the application pursuant to section 104(1)(b) of the Act.

- [16] The relevant rules of the two district plans for this application are as follows:

The Dunedin City District Plan.

- [17] The subject sites are zoned **Rural** in the Dunedin City District Plan, and are within the **Peninsula Coast Outstanding Landscape Area (Visually Recessive and Visually Prominent Areas)**. The Hazards Register shows this land as being subject to **10127 – Land Stability (land movement), 11158 & 11159 – Land Stability (land movement)** and **11407 – Seismic (liquefaction)**.

Subdivision Activity:

- [18] Subdivision is a restricted discretionary activity in the Rural zone where the application complies with Rules 18.5.3 – 18.5.6, 18.5.9 and 18.5.10, and each resulting site is 15.0ha or greater. The subdivision will create eight sites smaller than 15ha. Accordingly, the subdivision is considered to be a **non-complying** activity pursuant to Rule 18.5.2.

Land Use Activity:

- [19] Rule 6.5.2(iii) lists residential activity at a density of one residential unit per site as being a permitted activity, provided that the minimum area of the site is no less than 15ha. The future residential activity of proposed Lots 1, 2, 4, 5, 6, 8, 9 and the amalgamated site of Lot 10 and Part Section 53 will be situated on new sites having less than 15ha of Rural-zoned land. Accordingly, the residential activity for these new sites is considered to be a **non-complying** activity pursuant to Rule 6.5.7(i).
- [20] Rule 14.6.1(a) lists the erection of buildings and structures within a 'Landscape Building Platform' as being a controlled activity. The subdivision seeks to establish landscape buildings on each of the above sites, so that future residential development on each of these platforms can progress as a controlled activity. No building proposals are submitted for any of the above sites, and as such, this report does not address the future development of the new lots. It is advised, however, that land use consent as a controlled activity will be required pursuant to Rule 14.6.1(a) for any development within the landscape buildings platforms, and as a restricted discretionary activity pursuant to Rule 14.6.1(b) for any development occurring elsewhere on the new sites (with a few exceptions as listed within the specific rule).

[21] The proposed building platforms are shown on a small scale plan, and are 40m diameter circles which are not accurately positioned. The performance criteria of Rule 6.5.3 is not strictly applicable to non-complying activities, but provide guidance as to acceptable use of the new lots. Rule 6.5.3(i) specifies front yards of 20.0m and side and rear yards of 40.0m. The proposed building platforms appear to breach the following:

- The 40.0m rear yard of Lot 5 with Lot 7.
- The 20.0m 'front' yard of Lot 8 with the unformed legal road.
- The 40.0m side and rear yard of Lot 8 with Lot 12.
- The 40.0m side yard of Lot 9 with Lot 12.
- The 20.0m front yard of Lot 10.

[22] Regarding the existing quarry, mining activity is defined in the District Plan as:

'... means the use of land and buildings for the primary purpose of the extraction, winning, quarrying, excavation and associated processing of minerals and excludes on-farm extraction of aggregate for the sole purpose of constructing and maintaining access within that farm.'

[23] The quarry operation is considered to be a mining activity. The existing quarry is therefore considered to be a **discretionary (unrestricted)** activity pursuant to Rule 6.5.6(v).

The Proposed Plan

[24] The subject sites are zoned **Rural – Peninsula Coast** in the Proposed Second Generation Plan, and are within the **Peninsula Coast Outstanding Natural Landscape**. There are land stability risks identified for this site. Parts of the subject sites are shown as **Hazard 2 – Land Instability**, and **Hazard 3 – Coastal**. The coastal edges of the property are shown as **Coastal Environment** and **Archaeological Alert Layer**. There is a **Wahi Tupuna Site 36 – Poatiri (Mt Charles)** on-site.

Subdivision Activity:

[25] Rule 16.3.5.1 specifies that subdivision is a restricted discretionary activity in the Rural zones, subject to compliance with the performance criteria. The proposed subdivision will fail to comply with Rule 16.7.4.1(f) which sets the minimum site size for the Rural – Peninsula Coast zone at 40.0ha.

[26] While the Rural Section rules of the Proposed Plan are subject to submissions, and therefore have yet to be finalised, Rule 16.7.4 (minimum site size for rural zones) and Rule 16.9.5.5 (assessment of subdivision performance standard contraventions – minimum site size) were given immediate legal effect pursuant to section 86D of the Resource Management Act 1991 at the time of notification. This direction was sought from the Court because the Council has significant concerns with the subdivision of rural land, and the potential consequences of development in anticipation of more restrictive rules for subdivision. Accordingly, the non-compliance of the subdivision proposal with Rule 16.7.4 results in an activity status of **non-complying** pursuant to Rule 16.7.4.3.

[27] Under the Proposed Plan, activities have both a land use activity and a development activity component.

[28] Rule 10.3.2.2(vi) specifies that indigenous vegetation clearance must not exceed 250m² in the Rural – Peninsula Coast zone. This rule was given immediate legal effect at the time of notification of the Proposed Plan, and therefore needs to be considered. However, it does not appear that the proposal will breach this rule as there will be no clearance of indigenous vegetation occurring as part of the development proposal.

Land Use Activity:

- [29] Rule 16.3.3.23 specifies that residential activity is permitted in the Rural zones, subject to the performance standards. Rule 16.5.2.1(f) specifies that the first residential activity on a rural site in the Rural – Peninsula Coast zone requires 20.0ha of land to be a permitted activity. Lots 1, 2, 4, 5, 6, 8, 9 and the amalgamated site of Lot 10 and Part Section 54 are smaller than 20.0ha. Therefore, residential activity for these lots is considered to be a non-complying activity pursuant to Rule 16.5.2.3. This rule is not in effect or operative.
- [30] The existing quarrying activity is considered to be a discretionary activity pursuant to Rule 16.3.3.13. This rule is not in effect or operative.

Development Activity:

- [31] There are no actual building proposals for any of the new sites, but residential activity is anticipated on each of the proposed building platforms. Rule 16.3.4.3 lists new buildings greater than 60m² within landscape building platforms as being a controlled activity in outstanding natural landscapes, and new buildings greater than 60m² outside of landscape building platforms as being a restricted discretionary activity, subject to the performance standards. These rules are not in effect or operative.
- [32] Rule 16.6.11.1(a) requires new residential buildings to have setbacks of 20.0m from a road and 40.0m setbacks from any other boundary. The proposed building platforms are located in positions where they are expected to breach the setback rule in several locations as discussed above. This rule is not in effect or operative.

Overall Proposed Plan Status:

- [33] Having regard to both the land use and development activity components under the Proposed Plan, the land use proposal is considered to be a non-complying activity.

Summary

- [34] The application was lodged on 27 July 2016, after the close of submissions on the Proposed Plan. The Rural zone rules are subject to submissions and could change as a result of the subdivision process. However, Rule 16.7.4 (regarding minimum site size for Rural-zoned land) is in effect. Accordingly, the Proposed Plan rules are not relevant to the activity status of the application as determined at the time of lodgement except for the rule regarding minimum lot size of a Rural-zoned property.
- [35] The activity status of the proposed subdivision is therefore determined by the Dunedin City District Plan and the Proposed Plan, and is considered to be a **non-complying** activity. The activity status of the residential activity for the new lots is determined by the Dunedin City District Plan, and is considered to be a **non-complying** activity. The activity status of the quarry operation is determined by the Dunedin City District Plan, and is considered to be an **unrestricted discretionary** activity.
- [36] At the time of assessing this subdivision decision, the Proposed Plan rule regarding minimum site size for Rural sites has been given effect, and is applicable to this application, but is subject to submissions. All other relevant rules are not in effect and are also subject to submissions. The rules could change as a consequence of the submission process. Accordingly, the Council need not have regard to the rule provisions of the Proposed Plan as part of the assessment of this subdivision application except for the minimum site size rule which needs to be weighted accordingly.

NES Soil Contamination Considerations:

- [37] The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 came into effect on 1 January 2012. The National Environmental Standard applies to any piece

of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the National Environmental Standard and/or might require resource consent.

[38] The applicant's agent has previously had a search of Dunedin City Council records undertaken (HAIL-2016-1) in order to determine whether or not the NES is likely to be relevant, as provided for by Regulation 6 of the NES. The search of Council records has not identified any use of the land by a HAIL activity. On the basis of the information received, the applicant's agent comments:

[39] *'As far as we are aware, the site has not been used for a hazardous activity or industry in the past. Hence the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (which came into effect on 1 January 2012) are not invoked.'*

[40] Correspondence with the Otago Regional Council, however, identifies a number of HAIL activities occurring on the site, although the site itself does not currently appear on their database. The absence of available information does not necessarily mean that the property does not have a history of HAIL land uses or contamination; just that it is not recorded. The Otago Regional Council has identified the following potential HAIL sites:

- Sheep dip (A8) near the woolshed on proposed Lot 7.
- Orchard (A10) on or near to proposed Lot 1.
- Fuel Storage (A17) on proposed Lot 3;
- Airstrip (A6) with potential bulk storage of fertiliser on Lot 6.

[41] Accordingly, the subject site is likely to be a HAIL site. No preliminary or detailed site investigation has been undertaken to date, and the question of potential contamination has not been determined. As such, consent to subdivide a HAIL site is a requirement, and is considered to be an **unrestricted discretionary** activity pursuant to Regulation 11 of the NES. Change of use and/or disturbance of soils could also require land use consent under the NES, should development proceed.

[42] Overall, the subdivision proposal is considered to be a **non-complying** activity.

4. NOTIFICATION AND SUBMISSIONS

[43] Section 95A of the Act directs that a consent authority may notify an application if the effects on the environment are likely to be more than minor, the applicant requests public notification, or special circumstances may apply. In this case, the application was lodged as a notified application.

[44] No affected party written consents were submitted with the application. The application was therefore publicly notified in the Otago Daily Times on 14 November 2016. Copies of the application were sent to those parties whom the Council considered could be directly affected by the proposal.

[45] 56 submissions were received following notification. 46 submissions oppose the application, five are in support, and five are neutral in their stance. The submissions are summarised in Appendix I attached to this report.

[46] Primary concerns of the opposing submitters were:

- Undersized lots as determined by both the District Plan and Proposed Plan.
- Landscape effects from eight new houses.

- Effects on the dark skies of Hoopers and Papanui Inlets.
- Traffic effects on substandard roads.
- Effects on wildlife.
- Effects on businesses (lodge/wildlife tourism/dark skies).
- Precedent effects.
- Objectives and policies.

[47] Supporting submitters commented on:

- Appropriateness of area for lifestyle development.
- Historic use of land.
- Proposed QE II covenant and walking track to Mt Charles.
- Enhancements to landscape.

[48] The neutral submitters commented on:

- Maori and European heritage in area.
- Standard of roading.
- Control of domestic cats and other predators.

5. ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[49] Section 104(1)(a) of the Act requires that the consent authority have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in the section 3 as including-

- Any positive or adverse effect; and*
- Any temporary or permanent effect; and*
- Any past, present, or future effect; and*
- Any cumulative effect which arises over time or in combination with other effects-
regardless of the scale, intensity, duration or frequency of the effect, and also includes -*
- Any potential effect of high probability; and*
- Any potential effect of low probability which has a high potential impact.*

[50] An important consideration in the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. Rule 104(2)(b) allows a consent authority to disregard the effects of an activity if a rule permits an activity with that affect. The Council may choose to apply this process. This requires the establishment of what can occur as of right on the site (permitted activity), and overlays the existing lawfully established development of the site (*Bayley v Manukau City Council, Smith Chilcott Ltd v Auckland City Council, Arrigato Investments Ltd v Auckland Regional Council*). Any effect from an activity that is equivalent to that generated by an activity permitted by the District Plan need not be regarded.

[51] Neither the District Plan nor the Proposed Plan allows any subdivision to occur as of right. All subdivisions are either restricted discretionary activities where the proposal meets all District Plan requirements, or non-complying activities where the proposal does not. Council rarely declines consent for proposals that create new sites meeting the minimum lot size, access, servicing and other requirements of the District Plan. In such cases, the subdivision consent is a means of ensuring to Council's satisfaction that all necessary subdivision matters, e.g. infrastructure, are adequately addressed, and is not an indication that Council is opposed to the subdivision or that the District Plan does not anticipate subdivision.

[52] In this case, the proposed subdivision is a non-complying activity under the rules of both the District Plan and Proposed Plan because of the undersized nature of the Rural-zoned lots. No subdivision of this land into lots of the sizes proposed is anticipated under the rules of either Plan.

- [53] In regards to the proposed land use for the new lots, only the District Plan rules are in effect or operative. While residential activity is an expected component of the Rural zone, only one dwelling per site is permitted, and no dwellings can be established on Rural-zoned sites less than 15.0ha as of right. A second dwelling on a site greater than 30.0ha is a controlled activity; that is, resource consent is required but Council has no scope to decline such an application. The Council has control over the building's effects on open spaces and amenity, access, and size and location of the second dwelling. Despite the need for resource consent, a second residential activity on a rural title of over 30.0ha is effectively part of the permitted baseline.
- [54] The subject site is situated within the Peninsula Coast Outstanding Landscape Area. The construction of a building within a landscape building platform is a controlled activity, and construction outside of an approved landscape building platform is a restricted discretionary activity except: (i) where the new structure is within 50m of an existing building that is at least 50% larger than the floor area of the proposed structure; or (ii) it involves an addition to an existing building that does not increase the floor area of the structure by more than 100%. In these circumstances, the construction would be a permitted activity.
- [55] Approved landscape building platforms are defined as part of a subdivision proposal. If the subdivision proposal is granted and the landscape building platforms are approved, the construction of dwellings on these platforms will be a controlled activity. Again, the controlled activity status of construction on an approved landscape building platform indicates that the structure is anticipated for the site and Council is not in a position to decline consent for the structure itself; it merely has control over its appearance and setting.
- [56] The subject site is already held in multiple titles, and the theoretical development of these lots is part of the permitted baseline. The current situation for this property is as follows:
- Eight existing sites which are larger than 15ha (eight houses could be built as permitted activities under the District Plan Rural-zone rules).
 - Two existing sites which are larger than 40ha (two houses could be built as permitted activities under the Proposed Plan Rural-zone rules as notified).
 - Four existing sites which are larger than 30ha (four additional houses could be built as controlled activities under the District Plan rules).
 - No existing landscape building platforms (no houses can be built on any site as a permitted or controlled activity under either Plan rules).
 - The existing quarry has existing consent to operate.
- [57] In summary, there is no permitted baseline to apply for subdivision, although it is likely a restricted discretionary subdivision proposal would be granted consent on a non-notified basis. There is very limited permitted baseline to apply for the development of the land because of the outstanding landscape area designation over the property although a density of development argument could justify twelve houses as a permitted or controlled activity on the existing titles. The existing quarry consent forms part of the permitted baseline. It is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements and these are considered further below.
- [58] This section of the report assesses the following environmental effects in terms of the relevant assessment matters of sections 6.7, 14.6, 17.8, 18.6.1, and 20.6 of the District Plan, and Rule 16.9.5.5 of the Proposed Plan:
- Lot Size and Dimensions
 - Easements & Encumbrances
 - Infrastructure
 - Building Platforms and Bulk and Location

- Landscape
- Transportation
- Archaeological Sites
- Indigenous Vegetation and Fauna
- Hazards
- Earthworks
- Physical Limitations
- Amenity Values
- Reverse Sensitivity
- Positive Effects
- Cumulative Effects
- Sustainability

[59] The following parts of this report represent my views on the effects of the proposal, having regard to the application, the submissions, and my visit to the site.

Lot Size and Dimensions (Assessment Matter 18.6.1(q) [District Plan] and Rule 16.9.5.5 [Proposed Plan])

[60] The proposed subdivision will create ten new sites with proposed development, as follows:

- | | | | |
|---------------------------------------|---------|----------------|--|
| • Lot 1: | 6.7ha | House | |
| • Lot 2: | 3.8ha | House | |
| • Lot 3: | 38.0ha | Existing house | |
| • Lot 4: | 2.7ha | House | |
| • Lot 5: | 2.0ha | House | |
| • Lot 6: | 2.7ha | House | |
| • Lot 7 (47.0ha) & Lot 12 (147.0ha) = | 194.0ha | No house | |
| • Lot 8: | 2.4ha | House | |
| • Lot 9: | 2.4ha | House | |
| • Lot 10 (2.2ha) & balance (3.6ha) = | 5.8ha | House | |

[61] The proposed subdivision will take ten existing titles (nine sites) and subdivide them to create ten new sites. It could be argued that the subdivision proposal is, in effect, a boundary adjustment in that only one additional title is being created. However, only one of the existing sites is smaller than 15.0ha, whereas the proposed subdivision will create eight undersized lots under the District Plan rules (there will be nine under the Proposed Plan rules). Furthermore, the applicant intends to establish landscape building platforms on each of these undersized lots, and obtain consent for their residential development, so the proposed subdivision may not increase the number of sites, but intends to increase the residential activity within this area and to establish it on small sites.

[62] The subject property has a total area of 259ha. Looking first at the operative District Plan rules which set minimum site size at 15.0ha for both subdivision and development of sites with a residential dwelling, the subject sites could be subdivided into a total of 17 lots all greater than 15.0ha. Each one could have a residential dwelling (excepting for the moment the landscape overlay for this land which almost always requires consent for any development). The subject property is currently held in ten titles. Looking at the existing title structure (i.e. without pooling the land resource into one large site), the existing titles could be subdivided into 16 lots larger than 15.0ha.

[63] The minimum site size of 15.0ha is often perceived as being too large for lifestyle use but too small for rural productive purposes. In this case, the applicant has used the potential density of development under a subdivision creating 15.0ha as a basis for determining the number of potential house sites, and then seeks to maximise the productive potential of the farm by retaining as much land as possible in the one site. The applicant states on page 15 of the application:

"The subdivision has been designed to minimise the impact on the farm's productive potential by creating smaller rural-residential size allotments as opposed to the normal 15 hectare rural allotments size."

- [64] This approach to rural subdivision has been employed before, most notably at the Tumai Farm Park north of Waikouaiti. In that case, the small residential lots are clustered within a larger lot that is held in shares by the residential lots, while the farm land (providing the land necessary to comply with the overall density of development calculation) is a much larger and separate property. The large lot is managed with the farm property. The Farm Park was issued consent on a notified basis back in 2007, and there have been few comparable proposals since. As it has yet to be developed to its full potential, the success of the project is still unknown.
- [65] Unlike the Farm Park, the rural-residential sites of this proposal are scattered across the subject sites and are completely independent legally to the farm property and to each other. At 2.0ha to 6.7ha, they are large enough for a generously sized house and garden to be established, leaving some room for a paddock or two as well. The value of the paddock/s to the owners will depend on their interest in the land. One possible advantage of having the small lots dispersed across the landform is that any proposal to lease the paddocks back to the large working farm is likely to be quite achievable. It does mean, however, that the small lot owners have likely to have little interest in the rural land use of their property and perhaps very little understanding of rural farming practices. The District Plan does not seek to enable purely residential development of the Rural zone, but intends that residential activity have a connection to the land, either as a farm or as open space whereas this proposal seeks to establish purely residential activity within a wider farming environment.
- [66] The Proposed Plan rules are in effect but are subject to submissions. Under the Proposed Plan rules, minimum site size is set at 40.0ha, and minimum site size for development with a residential dwelling is 25.0ha. This property could be subdivided into six lots greater than 40.0ha. Looking at the existing title structure (i.e. without pooling the land resource into one large site), only one subject site (CFR OT205/103) is large enough to be subdivided under the Proposed Plan rules, and would create a maximum of two sites larger than 40.0ha. If this site were to be subdivided into two, the two new lots plus five other existing sites will be larger than 25.0ha and could each be developed with a residential unit (making a total of seven including any existing dwelling).
- [67] The determination of how many new sites are appropriate for this land is therefore not a straightforward calculation. The eight new residential sites plus one with an existing house (and quarry) and another for purely farming purposes will not develop this land with more sites or residential dwellings than is anticipated under the 15.0ha rule, although it will result in two more houses than expected under the Proposed Plan rules. Therefore, the subdivision of the subject sites into ten new sites *per se* is not necessarily a concern for the administration of the District Plan; it is the size of the new lots which is the issue. The 2.0ha to 6.7ha lots, as proposed, are more consistent with rural-residential development, and the applicant intends these eight new properties to be exactly that ... rural-residential sites. The bulk of the land is to be held in the 194ha site of the amalgamated Lot 7 and Lot 12. This will allow the bulk of the farming land to be retained as a productive unit, and there is to be a covenant placed over the large farm site preventing residential development. I note that the applicant has not promoted a no-subdivision covenant for the large site, although this would need to be a requirement, in my opinion, if the farm block is to offset the undersized lots on an on-going basis. It is also questionable whether it is reasonable to create a rural farm site of 194ha with no rights to establish a dwelling.
- [68] The Proposed Plan rules are more stringent. These rules are subject to submissions, and are therefore not finalised, but it should be noted that there are a number of supporting submissions in favour of these lot sizes, predominantly from parties who

have an interest in maintaining rural land for productive purposes. There were also submissions from those who sought to have the 15.0ha minimum site size re-imposed over the Rural zones, and others who thought the proposed minimum site sizes were too large. A number of submitters for this application believe that the minimum lot size of 40ha should be imposed in this case because of the quality of the landscape.

- [69] I note that a 2.0ha site is 13% of minimum site size under the District Plan rules, and 5% of minimum site size under the Proposed Plan rules. These are significantly undersized lots regardless of the Plan provisions under discussion. On page 4 of the application, the applicant details the character of the rural area pertinent to this proposal, noting that the property is, '*... effectively bookended by areas of rural lifestyle development*'. These sites range in size between 531m² and 1.5ha, all containing residential dwellings (and a lodge in the case of 297 Cape Saunders Road). The proposed lots are larger than these existing properties, but could be said to be comparable. I note that the small lots at the coastal edge were created by DP 2092 in 1910, and the small lots at the western end of the subject sites date from the mid 1990s; these sites are more recent, but still predate the present District Plan.
- [70] From a purely practical view point, the proposed 2.0ha to 6.7ha lots are of suitable size and shape for a residential dwelling and generous curtilage. In this respect, the lot sizes and dimensions are acceptable. However, the primary purpose of Rural zoning is not to provide big house sites. While there are many small rural properties throughout Dunedin City, the minimum lot size is set at 15.0ha, largely to provide a more open environment and to maintain some productive worth to the rural land resource as discussed by the objectives and policies of the District Plan.
- [71] I consider that the proposed 2.0ha lots are not what the District Plan or the Proposed Plan seek for the Rural zones. The minimum lot size for the District Plan was set at 15.0ha by the Environment Court in November 2004, and the establishment of houses on undersized sites was also made a non-complying activity by the Court. Smaller sites and a denser degree of residential development are not anticipated by the District Plan. The Proposed Plan seeks to place even greater controls on the subdivision of land. While these rules are not operative, the Council needs to consider the direction that the Proposed Plan is taking for the rural zones and whether or not it is appropriate to disregard the proposed rules in this instance.
- [72] In support of the application, I note that there are definite advantages in keeping the farming land as one large block. The applicant could sell most of the existing titles tomorrow without subdivision and there would be similar effects in terms of density of development. However, none of the properties would have any real value as productive land, being too small. Furthermore, while the proposed lots will be undersized, it will be difficult for an observer to tell. A similar layout of housing could occur without subdivision, and would not necessarily be greatly different in appearance (i.e. it will be difficult to determine who owns the paddocks). Nevertheless, neither the District Plan nor Proposed Plan rules facilitate subdivision of this nature in the Rural zones, and the proposed layout, lot sizing, and dimensions of the subdivision is in conflict with the expectations of the Plans.

Easements (18.6.1(i)) and Encumbrances

- [73] Only one of the subject sites has an existing easement registered on its title. CFR OT15C/195 (Ltd) is subject to an easement to drain sewage in favour of the house site of 78 Cape Saunders Road. The easement extends from the southeast end of the house site for a distance of 8.0m. It is not clear quite where the drain is discharging to. Presumably it is to a septic tank, in which case, the drainage field appears to be outside of the house site. This is not normal practice, but in this case, as the titles are currently held in common ownership, it does not seem to have been problematic to date. Should subdivision consent be granted, the easement will carry down automatically onto proposed Lot 7, the farm block. As it is a requirement for effluent

disposal fields to be contained within the same site as the associated residential activity, it might be appropriate to transfer some land from Lot 7 to the house site of 78 Cape Saunders Road at the time of subdivision, should consent be granted. The creation of an additional small lot for this purpose will be acceptable to Council provided it is amalgamated with the adjoining title. It would then remove the need for the existing easement.

[74] Proposed easements are confined to rights of way as follows:

- Lot 1 will be dependent on access over Lot 2 to Papanui Inlet Road;
- Lots 3 and 4 will share an access to Cape Saunders Road which will pass over Lot 3, Lot 4 and back into Lot 3 again, requiring reciprocal rights of way. This access is already formed; and
- Lot 6 will be dependent on access over Lot 7 and the house site of 78 Cape Saunders Road. This access is already formed.

[75] A pedestrian access over Lot 12 from Cape Saunders Road to the end of an unformed legal road will provide public access to Mt Charles. There is currently no pathway evident in this location. It might not be necessary to actually form a path provided the route is marked adequately for the public to follow.

Infrastructure (8.13.10 & 18.6.2(d), (e), (i), (j), (n), (o), and (p))

[76] The application notes that the primary source of potable water for the new lots will be rainwater collection from roof surfaces, and advises that the new development will include the measures necessary to comply with the New Zealand Fire Service's Code of Practice for Fire Fighting Water Supplies.

[77] Effluent disposal is to be to septic tanks and disposal fields. The applicant notes that there are a number of systems to choose from, but whichever system/s are selected for the new sites will ensure that all sewage and wastewater will be treated and disposed of within the boundaries of the allotment and will comply with the New Zealand Building Code. The applicant should consult with the Otago Regional Council to ensure that the disposal fields are appropriately sited in respect of watercourses and wetlands.

[78] Council's Consents and Compliance Officer, Water and Waste Services Business Unit, has considered the application. She notes that the proposed subdivision is located within the Rural zone and outside of the Rural Water Supply Areas as shown on Appendix B of the Dunedin City Council Water Bylaw 2011. Consequently, there is no reticulated water supply available for connection for the new lots. Stormwater collected from roof surfaces can be used for domestic water supply, and should be stored in suitably sized tank/s with a minimum of 25,000 litres of storage per lot.

[79] The subdivision is in the Rural zone, there are no reticulated wastewater or stormwater services available for connection. Effluent disposal shall be to a septic tank and effluent disposal system, to be designed by an approved septic tank and effluent disposal system designer. The Consents and Compliance Officer did not identify any concerns about the self-servicing of the proposed residential sites.

[80] A number of submitters have commented that the proposal does not consider the environmental effects of effluent disposal. Certainly, the applicant and Council's Water and Waste Services Business Unit have not discussed at length the servicing of the proposed residential lots. This is possibly because the self-servicing of the lots is not expected to be problematic. Modern effluent disposal systems can be designed for a variety of ground conditions, and as the lots are 2.0ha or larger, the disposal of effluent within the new lots is unlikely to be an issue. The Otago Regional Council should, however, be consulted prior to installation of any system to ensure it is appropriately sited in order to minimise environmental effects.

- [81] Regarding stormwater disposal, there are no reticulated stormwater services available for connection. Stormwater from rights of way, driveways, drain coils and water tank overflows are not to create a nuisance on any adjoining property, and should be actively managed to avoid exacerbating the risk of land instability. Runoff from driveways and hard surfaces might be channelled and could discharge at a faster rate than currently occurs with the open land form. However, it is possible that there will be less stormwater runoff as well if water from roof surfaces is used for domestic water supply.

Building Platforms (18.6.1(h) and Bulk and Location (6.7.9)

- [82] The application plan shows eight circular building platforms, one for each of Lots 1, 2, 4, 5, 6, 8, 9 and 10. The plan is very small scale, so the dimensions of the building platforms and the proximities to boundaries are not clearly shown. The plan, however, notes that the building platforms will each have a diameter of 40.0m. The proposed building platforms are all to serve as 'landscape building platforms' for the purposes of addressing development in the Peninsula Coast Outstanding Landscape Area, pursuant to Rule 14.6.1(a). There is also an element of geotechnical reasoning behind the location of most of the proposed platforms.
- [83] The platform for proposed **Lot 1** appears to be 40.0m from the northwest side boundary, and more than 40.0m from all other boundaries, and therefore will have no bulk and location breaches. The platform was subject to a geotechnical report prepared by GeoSolve Ltd in December 2015 which notes, "*The Lot 1 building platform is sufficiently set back from the nearest steep slopes where incipient slope failures are present*". GeoSolve Ltd had no issues with the position of the proposed building platform.
- [84] The applicant's Landscape Architect also assessed the position of Lot 1's building platform, describing it as, '*... a moderately visually sensitive low ridgeline which has high visual amenity values*.' The Landscape Architect recommended a number of conditions specifically for this building platform to minimise the adverse visual effects of any dwelling built on this land. These conditions are typical for residential development in the landscape areas, and include such matters as a building height restriction, controls on colours and cladding, site development controls, and curtilage planting.
- [85] The proposed building platform for **Lot 2** also appears to maintain all yard requirements, but does not appear to be discussed specifically by the GeoSolve Ltd report of December 2015 and is not shown on their plans. The applicant's Landscape Architect describes the location as being on a gentle north facing slope just below the ridgeline. It will not be visible from the Hoopers Inlet side. The Landscape Architect recommends the same or very similar conditions for building as those for Lot 1.
- [86] **Lot 3** contains the existing dwelling and is the quarry site. There is no building platform identified for this lot. The quarry is subject to an existing consent and a quarry management plan which, among other matters, manages the vegetation on-site for screening purposes. The applicant seeks to remove some pines and replace them with native plantings as part of the replacement consent for the quarry. Council's Landscape Architect has considered this proposal to replace the faster growing exotic trees and notes:

'Potential eventual screening for the quarry may not be as good from distant views, but there will be a more acceptable view from any house.

'The key, as far as I am concerned, is that if this is done, there should be screen planting established south of any approved house to provide the screening lost by removing existing plantings. I understand Mike Moore has been involved in the earlier planting detail and this revised one, and

he has considered the need to compensate for loss of potential quarry screening.'

- [87] **Lot 4's** building platform is located adjacent to, and above, the existing quarry driveway from Cape Saunders Road (which passes through Lot 4). It will sit on the north-east facing hillside. It appears that the building platform will respect all yard requirements. GeoSolve Ltd investigated this location in its December 2015 report, referring to the site as 'Lot 3'. It identifies the land behind the platform as being steep but showing no signs of landslip activity. GeoSolve Ltd recommends a number of measures to ensure that the slope stays stable following development of the platform. The landslide situated downhill from the proposed platform is not expected to create problems.
- [88] The applicant's Landscape Architect makes similar recommendations as before to help integrate the future development of Lot 4 into the landscape. In addition, the Landscape Architect recommends the protection and enhancement of the wetland near the intersection of Cape Saunders Road and Papanui Inlet Road which is not directly related to the building platform.
- [89] The building platform of proposed **Lot 5** is off Cape Saunders Road. The proposed building platform will be located on a northwest facing slope, and will have mature trees situated to its southwest. It sits at the rear of the proposed lot, and will therefore have a yard breach in respect of the boundary with proposed Lot 7. This neighbouring land is part of the subdivision, so the yard encroachment is acceptable to Council. However, it will mean that any dwelling built on Lot 5 is closer to the farming activity of Lot 7 than the District Plan intends and there could be reverse sensitivity issues.
- [90] GeoSolve Ltd produced a second report in April 2016 which considered a location near to the proposed building platform, but not the actual location. GeoSolve Ltd calls this land 'Lot 4'. There are therefore no directly applicable comments within the GeoSolve Ltd report. The report states that bedrock at the building platform of 'Lot 4' was not proven during investigations but the platform (as investigated) is set back adequately from a nearby landslip. There was no indication of site instability in this general location, and the report states that development, '*... should be possible,*' although the ground conditions are might be better suited for piling.
- [91] The applicant's Landscape Architect recommends similar conditions for the development of Lot 5 as before, but also suggests that the trees to the southwest are retained, and replaced when necessary, to provide screening of the development from this direction. There is also a recommendation to protect and enhance a wetland situated on Cape Saunders Road which has no direct effect on the proposed building platform.
- [92] The building platform of **Lot 6** is next to unformed legal road, but obtains access via rights of way over Lot 7 and the house site of 78 Cape Saunders Road. It will be set back approximately 450m from the closest road and will have limited visibility from nearby public viewpoints but will be visible except over some distance, and will be the only building platform potentially visible from Hoopers Inlet. The building platform is situated near an existing shed, and next to a shelterbelt. The GeoSolve Ltd report of April 2016 identifies the building site as likely to be stable. The applicant's Landscape Architect is consistent with previous recommendations, and suggests that the shelterbelt be retained and replaced when necessary.
- [93] There is no building platform proposed for the amalgamated site of **Lot 7** and **Lot 12**. It is my view, however, that a house should be expected for this land as farms usually have associated residential activity on-site. While there may be no need for a house site at present, and the applicant is promoting a covenant preventing its development with a house, it is quite possible that Council will be presented with a proposal in

future for residential activity associated with this property. Ideally then, this theoretical house site should be assessed as part of this wider proposal. Having noted that, there would be multiple options of suitable building sites on a site of 194ha, and determining a specific building site at this point in time would probably prove to be a purely academic exercise with the actual house site being selected elsewhere at a later date. For the moment, the applicant is proposing that there be no development of this farm block, and there is no landscape building platform to assess.

- [94] **Lot 8's** building platform is situated next to an unformed legal road and probably breaches the 'front' yard. It also appears to breach the northeast and southeast side yards next to proposed Lot 12. As with Lot 5 above, the yard breaches will be acceptable to Council as the neighbouring land is also part of the subdivision, but there could be issues with reverse sensitivity in the future for the residents of Lot 8. The house site will be approximately 250m off the coastal section of Cape Saunders Road.
- [95] GeoSolve Ltd has labelled the proposed building platform site as 'Section 29' in their report of April 2016. The report comments that the building platform is on gentle slopes of no more than 6°, and development should be appropriate. The building platform will be located on a ridge to the west of historic debris flow affecting the valley in this location, and is 'unlikely' to be affected by similar future landslide events. The applicant's Landscape Architect makes the same recommendations for development as above, and recommends that the shelterbelt trees to the west be retained and a small wetland protected and enhanced.
- [96] The building platform of proposed **Lot 9** is next to Cape Saunders Road and more or less opposite 177 Cape Saunders Road which has no established residential activity. The platform is shown as being close to the road boundary, and close to the southwest boundary shared with Lot 12. It is expected that the building platform will maintain the front yard space (which needs to be 20.0m), but it will breach the side yard by approximately 20.0m (as a side yard of 40.0m is required).
- [97] GeoSolve Ltd investigated in April 2016 a site to the southwest of the proposed building platform, labelling it 'Lot 11'. The site is in close proximity to the platform shown on the application plan, but is to the southwest of the mature planting and behind a stand of forestry at the road edge. It is also within proposed Lot 12 (and not Lot 9). The GeoSolve Ltd report concludes that the position of 'Lot 11' is located in a gully forming a potential debris flow path, but the proposed building platform will be elevated above the likely debris flow levels. Even so, GeoSolve Ltd recommends specific remedial works to be carried out prior to development.
- [98] Council requested further information regarding the building platform, and GeoSolve Ltd produced a third report in October 2016 which specifically addresses Lots 9 and 10. This report shows the platform position for Lot 9 to be more or less in accordance with that of the application plan (albeit closer to the road), but it appears that there was no further test pit investigation done in this location as part of the October report. The report suggests any issues with unstable surficial soils from the upslope hillside can be addressed in detail at the final design stage of building. *"Any risk will be low or can be mitigated to a low level."* GeoSolve Ltd considered that the platform could be excavated into the flank of a ridge to elevate it above any, *'... credible flood or debris flow levels'*.
- [99] The applicant's Landscape Architect, assessing Lot 9's platform as shown on the application plan, identifies this location as a former house site with a 'mature planting context'. The proposed building platform will require some excavation into the hillside in order to obtain an adequate elevation above the watercourse and potential debris flow path, and could require the removal of some mature vegetation. The Landscape Architect recommends that new plantings are indigenous species. Along with the standard recommendations, the Landscape Architect suggests the retention of the

existing exotic tree framework to give the platform a 'strongly planted setting'. However, many of the exotic trees screening this building site are actually in proposed Lot 12 and cannot be guaranteed as screening on an on-going basis.

- [100] Lastly, the platform of proposed **Lot 10** is situated above Cape Saunders Road as it climbs away from the coast. The applicant has undertaken some investigative earthworks in this location to determine the suitability of the ground conditions. The platform is shown on the application plan as being within the 20.0m front yard. This is likely to be the case (judging from Council's GIS aerial photography) as the road swings wide outside of the legal road corridor, and the 'boundary' plantings are actually well within the road reserve. The challenge for building in this location will be to ensure that any future house is built clear of the roadside boundary. To move the building platform to a position 20.0m clear of the legal boundary (being approximately 35m clear of the road edge) will involve cutting into the hillside comprised of very sandy soils, and possibly is not feasible.
- [101] GeoSolve Ltd undertook five test pit investigations in this immediate location as part of the October 2016 report. The test pit logs all show sand to varying depths except for test pit 5 (the most southern) but weathered in-situ volcanic rock is present at 0.9m to 2.3m depth. Test pit 5 was excavated within a landslide feature, approximately 70.0m south of the proposed building platform. GeoSolve Ltd recommends that site specific investigations for building consent be undertaken for the building platform to confirm the findings of the report.
- [102] The applicant's Landscape Architect has also assessed the proposed building platform of Lot 10. He is consistent in his recommendations for development controls on the building platform, including the retention of the nearby exotic shelter trees.

Landscape (6.7.25)

- [103] The subject site are situated within the Peninsula Coast Outstanding Landscape Area in the District Plan where development is a restricted discretionary activity, or a controlled activity where being undertaken within a 'landscape building platform'. Small additions to existing buildings, and the construction of small buildings near existing buildings, are exempt from needing consent. Neither of these situations apply to the proposed development of the new lots. The relevant rules of the Proposed Plan are not yet in effect or operative but the rules as notified have the site within the Peninsula Coast Outstanding Natural Landscape. Construction of a building greater than 60m² will be a controlled activity within a 'landscape building platform', or a restricted discretionary activity otherwise. Small buildings and additions are permitted. The Proposed Plan rules are therefore comparable to the existing District Plan rules.
- [104] The applicant has proposed building platforms, as discussed above, in order to have development on the new lots assessed as controlled activities. If approved, applications for residences on these landscape building platforms will be granted, but Council will have control over the impact arising from the size, design and appearance of the building and the associated landscaping on the landscape qualities and character of the setting.
- [105] The applicant has had a report prepared by Mike Moore, Landscape Architect, to discuss the effects of the proposed subdivision and development on the landscape. The report, dated 25 May 2016, provides an overall description of the subject sites and setting. Generally speaking, it notes:

'The landscape is rural in character, with scattered dwellings and farm buildings, large areas of pasture as well as areas of regenerating bush and scrub, exotic woodlots and shelter belts ... Adjacent to the eastern end of the property there is a small enclave of cribs and more substantial houses ...'

- [106] The landscape report gives the features and values of the Peninsula Outstanding Landscape Area and the Peninsula Coast Outstanding Natural Area, as listed in the respective district plans. The Landscape Architect notes that the aesthetic values are based on the volcanic topography, significant presence of natural elements, and 'modest' influence of human elements. Buildings and exotic plantings are not generally dominating; roads are narrow and responsive to natural landscape forms. The Landscape Architect also discusses briefly the cultural and historical values of the area. He concludes that, with the exception of the quarry, the subject property contributes positively to the attractive landscape character of the Peninsula.
- [107] The applicant's Landscape Architect has recommended a number of controls on development within the proposed building platforms as discussed above in the section on Building Platforms. These recommendations follow the same form for all the lots and can be summarised as restricting building location, size, height, colours and cladding. Services are to be installed below ground, driveways are to be informal, with gravel, and fences are to be standard post and wire or stone walls using local rock. Plantings, except plants smaller than 1.5m within the house garden, are to be of indigenous species. I note that these controls are almost standard for development in landscape areas and largely describe typical residential development for rural areas anyway (e.g. single-storey dwellings of muted colour and having a domestic garden). However, the proposed recommendations, if applied, will prevent large 'statement' houses of inappropriate colour and siting, so are not without benefit.
- [108] The applicant's Landscape Architect also discusses the visibility of the proposed development and the landscape effects. He considers that, with the proposed mitigation measures, the impact of eight (nine, as discussed in the report) residences and plantings will be 'minor'. Rural land fragmentation will be minimised (in that the bulk of the land will remain in one farm title), and will assist in sustain the existing rural landscape character. The protection of regenerating indigenous bush and wetland is considered to compensate for the 'small increase in built form' in the landscape. The Landscape Architect concludes:

'Overall, it is my assessment that landscape character effects will be positive with the effects of nine additional well integrated dwellings offset by significant areas managed to enhance natural values, including large areas within the coastal environment.'

- [109] The applicant's Landscape Architect is of the view that effects on landscape and visual values will be minor or positive, and that the proposal is consistent with the relevant landscape related assessment matters in the District Plan.
- [110] Council's Landscape Architect has considered the application. He notes that the Dunedin City District Plan lists the following "Features and Characteristics to be Conserved" within the Peninsula Coast Outstanding Natural Landscape:
- *The general visual dominance of the natural landscape elements over human landscape elements (eg buildings or shelter plantings) giving the area a sense of maturity and harmony.*
 - *An apparently remote, isolated rural character.*
 - *The integrity, extent, coherence and natural character of the landform, streams and remaining areas of indigenous vegetation.*
 - *The minimal influence of any large scale structures or exotic plantings to diminish the impact of the natural landscape forms and features.*
 - *The dramatic coastal landforms and views.*
 - *The presence and quality of human-made features which are relics of the past, e.g. old lime kilns, stone walls.*
 - *Highlights of 'transient' wildlife interest, e.g. seals, penguins, etc.*
 - ..
 - *The extent and quality of areas of remnant forest, e.g. Tairaroa bush.*

- *The significance of places which are special to Maori, e.g. Pukekura (Tairaroa Head), Pyramids, etc.*

[111] The Landscape Architect is of the view that this is a significant and valued landscape, which is reflected in the descriptions and provisions outlined in the District Plan and Proposed Plan. The proposal represents the introduction of domestication in an area where the general dominance of the natural landscape, isolated remoteness and the proximity of a significant natural coastline are all recognised as being important for retention or preservation. The activity is also non-complying, which sets a much higher hurdle and a more extensive basis for the consideration of potential adverse effects.

[112] The Landscape Architect comments:

'When considered together, these factors increase the impact of any adverse effects of the proposal. As against this, the application clearly outlines the way in which particular proposed dwellings can be sited to assist with diminishing their visual impact, and the Landscape Assessment report proposes a suite of conditions to further assist with integrating such development into the sensitive landscape. There are also elements of the proposal which provide for covenants, buffer strips and management plans to promote existing natural vegetation and features.'

[113] One factor, often prevalent in such applications, is that the degree of adverse impact is likely be more significant when development first occurs, decreasing over time as any mitigation measures put in place mature. The applicant's Landscape Architect, Mike Moore, considers that, with time, the outstanding natural landscape and natural coastal character values will be enhanced by this proposal. In comparison, Council's Landscape Architect is of the view that the proposal sits reasonably close to the middle of the scale where one extreme is definite adverse landscape related effects, and the other is acceptable integration of the activity over time. The Landscape Architect comments:

'All things considered, given the scale of the project, the sensitivity of the landscape, the project activity status and the likely immediate adverse effects of such proposed development, I consider that the landscape related adverse effects of the proposal, at least initially, would be more than minor.'

'In the longer term, assuming complete adherence with all of the proposed conditions and mitigation measures (such as protection and enhancement of existing valued vegetation and salt marsh areas), it may be that some overall balance could be achieved, and the adverse effects of the proposal in its entirety may in time be able to be considered neutral. The risk with adopting this approach is that much greater weight needs to be put on compliance, and the overall outcome would not be able to be immediately demonstrated.'

[114] Council's Landscape Architect is of the opinion that establishing a number of new dwellings in the outstanding natural landscape would inevitably encroach on many of these features and characteristics. These have a predominantly visual focus, but other factors such as isolation, remoteness, natural character and aspects of wildlife interest, for example, would also be affected to some extent by the significantly increased degree of domestication that the application represents. The Landscape Architect notes that the application has been carefully crafted and contains supporting reports which contain very good background information, including a number of proposals and recommended conditions to help moderate likely adverse effects.

- [115] When reviewing the submitters' comments about the landscape, a significant portion of the submitters disagree with the applicant's Landscape Architect, and more than a few have taken exception to the claim that the landscape will be 'enhanced' by the proposal. I suspect that the applicant's Landscape Architect is considering the proposal as a whole, including the regenerating bush and wetlands, whereas the submitters are focussing on the residential development specifically. Therefore, there is possibly a miscommunication happening between the two viewpoints.
- [116] Overall, the general consensus of many of the submitters is that the landscape in this area is outstandingly beautiful and should be protected from development. Quite a few submitters quote section 6(f) of the Resource Management Act 1991 which identifies the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development as being a matter of national importance. It is less clear what the submitters consider to be inappropriate about the proposed subdivision as few actually identify the features of the proposal which they find unacceptable except in very general terms. The inference is that many opposing submitters do not want any development on these Peninsula hillsides at all; the fact that the proposed lots will be undersized merely provides the mechanism for opposition to be voiced. If so, then fully complying sites in terms of size will not relieve the submitters' concerns in anyway.
- [117] The submitters are correct in that the subject property is within a recognised landscape area. The Peninsula Coast is also an 'outstanding' landscape area, therefore being a regionally significant landscape as recognised by the District Plan. The hills of the subject property and area are visually dramatic, in my opinion, and as a coastal environment, the landscape has visually pleasing qualities on several levels. It is also visible from significant distances, although not from any settlement. The clearest public viewpoint is probably along Papanui Inlet Road and Dick Road, at sea level, across the inlet from the subject property. Views of the subject property at a similar distance are also available across Hoopers Inlet.
- [118] The landscape is not devoid of structures currently. There is scattered housing right along the Papanui Inlet Road and Cape Saunders Road edges, and a cluster of housing at the northeast edge of the subject site, many of which are visible from across Papanui Inlet. I note that while the District Plan seeks to protect such a landscape, it does not seek to prevent development but rather to control it.
- [119] Should the applicant seek to develop most of the existing subject sites (eight of which are larger than 15.0ha) tomorrow without subdivision, the residential buildings would be permitted under the Rural zone rules and restricted discretionary activities under the Landscape section rules. Restricted discretionary activities are anticipated by the District Plan, although there is scope for the Council to decline restricted discretionary activities. It is more likely, however, that if Council were to be presented with an application for an inappropriately sited or overly-dominant house, the Council would enter into discussions with the applicant to find a better outcome. Declining consent would be an unusual action for a restricted discretionary activity. In short, the District Plan does not guarantee a structure-free landscape in this location. It is the fact that the proposed residential lots are undersized which gives the proposed residential activity its non-complying activity status, and not the landscape rules.
- [120] The contours on Council's GIS system show the existing residential development on the subject site and adjacent properties to be sited at 30m above sea level or below; the most notable exception is the house of 297 Cape Saunders Road which is just below 50m but is also tucked around the corner away from the coastal edge. In comparison, I estimate the ground levels of the proposed building sites to be as follows:
- Lot 1: 65m
 - Lot 2: 40m

- Lot 4: 30m
- Lot 5: 25m
- Lot 6: 75m
- Lot 8: 50m
- Lot 9: 30m
- Lot 10: 70m

- [121] It is evident that the proposed building platforms will be higher than the existing development. Their overall visibility will, however, be determined by topography and vegetation. There is also distance as a mitigating factor, in most cases. I also note that Mt Charles is over 400m in height, so the proposed building platforms are still very low on the landscape within this context. It is undeniable, however, that the proposal will introduce additional housing at this location.
- [122] Those people with an interest in dark skies have been particularly diligent in submitting on the application. The District Plan does not specifically address the protection of 'dark skies', and there are few rules regarding control of lighting (and none in the Rural zone), so it is perhaps the landscape rules which give Council scope to consider the effects of development on the night sky. The assertion is that the lights from the proposed housing will impact negatively on a largely dark landscape. This area is known by local and international visitors as being a quality location for viewing the stars and southern lights (Aurora Australis), and there are moves to have it recognised by an International Dark Skies designation. The area is also actively promoted as a dark skies destination by the Council and other interested parties.
- [123] Council has a Dark Skies Advisory Panel which has provided comment on the proposed application. It notes that Dunedin's Energy Plan 1.0 seeks to protect and enhance our night sky assets, and to find smart lighting solutions. The Panel questions the applicant's assertion that the proposed building platforms have been located so that they are not visually prominent and the conclusion that the development will not, '*... fundamentally alter the night time character of this area.*' The Panel states that the area around Hooper's Inlet is one of the best for night sky viewing, and this subdivision proposal will impact negatively on the night sky viewing in this area. The Hoopers and Papanui Inlets have both been discussed as potential designation areas as they are two of the 'best' places regularly used by local residents for dark sky viewing. The Panel does not support the proposed subdivision and development.
- [124] Only the house site of Lot 6 is likely to be visible from Hoopers Inlet (albeit behind a shelterbelt), so the dark skies of Hoopers Inlet are not expected to be affected greatly, if at all, by the lighting (direct or dispersed) of the proposed houses. However, unless the house site of Lot 6 can be screened from Hoopers Inlet by a ridgeline, there is no guarantee that it will not create a pinprick of light at night on an otherwise black landscape. Lot 6 is on a spur, and there is no means to position a house on Lot 6 where it cannot be seen (notwithstanding the line of trees) from Hoopers Inlet.
- [125] Most of the future houses will be visible across Papanui Inlet, although existing and future vegetation will help to screen some of them. The panoramic photographs in the applicant's Landscape report give a good indication of which houses will be visible from across the inlet and where the lights will be seen. Lights can be seen from significant distances, so possibly the proposed housing will have greater visual effects at night than during daylight hours.
- [126] I note that the Papanui Inlet coastal edge already has development, so this is not a completely dark environment currently. The northern edge of Papanui Inlet has far fewer structures, and possibly is the darker side of the inlet; this will not be affected by the proposed subdivision. I also note that people generally like to sleep in the dark, and most lights will be turned off by late in the evening. There is, of course, no guarantee that this will occur, but it should be realised that residential activity on a landscape does not mean that lights will be an ever-present feature of the landscape.

Furthermore, the effects of house lighting can be moderated through use of the type of light bulbs used, curtains, and/or house design, although it will be difficult for Council or any private entity to enforce requirements of this nature on an on-going basis if, for example, the residents choose not to pull their curtains.

- [127] Night photography requires long exposure times, and vehicles driving along the roads create bright lines on a night-sky photograph. I understand how this can be frustrating for a photographer, but where there are roads, there can be traffic. Vehicles at night in this location must be a relatively rare event. It appears that the current housing along the edge of Papanui Inlet does not cause issues for the 'dark skies' people, and I consider that the effects of another eight houses (not all of which will be visible from any one location) on the dark landscape should not be considered fatal to the application.
- [128] In conclusion, Council's Landscape Architect considers the effects of the proposed housing on the landscape to be more than minor initially, but improving over time. In my opinion, some house sites will have greater effects than others. Lot 6 is the highest of the proposed building sites, and the only one visible from Hoopers Inlet. Although it will not be seen from relatively close positions, it will be prominent when viewed from across the respective inlets. The existing hanger (or 'barn') on the hillside in close proximity to the proposed building platform provides a guide as to how visible the future house is likely to be.
- [129] The building platforms of Lots 4 and 8 also strike me as being relatively prominent, although at a lower level. While others are possibly have more screening by vegetation, there is no real guarantee that the vegetation will remain unless a consent notice on the respective titles requires this to happen. But not all the relevant trees are in the same sites as the proposed housing. It is my opinion that these three building sites will have more than minor effects on the landscape, not only initially but possibly long-term. The other sites are less visible, and accordingly, will have fewer effects.

Transportation (6.7.24, 18.6.1(c), & 20.6)

- [130] The application has been reviewed by Council's Planner/Engineer – Transport. He acknowledges that the subject property could be developed in a way that mostly, if not wholly, satisfies the District Plan requirements for density, and that such a development could generate transport-related effects similar to the proposed development. However, Transport has a number of concerns about the proposal. The proposed subdivision will result in the creation of what are essentially eight 'lifestyle' or rural-residential type sections where the predominant use is considered to be residential. Rural activity that might take place on these lots is likely to be ancillary to their residential use.
- [131] General access to the subject property is via Allans Beach Road, Capes Saunders Road and Papanui Inlet Road. Allans Beach Road provides the main connection with the nearby Portobello settlement, being the nearest commercial centre to the development. Access can also be achieved via Weir Road, which links Harington Point Road to Papanui Inlet Road. Allans Beach Road is sealed between Harington Point Road and Hoopers Inlet Road, but is otherwise unsealed. Cape Saunders Road, Papanui Inlet Road, and Weir Road, are all unsealed.
- [132] Road widths for each of these roads are variable, and at times are very narrow for a two-way road. The Planner/Engineer comments that, in his experience, it is not uncommon while driving these roads to have to slow down or stop in order to allow oncoming vehicles to pass. Allans Beach Road, Cape Saunders Road, and Papanui Inlet Road are also susceptible to damage from storms and high tidal action. These roads are low-lying, which puts them at risk from sea-level rise, a key focus point of the Dunedin City Integrated Transport Strategy 2013 in terms network resilience.

- [133] It is the experience of the Transport department that activities that are primarily residential in nature are more sensitive to unsealed road environments, noting that unsealed roads are a common source of complaints from residents that receive adverse dust and noise effects from this type of roading infrastructure. Such complaints can occur even where dwellings are well set back from the road. Transport also notes that rural-residential activities will expect a higher level of service from transport infrastructure than what is currently provided by the present roading network, and it is notable that virtually all existing Rural-Residential zones are located along sealed road infrastructure.
- [134] Transport does not have a seal-extension programme presently, but does apply dust suppressant on a priority basis. Transport are concerned that approval of this development will put pressure on the Council to fund a higher level of service for the transport network in the future, above what might be expected for a compliant rural use of the site. It would be unlikely that such measures would attract a co-investment from the New Zealand Transport Agency, and would therefore be wholly dependent on Council funds.
- [135] Should the Commissioner wish to grant consent to the proposed subdivision, Transport recommends that all vehicle accesses and rights of way be constructed in accordance with District Plan requirements. Vehicle accesses should be provided appropriate sight distance in accordance with best industry practice. It is considered that on-site parking and manoeuvring provisions need not be addressed given the proposed lot sizes can easily accommodate such needs.
- [136] Many of the submitters have commented on the increase in traffic resulting from the proposed subdivision, which is more of an 'amenity' discussion than a commentary on the roads. More relevant to this discussion are the submitters' comments about the standards of the existing roading. Many describe the overall standard of roading in the immediate area as being narrow and metalled. Submitters talk of the roads being 'dangerous'. One believes that the roads cannot cope with more traffic, and another has commented that there is insufficient detail about accesses to the new lots for the earthworks and amenity effects to be assessed.
- [137] Looking at the accesses to the proposed sites, it is noted that most are existing tracks. In the case of Lots 1 and 2, the shared access will be contained within the leg-in to Lot 2, with Lot 1 having rights of way over the leg-in and through the body of Lot 2. The existing access on the flatter ground (near the road) is gravelled and in use by the quarry. As Lot 3 is not being given right of way over Lot 2's leg-in, the quarry and residential driveways must be independent of each other, meaning that there will need to be new driveway formation created for either Lot 2 or 3 (or the present access 'retired' from use by the quarry). The access progresses up the hill, and appears to have been recently created or reworked. Looking at Council's aerial photography (which has distortions and is not an entirely accurate representation of boundary positions), it appears the access up the hill is actually situated within 178 Cape Saunders Road. If so, a new access will be required outside of the neighbouring property, or a right of way easement through 178 Cape Saunders Road must be obtained. It is at the discretion of the owners of 178 Cape Saunders Road as to whether or not a right of way will be granted.
- [138] One submitted has commented about the access to Lots 1 and 2. The submitter, being the immediate neighbour to proposed Lot 2's leg-in, has suggested that it would be more appropriate, and have fewer effects, to take the access to Lots 1 and 2 directly down to Allans Beach Road. Whether or not this is practical in terms of topography is unknown, but I will note that the applicant intends to covenant the land along the Allan's Beach Road frontage of the property as wetland and indigenous vegetation areas, and a driveway would impact on this environment.

- [139] Lot 3 has three existing entrances (one of which might need to be modified as discussed in the paragraph above). The main quarry access directly to Papanui Inlet Road can continue to function as at present with no additional effects on the transportation network or neighbours. The access to Cape Saunders Road passes through proposed Lot 4, will be 20.0m or so from the building platform, and is also the only access to Lot 4. I do not consider this to be an appropriate route for heavy vehicles because of the proximity of the access to the house site on Lot 4, and because it will be shared with residential traffic. While the right of way itself is acceptable, there might need to be some controls over its use by the quarry traffic. However, I understand that there is an expectation in the existing quarry consent, although no actual condition, that this access will be used as an entrance to the quarry. If so, then restricting its use by quarry traffic might not be appropriate, leaving a potential source of conflict between the quarry operation and the residential activity of Lot 4.
- [140] Lot 5 will require a new access. The topography of the land in this location is unlikely to create any issues for the formation of the access, and it will intersect with the road with clear visibility in both directions.
- [141] The access to Lot 6 is already formed as it serves the house of 78 Cape Saunders Road (not part of this subdivision proposal), and then beyond the house as a farm track. It does not appear as if there will be much upgrading required, and the access is considered to be acceptable, subject to Council's formation requirements.
- [142] Lot 8 will require a new access and may utilise the unformed legal access if need be. There is already a farm track in this general location which might be suitable for use but will require upgrading. The situation is very similar for proposed Lot 9. A new access will need to be formed. Lot 10 has been the subject of recent earthworks, and a rough driveway on road reserve has already been formed.
- [143] The applicant has proposed a public walking track from Cape Saunders Road (just downhill from proposed Lot 10) across proposed Lot 12 to the base of an unformed legal road. It will be possible to then utilise the unformed legal road for access to the summit of Mount Charles. Council's Planner/Engineer Transport comments:

'The applicant proposes creation of a public pedestrian access easement within Lot 12 connecting Cape Saunders Road to an unformed legal road that runs through the site. The Cape Saunders Road carriageway is narrow in this location and cannot easily support parking demand that may be created by recreational users. Should this easement be created/formed it is recommended that an associated parking area be provided near where the pedestrian easement meets Cape Saunders Road.'

- [144] Council's Parks and Recreation Planner has considered the creation of the proposed walking track. The department is supportive of the proposal to create a public walkway to the summit of Mt Charles, and would welcome the opportunity to work with the applicant. It would be a valuable recreation opportunity for residents and visitors alike. If the consent is granted, Parks and Recreation recommend the following conditions for the formation and management of the proposed easement in gross:

- *Width – a track width of at least 3m would allow for multiple uses and space for additional plantings, works etc.*
- *Fencing and/or plantings on the length of the track - creates some division from surrounding farm land, provides security for land owners and gives more flexibility for the use of the track (e.g. no closures for lambing, multi-use). Also gives PARs a clear area for maintenance.*
- *Car parking at the start of the track for users.*

- [145] I note that the proposed easement in gross will deliver the walking public approximately 300m up Mt Charles. The summit is a further 100m higher, and the public will utilise an unformed legal road to walk the rest of the way. While the legal rights of access will be adequately addressed, it does not appear that the road is defined on the ground in any way. While the applicant owns the land to the northeast (downhill) side, the land on the southwest (uphill) side of the unformed legal road is held in different ownership. It is not clear whether or not there is a fence between the properties. The uphill owner has submitted in opposition to the proposal, but did not discuss the walkway at all. Therefore, I am unable to say whether the neighbour is agreeable to the public possibly crossing their land, should the consent be granted. Without fencing, it will be difficult to ensure there is no such crossing occurring.
- [146] It is my view that the existing roading infrastructure has limitations and is unsuitable for rural-residential activity in its present form. Should the application proceed, it is likely that pressure will be placed on Council in the future to upgrade the road to a standard acceptable to the residents. The use of the existing roading is, in my opinion, unsafe in many locations. However, the internal accesses to the new lots are acceptable.

Archaeological Sites (6.7.20)

- [147] As the Peninsula has a long Maori and European settlement pattern, the applicant has submitted a Heritage Impact Assessment prepared by New Zealand Heritage Properties Ltd as part of the application. New Zealand Heritage Properties surveyed the subject property, and in particular each proposed building platform and access, in August 2016. Features sought were middens, artefacts, ovens, trees, fencelines, foundations, walls and non-native plantings. Further historical research was undertaken where there was evidence found that could be impacted upon by the proposed subdivision and development earthworks. The methodology of the work is described in section 4 of the report.
- [148] Section 5 of the report summarises the history of settlement, from early Maori occupation through to more recent European development, from a relatively wide view encompassing of Otago, Dunedin and Peninsula areas. The report states that, *'The lack of development of the peninsula means that much of the peninsula's history is preserved on the landscape.'* Examples given are dry stone walling and 'hundreds' of archaeological sites that remain undisturbed by development. More specifically, as discussed by section 6 of the report, 13 archaeological sites are recorded within the boundaries of the subject property, of which six are considered to be well outside of the areas affected by the subdivision.
- [149] Of those archaeological sites that are in closer proximity to the proposed development, three sites are within Lot 3. These are all situated near the road within the salt marsh and will not be affected by a new house constructed up the hillside. One of the sites within proposed Lot 7 no longer exists and, as there will be no development on this lot, the other two sites are not considered to be at risk.
- [150] The report does a lot-by-lot analysis of each of the proposed lots. Lot 1 was once part of 'Varley's Farm'. While the land was once developed with stone walls and yards, these were ploughed away in the 1990s. There is no evidence of prehistoric or historic archaeological sites where the proposed building platform and access will be situated. Likewise, any sites that might have existed on Lots 2, 4, 5, 8 and 10 are no longer evident because of farming operations. Lot 3 is developed with a dwelling and quarry, and no changes are anticipated for this land as part of the subdivision. Lot 6 was part of a 20th century airstrip with a metal aircraft hanger. The hanger and access will remain after subdivision, and there was no evidence of archaeological material elsewhere within the lot. Lot 7 was not surveyed as it will not be developed as part of this subdivision.

- [151] Lastly, Lot 9 was once occupied by a dwelling that was burnt down about 2010. The building platform is still visible, and some concrete additions to the house are in place. There are also several remaining post-1900 structures associated with the earlier residential occupation. The old house site will be directly below the proposed house site which will be positioned on a knoll. To make the knoll safe for construction, the report states that the landform will be excavated and a retaining wall constructed. This will disturb the site, although the report does not advise what actions regarding archaeology should be undertaken in light of this work.
- [152] The report concludes that there will be little to no effect on recorded or unrecorded heritage and/or archaeological sites. However, there is potential for accidental discovery, and it is recommended that an accidental discovery protocol be imposed.
- [153] Submissions from Te Runanga o Otakou and Heritage New Zealand comment on the known archaeological sites on, and near to, the subject property. Both submissions are neutral in their stance, and are concerned with ensuring that development, and in particular earthworks, are managed appropriately to ensure that archaeological material is identified and respected.
- [154] Te Runanga o Otakou recommends that there be a pre-work briefing held with the site manager and machinery operators prior to any earthworks commencing, and that monitoring of earthworks is undertaken by an iwi-approved archaeologist and a representative of Te Runanga o Otakou. It is not clear whether this monitoring involves having the person (or both persons) present on-site at all times during earthworks on the proposed lots; if so, this will be a requirement for the new owners unless the building platforms are created as part of the subdivision works. It is recommended that a straight-edged bucket should be used by earthmoving machinery to minimise risk to sites and artefacts. Other conditions recommended by Te Runanga o Otakou are more concerned with ecological and landscape matters.
- [155] The Heritage New Zealand supports the submission of Te Runanga o Otakou, and repeats the relevant proposed conditions. Regarding the monitoring of earthworks, Heritage New Zealand advises that the recommendation for cultural monitoring is a requirement under the Resource Management Act 1991 and not the Heritage New Zealand Act 2014. Even so, if monitoring is required, Heritage New Zealand considers it will be efficient to have the monitor approved by Heritage New Zealand as well as iwi so that if a site is found, the monitor is able to deal with the Heritage New Zealand Act 2014 matters. The submission concludes that the proposed development will largely avoid archaeological and heritage sites.
- [156] While a number of other submitters have also commented on the archaeology of the area, and many oppose the application on the basis of effects on archaeology, the submissions are all very general in their approach to the subject. On the basis of the applicant's professional report and the two submissions of Te Runanga o Otakou and Heritage New Zealand, it is my understanding that the proposed building sites are expected to avoid known archaeological and cultural sites. Even so, an accidental discovery protocol condition is recommended in case unknown material is unearthed during earthworks.

Indigenous Vegetation and Fauna (18.6.1(f))

- [157] The District Plan directs the Commissioner to consider the cumulative effects of the incremental loss or modification of areas of indigenous vegetation and habitats of indigenous fauna arising from a proposed subdivision. The applicant is proposing to covenant an area of wetland next to Allans Beach Road and the adjoining area of regenerating native bush, in addition to a wetland which is already protected as part of the existing quarry consent. The area to be covenanted is shown on Figure 1 of Mike Moore's Landscape report submitted with the application, and covers almost all of

the Allans Beach Road frontage of the subject property. This plan also shows pockets of vegetation high on Mt Charles which are also to be protected by covenant.

- [158] As the subject property is situated in a coastal environment and there are wetlands and remnant and regenerating indigenous vegetation on-site, the applicant submitted an Ecology report prepared by Wildland Consultants with the application. The Wildland's report, dated April 2016, comments that the subject property is within the Dunedin Ecological District, which encompasses all of the Otago Peninsula. The report describes the site as comprising dry coastal hills and saltmarsh, with much of the hillsides previously covered by exotic forestry, some of which has only recently been felled. There is some regeneration of native species occurring. The report then goes into more detail as to the nature of the remnant and regenerating vegetation, concluding that 57 indigenous and 28 exotic vascular plant species were recorded during the site visit. Only one species, *Chenopodium allanii*, was listed as being 'at risk-naturally uncommon'.
- [159] The Wildland's report lists the indigenous bird species seen at the site (spur-winged plover, paradise shelduck and kahu (Australasian harrier)). The only exotic species was the mallard. None were threatened or at risk species, although the report writer does qualify the statement by noting that the site visit was of short duration and not all birds using the site would have been observed. Jewelled gecko (classified as At Risk - Declining) were present in 2009 and are likely to be still present in all types of vegetation. Mammals in the area were sheep and cattle, and rabbits. The report identifies a number of likely pest plants and animals, and threats to the native species. It does not discuss any marine wildlife. The report makes a number of recommendations for the on-going management of the subject property in order to protect and enhance ecological values at the site. These recommendations include fencing and buffer zones around wetlands, the undertaking of a survey for the jewelled gecko (with all its habitat/s included as part of the covenanted areas), control of pests, planting of indigenous species, and the implementation of a management plan.
- [160] The Ecology report was reviewed by Council's Consulting Ecologist, Ryder Consulting, in a report dated 22 December 2016. The Consulting Ecologist has read the relevant portions of the application, the Wildland's report, and the Landscape report, and has discussed the Wildland's report with its author. It was clarified that the Wildland's report is describing only a small part of the subject property (approximately 34ha of 260ha) relating to the proposed covenant area along Allans Beach Road.
- [161] The Consulting Ecologist notes that the application (page 6) refers to, '*... the environmental enhancement package proposed,*' without specifically describing what the package involves. The Landscape Report talks of proposed plantings and the proposed covenant area on Allans Beach Road, and the application (page 17) advises that the applicant is happy to adopt the conservation actions designed to protect and enhance the ecological values at the covenant site. It concludes, '*... overall, the proposal will have significant ecological benefits.*'
- [162] Ryders Consulting believes that an ecological assessment of the subject property as a whole is required, to be in keeping with the scale of the proposal. The subject property is large, and the site is adjacent to a number of potentially sensitive environments (estuaries, freshwater and saline wetlands, streams, remnant or regenerating native vegetation, and habitats of indigenous fauna). The assessment should include a description of the ecological features, the significance of those features, the effects of the subdivision proposal, recommendations to avoid, remedy or mitigate any adverse effects, and consideration of any specific ecological matters required by relevant plans and policies. Ryders Consulting assesses the applicant's ecological report in respect of the proposed covenant areas as appearing 'sound', but limited in respect of the entire property.

- [163] A number of the submitters have commented that the Papanui and Hooper Inlets are habitat to endangered wildlife, and that this wildlife will be adversely affected by the proposed subdivision. One of the more expansive submissions, by the Papanui & Hoopers Community and Environment Protection Group (PPG), states that more humans (with pets, cars and boats) will have an impact on the area. The recreational activity will impact on Hooker sea lion, yellow eyed penguin and other at-risk species, and, *'There is no doubt about this'*. The submission also provides details about several endangered species within the wider Peninsula environment, and believes that increased development and associated activity will greatly impact on these species. *'For this reason alone, the application should be declined.'* PPG considers that the applicant's Ecological report has not carried out a proper assessment or written a correct report.
- [164] The PPG submission is accompanied by an 'expert statement' from Forest & Bird. The Commissioner should be aware that the statement is less 'expert' advice and more along the lines of advocacy for the submitter's point of view. Forest & Bird state that the gradual increase in population along the Otago Coasts is a 'very significant event', and leads to disturbance of sea lions by humans, *'... damaging and destroying the ecological values as well as disturbing the animals'*. Forest & Bird also list the known species of bird in the area, and concludes its report by recommending that the Council decline the application.
- [165] One supporting submitter has expressed concern about the community's response to this proposal, and believes the claims regarding effects on wildlife (among other matters) can be summarised as 'nimbyism'. Certainly, it is evident that the wildlife in this location is already coexisting with a degree of residential, recreational, and tourist activity and it is not a case of, *'Wildlife and urban development cannot live together, it is either one or the other,'* as one submitter states. I also note that while some submitters consider the increase in activity associated with residential properties to be detrimental to the wellbeing of the wildlife, these same submitters are often supportive of ecotourism or dark sky tourism, activities which also involve additional people coming to the area and increased vehicular traffic.
- [166] Most of the land in this area is pastoral farmland, and has been managed as such for decades. This characteristic of the environment will not change with the proposed subdivision. The wetlands and regenerating vegetation is to be protected and managed, will not decrease in area and should not deteriorate in condition if there is an appropriate management plan in place. Regarding the new development, I note that the proposed houses will all be elevated above the coastline, and all will be separated from the coastal margin by at least a road. Lots 1 and 2 are above an existing residential property; Lot 3 has an existing house; Lot 4 will be on a hillside; Lots 5 and 6 are away from the coast and elevated; Lot 8 is also well back from the coastal edge; Lot 9 is relatively low on the hillside; and Lot 10 is close to the road, but up the hill. Of all the proposed building sites, only Lot 9 is expected to be within 70m of the coast. I do not expect that these building sites will have a direct impact on the coastal habitat of the sea line or marine birds.
- [167] The effects of the proposed development on birdlife will likewise be moderated by the position of the houses. None of the building sites require the clearance of existing bush cover. If anything, the planting of domestic gardens will provide a small increase the vegetation on the hillsides and may attract certain species of birds. Provided no nesting areas or limited food sources are interfered with, the proposed development is unlikely to adversely impact on bird numbers, in my opinion. The vast expanse of farmland and coastal landforms will remain the predominant characteristics of the area, and any birds dependent on, or preferring this, type of environment will still have ample habitat available.
- [168] The introduction of domestic pets to an area is often hazardous for wildlife. Dogs and cats both have predatory habits, although in the case of dogs, chasing wildlife is often

nothing more than entertainment (albeit totally unappreciated by the wildlife). At the same time, domestic animals can be beneficial in controlling pests such as rodents. If the Commissioner is of a mind to grant consent, he might consider the imposition of controls on pets or an outright ban, although this could be difficult for Council to enforce on an on-going basis. The matter can also be facilitated through the imposition of a private covenant (initiated by the applicant) on the titles of the new lots where the other landowners within the subdivision become the enforcement agents i.e. all the lot owners are answerable to each other. This is more likely to be effective at controlling the numbers and/or types of pets within the subdivision, especially if any one of the landowners is pro-active in ensuring the terms of the covenant are complied with.

- [169] The Ecology report submitted with the application focusses on the proposed covenant areas, and has not identified any concerns about wildlife as a result of the proposed subdivision. The Council's Consulting Ecologist considers that a more detailed assessment of the site as a whole is warranted before the effects on wildlife can be accurately determined. Therefore, there is still some scope for the ecological effects of the proposal to be determined with greater accuracy than the application already does. I note that the subject area is not a pristine and untouched environment currently, and that wildlife is ready coexisting with residents and visitors. The proposed subdivision will have very little effect on the Hoopers Inlet side of the property as there are no proposed residential sites in this location and the applicant proposes covenanting almost all of the land next to Allans Beach Road as wetland or vegetation. This can only be beneficial to wildlife. The effects on the Papanui Inlet wildlife is less definite, and the Commissioner might consider that further assessment is required.

Hazards (18.6.1(t))

- [170] The applicant has submitted three geotechnical reports prepared by GeoSolve Ltd in respect of the proposed building sites of the new lots. The separate reports assess the geotechnical suitability of different building sites, and are complementary rather than successive reports. The reports dated December 2015 and April 2016 were submitted as part of the original application, and the third report dated October 2016 was in response to Council's request for further information prior to notification of the application. Accordingly, all three reports were included with the application at the time of notification.
- [171] The findings of GeoSolve Ltd for each lot are briefly noted above in the section discussing the building platforms. In brief, the platforms of Lots 1, 6 and 8 were assessed as likely to be stable; there was no assessment of Lot 2's proposed platform; the platform of Lot 4 could be developed with conditions; the positions of the platforms investigated for Lots 5 and 9 were not directly comparable with the platform positions as shown on the application plan; and the platform of Lot 10 is likely to require specific foundation design or ground improvements at the time of building.
- [172] Council's Consulting Engineer, MWH, reviewed the December 2015 and April 2016 reports in an email to Council dated 12 August 2016. He noted that, from a hazards perspective, GeoSolve Ltd has assessed almost all of the sites specifically, and most are free from existing hazards and can be readily developed. The Consulting Engineer, however, identified four lots (including the now-deleted Lot 11) where the results were less definite.
- [173] The Consulting Engineer advised that Lot 4 needs specific certification by an appropriately qualified person, confirming that the site is stable and that the proposed construction or earthworks will not create or exacerbate instability on this or adjacent property. The Consulting Engineer is satisfied that there is ample space within the property free from steep slopes for development to proceed without requiring further confirmation of a building site at this stage. I note that, as the proposed building

platform also serves as a landscape building platform to satisfy requirements of the Landscape Section of the District Plan, there is a risk that the landscape building platform and the 'certified' geotechnically-stable building platform will not fully coincide. This will mean that the building of a dwelling on the site reverts back to a restricted discretionary activity under the Landscape Section rules, or a variation of the consent notice will be required before building can proceed as a controlled activity. Neither consent process is guaranteed approval by Council.

[174] Council's Consulting Engineer identified the development potential of Lot 9 as being 'borderline', depending on the exact placement of any future dwelling and the nature of construction as well as an assessment of on-going risk to services, access and drainage crossing the existing landscape debris tongue. The site needs specific certification by an appropriately qualified person that the site is stable and the proposed construction or earthworks will not create or exacerbate instability on this or any adjacent property. The Consulting Engineer considered this work necessary prior to the subdivision proceeding.

[175] The Consulting Engineer's assessment of Lot 10's building site was brief. He advised, '*Recommend that development in this location be declined on the grounds of existing land instability features.*' The Consulting Engineer made a similar comment about the building site of proposed Lot 11 which has since been deleted from the proposal. Overall, the Consulting Engineer concluded:

'I would be satisfied that an amended application could be approved subject to removal of Lots 9, 10 and 11 from the proposal, and inclusion of a specific risk assessment requirements in the development of Lot 4.'

[176] The applicant submitted the third GeoSolve Ltd report on 9 November 2016. The report was specifically concerned with proposed Lots 9 and 10 and was prepared following the walkover inspection of all the lots by an engineering geologist and four excavator-dug test pits on Lot 10's building platform. GeoSolve Ltd concluded that test pits were not required for Lot 9 as rock was visible at shallow depths. The report advises that no slope instability was identified within the extents of the proposed building platforms at the time of inspection but Lot 9 is likely to require geotechnical supervision of earthworks to ensure that hazards are sufficient mitigated. Lot 10 contains shallow weathered rock and is not expected to be at risk of movement on deep-seated landslides, although it is situated near the lateral scarp of a major landslide feature. Specific remedial works will need to be carried out prior to development.

[177] Council's Consulting Engineer, MWH, undertook a site visit and has reviewed GeoSolve Ltd's report of October 2016. He notes that proposed Lots 9 and 10 are proximal to mapped land instabilities. While MWH is satisfied with GeoSolve Ltd's assertion that the sites are sufficiently distance from mapped instabilities for them to be considered free of this natural hazard risk, the Consulting Engineer recommends the following:

- *Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development;*
- *Where fill has been undertaken not in accordance with this specification, outside of any approved consent, it should be removed;*
- *Where any new fill is undertaken that does not meet the relevant code, the extent and depth shall be noted on an as-built plan to ensure that future land purchasers do not rely upon this fill for support of structures without specific engineering design;*
- *Slopes may not be cut steeper than 1:1.5 (34°) without specific engineering design and construction;*
- *Slopes may not be filled steeper than 2h:1v (27°) without specific engineering design and construction;*

- *Proposed Construction on each lot shall be reviewed by a geotechnical specialist to confirm that potential inundation or land movement risks have been appropriately mitigated. Development is subject to approval of this site specific geotechnical assessment by an appropriately qualified person, confirming that the site is suitably stable, and that the proposed construction or earthwork will not create or exacerbate instability on this or adjacent property;*
- *This shall include earth works for proposed access tracks;*
- *This work shall be appropriately supervised / certified by qualified persons.*

[178] It is evident that geotechnically stable building sites are available on all the proposed lots, although some additional geotechnical investigation and construction supervision will be necessary for Lot 4, and there are to be a number of controls on earthworks proposed for Lots 9 and 10.

[179] The HAIL status of the land needs to be more specifically addressed, particularly in regard to proposed Lots 1 and 6 which have known instances of HAIL activities occurring. If consent is granted for subdivision, I consider that further investigation of these areas is undertaken to determine the level of contamination of the soils, if any, and the appropriate means of addressing contamination. This could require consent under the NES for subdivision, change of use and/or disturbance of soils of land subject to the NES.

Earthworks (17.8)

[180] No consent for earthworks has been made with the subdivision application. The extent of earthworks needed to form building platforms and accesses is not known, and will be determined at the time of development by the new landowners, should consent be granted. Most of the proposed building slopes are on relatively modest slopes, and should not require significant earthworks. The application identifies Lots 1, 4 and 9 as being on steeper ground and therefore requiring some profiling of the land form. It is evident that earthworks have already been undertaken on proposed Lot 10 at the time of geotechnical investigation, and a submitter has advised that a vehicle track up to proposed Lots 1 and 2 has been recently formed. Without further information regarding the amount of earthworks and the changes in ground level, it is unknown whether or not these earthworks breached the performance standards of Section 17 of the District Plan.

[181] The application states that all earthworks for building platforms and access tracks should be subject to checks by a geotechnical specialist to ensure that surface soils are not destabilised. All earthworks and the control of sediment will need to be undertaken in accordance with Industry best practice. The applicant expects that Council will impose a standard set of conditions for earthworks at the time of development. It is perhaps more appropriate to impose the conditions as a consent notice to be registered on the titles of the new lots, should consent be granted, as there might not be a need for an earthworks consent at the time of development (the land use consent for building will be a controlled activity under the Landscape rules of the District Plan and does not give scope for controls on earthworks).

[182] This consent does not address any earthworks for this subdivision associated with the development or redevelopment of the new lots, or earthworks for the formation of any new access, manoeuvring areas, or retaining walls (should any be required). Should future earthworks on-site breach the performance standards of Section 17 of the District Plan or any future planning document, further consent will be required. Land use consent will also be required for any structures, such as retaining walls supporting fill or surcharge, near to boundaries.

[183] Quarrying is a form of earthworks. In this case, the existing quarry operation has been the subject of several consents. RMA 2006-1124 (now renumbered RMA-2006-370881) was issued on 12 April 2007 in respect of CFR 207075, and set out 22

conditions for its operation. A subsequent application, LUC-2006-370881/B, attempted to vary the proposal by extending the quarry operations and changing the requirements for remediation of the western paddock. The consent was processed on a notified basis, and declined on 15 September 2015.

- [184] During the operation of the quarry, there have been a number of compliance issues arising where conditions of consent have not been met and/or there was a lack of clarity in the condition requirements. This has resulted in enforcement action being undertaken by the Council in 2015. The declining of LUC-2006-370881/B meant that the quarry had to remediate the works to comply with the original consent. A Quarry Remediation Plan was signed by the consent holder and the Resource Consents Manager on 2 June 2016.
- [185] The quarry consent needs to be revisited as part of the subdivision because the quarry will be contained within a new site. This consent process is not questioning the appropriateness of the quarry operation. There is no actual change to the quarry operation occurring with this proposal, and no real change to the quarry 'site' as the land directly related to the quarrying is only a part of the subject property anyway; the proposed subdivision will merely define the area of this activity more accurately.
- [186] The conditions of RMA-2006-370881 will be reimposed on this new land use consent. The first change will be to the management plan, and the second will be to condition 22 which sets a 'lapse' period of 20 years for the resource consent. This is incorrect terminology as a consent 'lapses' when it has not been given effect to within the lapse period. In this case, the consent has been given effect to, and rather, the condition seeks to place an end date on the quarry operations. The proposed change to the conditions will therefore make this requirement clearer, but make no actual change in fact. Council's Landscape Architect notes that the planting of native species instead of pine trees is likely to compromise the screening of the quarry from distant views, but will be a more acceptable view from any house.

Physical Limitations (18.6.1(k))

- [187] The proposed subdivision will create eight new residential sites. All of the proposed sites will be of practicable size and shape to accommodate a residential dwelling and curtilage. There is no real farming use of the new residential lots anticipated, given the size of the proposed sites. Council's Consulting Engineer, MWH, accepts that there is appropriate building platforms on all lots but requires further investigation of the building site on Lot 4, and has imposed controls over development of Lots 9 and 10.

Amenity Values (6.7.3)

- [188] The Resource Management Act 1991 defines 'amenity values' as:

"... those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes"

- [189] The proposal is for the development of Rural-zoned land with lots that are in accordance with Rural-Residential zone expectations. The proposal involves eight properties between 2.0ha and 6.7ha intended for residential use. It is unlikely any of these eight lots will be used for rural farming activity except possibly at a small scale. Given the nature of the topography and quality of soils, I do not expect intensive farming.
- [190] The amenity values of this location are defined by the rural and coastal environments, and the landscape form. It is also determined by the District Plan expectations for the use and development of this land. Change may be dramatic, but is not considered to be an adverse effect where anticipated by the District Plan. The District Plan zone rules anticipate sites of 15.0ha or larger, with one residential dwelling per site. The

Proposed Plan has promoted a minimum site size of 40.0ha, but anticipates residential activity on sites large than 25.0ha. The Landscape Section of the District Plan places controls on building, including siting of buildings, but does not anticipate no development of the landscape.

- [191] The applicant has discussed the amenity effects using assessment criteria 6.7.15 'Residential Units' of the District Plan. He then concentrates of the proposed density of development, discussing several possible scenarios for this subject property, as I also have done above in the section on Lot Sizes and Dimensions. While the proposed subdivision and residential development does not breach the density provisions of the District Plan overall, the landscape overlay for the area means that none of the proposed dwellings can be constructed as a permitted activity. The density of development argument therefore has some merit, but does not negate the landscape considerations of the proposal.
- [192] The applicant has also discussed the history of human occupation at this location and the twelve or so houses that have previously been scattered across the subject property. This development no longer exists, however, and has been absent from the landscape for possibly decades. I expect the original farm houses were also very modest affairs, whereas today's housing, generally speaking, would be much larger structures. The application seeks to distribute this new housing on the lower slopes of the property where there is already some residential development, and in locations where its visibility will be limited or managed. The application quotes Mr Moore, Landscape Architect, who concluded, '*It is my assessment that the proposal maintains and enhances rural character and associated amenity values*'.
- [193] A number of submitters disagree with this statement, with several commenting that development of a rural area cannot make it more rural i.e. enhance its rural character. The difference in viewpoints is perhaps explained by the application of the District Plan which does anticipate residential activity within a rural environment, and therefore, houses are not automatically contrary to rural amenity values if density is maintained. In this case, the Landscape Architect is also of the view that the landscape effects of the proposed housing will be acceptable. This does not mean that the proposed housing will be invisible on the landscape, but rather, the effects will not detract from the landscape values. I suspect that the submitters have a more idealistic viewpoint of a rural landscape being undeveloped.
- [194] The natural amenity values of this subject property are recognised as being significant through the landscape layers of both the District Plan and Proposed Plan. The effects of the proposed building sites on the landscape have been discussed above in the section on Landscape, and range from limited effects to quite major depending on visibility and positions of the future buildings on the hillside. While the finer details of the housing proposals need to be considered, the broad brush effect of scattered housing on this hillside is not unexpected for this rural environment. Again, this view is shaped by the application of the District Plan, and the fact that there are already existing structures low on the hillside. The higher and more visible the proposed housing is to be, however, the less acceptable it is in terms of landscape and rural amenity effects which is why I consider Lot 6 to be an exception to this observation, and Lots 4 and 8 to be questionable.
- [195] Rural amenity values are also related to the intensity of activity in the location, often evident in noise and traffic volumes and a general absence of people. Rural environments can be very noisy (farming is a form of industrial activity) and busy, but in this case, the low-density livestock farming and the nature of the roads (with no through-traffic) ensures that this rural environment is quieter than many. The quarry operation compromises this environment somewhat, but is an existing situation that does not change with this proposal.

- [196] Many opposing submitters, whether they are neighbours, dark sky observers, ecotourism operators or lodge owners, consider rural amenity will be adversely affected because the proposed development will introduce additional residents to the area. The proposed walking track will also bring visitors to the area, but this aspect of proposal has created less opposition. One supporting submitter identifies the proposed walking track as enhancing the area as a 'wonderful place' to live and exercise.
- [197] I agree that the proposed residential activity will to make the roads busier. The appropriateness of the roads for this increase in activity is discussed above in the section on Transportation, and is a different discussion to this one here which is more focussed on the presence of people and vehicles, and the resulting effects on the amenity of the area. In terms of effects on the residents of the area, the vehicle access to proposed Lots 1 and 2 will pass along the southeast boundary of 178 Papanui Inlet Road and will be approximately 50m from the house on that property. The driveway appears to be well screened from the house but vehicles are likely to be heard, even if not visible. The property owners of 178 Papanui Inlet Road have submitted on the application and seek to have the driveway to Lots 1 and 2 formed directly to Allans Beach Road. This will not only reduce effects on their property, but will mean that the vehicles associated with Lots 1 and 2 will need to pass fewer existing property gateways.
- [198] The proposed house site on Lot 10 will require vehicles to pass the residential cluster of 247 to 297 Cape Saunders Road. The owners and occupiers of at least six of these ten properties have submitted on the application (one neutral and the rest in opposition). The submitters discuss a variety of matters including effects on rural amenity and roading. These residences (some of which are holiday cribs) are all below Cape Saunders Road and not easily seen. Nor do they view the road. Any adverse traffic effects experienced by these property owners will be in regards to the vehicle numbers sharing the road with them and not, in my opinion, direct effects on their properties. I also note that the lodge introduces vehicular visitor traffic to the area, but opposes the application partly because of the traffic effects of the proposed houses, only one of which is situated beyond them on Cape Saunders Road.
- [199] The other proposed lots do not have any nearby neighbours who are not part of the subdivision or related in some way to the subdivision. Any adverse traffic effects generated by these new lots will be primarily due to the use of the roads and not direct effects on other residences.
- [200] Some submitters also believe that noise will be an issue, including reverse sensitivity noise issues relating to the quarry. I do not expect that the proposed residential activity will be particularly noisy for any reason, and certainly no reason to suppose it will be noisier than the existing residential activity in the area. It is likely to be quieter than many farming activities and the quarry operation. I also note that residential activity is an expected component of the rural environment, and it is primarily the density of the residential activity which affects the amenity and character of the area. In this case, the proposed lots are to be undersized, but will not result in more residential dwellings than would be expected for a development complying with the District Plan zone rules, or the eight houses that could be built on the existing sites of the subject site without subdivision. As a generalisation, it is my view that the effects on amenity of the proposed eight lots will be minor.

Reverse Sensitivity (6.7.26)

- [201] Should the proposed subdivision proceed, further resource consent is required for the existing quarry to continue operations on a reduced site. This is not a whole new assessment as to whether or not the quarry should be operating at this location; the consent for that has already been determined as acceptable by RMA-2006-370881 and LUC-2006-370881/A. Provided the reduced site does not compromise the ability of the quarry to function, its operation should continue much as before.

- [202] The introduction of new residential activity in the vicinity of the quarry, however, has the ability to create reverse sensitivity issues. This is particularly relevant for proposed Lots 1 to 4 which are the closest new sites. Lots 1 and 2 are expected to overlook the quarry, with the future house of Lot 2 being approximately 40.0m from the boundary of the quarry site. Even so, Lot 2 will be over 400m distance from the actual quarrying. Besides visual effects, there could be dust, vibration, and noise effects, although these will be mitigated in part at least by the distance involved.
- [203] The house of proposed Lot 3 is an existing residence and will be situated on the quarry site after subdivision. As such, it will be in common ownership with the quarry, and reverse sensitivity issues should not arise. Any conflict between the quarry and residents will be entirely within the property owner's means to resolve.
- [204] The access to the quarry from Cape Saunders Road will pass immediately below the house site of proposed Lot 4. Of all the proposed housing, this is the property which is most likely to be adversely affected by the quarrying operation as it is very possible trucks will be passing within 20.0m or so of the house. The trucks will raise dust, will create noise and vibration, and could create safety issues (particularly if there are children playing outdoors). The quarry has an access directly to Papanui Inlet Road which might be the predominant route for trucks. If so, the reverse sensitivity issues for a house on proposed Lot 4 will be less significant. However, unless there is some legal restriction placed on the use of the proposed right of way over Lot 4 (i.e. no trucks), the owners of Lot 4 will not have the authority to prevent trucks utilising the access past their house.
- [205] It is my opinion that the proposed subdivision could create reverse sensitivity issues for the quarry. In this case, the quarry is part of the subject property and not an adjoining land use, so the applicant has a vested interest in ensuring that the proposed residential properties do not adversely impact on the operation of the business. The applicant might consider a 'no complaints' covenant registered on the titles of the new lots, but it should be realised that such a document will be a private covenant which the Council will not administer. I do not consider that the effects on Lots 1 and 2 will be too significant, but the applicant might like to consider a restriction on the use of the right of way through proposed Lot 4 in order to minimise the risk of conflict arising.

Positive Effects

- [206] The proposed subdivision will provide rural-residential properties in a location of high natural beauty. There is a demand for such properties by people who seek a more private or solitary lifestyle while not wanting to actively farm. Lifestyle developments can result in loss of productive land because of residents having no desire or inadequate skills to manage a large rural property effectively. The proposed subdivision seeks to minimise this loss of productive worth by keeping the rural-residential lots small, and the farm block, large. If the applicant were to sell the existing titles to persons wanting lifestyle-type properties, the result would be the loss of the overall farming operation and possible degradation of the landscape through lack of management of the pastoral land, while achieving a similar distribution of housing across the landform.
- [207] The applicant seeks to covenant areas of environmental benefit. Almost all of the Allans Beach Road side of the property will be covenanted as wetland or for indigenous vegetation. There will also be plans put in place for the management and enhancement of these areas. This is considered beneficial for the ecological values of the area.

Cumulative Effects

- [208] The nature of cumulative effects is defined in *Dye v Auckland Regional Council I* [2002] 1 NZLR 337, as the " ... *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*".
- [209] The applicant is of the opinion that the proposal will not give rise to significant cumulative effects. The development overall is in accordance with the anticipated density for this land area, the landscape effects have been assessed by Mr Moore as being no more than minor, and there will be '*... significant positive ecological benefits*'. Some submitters have a differing viewpoint and consider that cumulative effects will be substantial without necessarily identifying what those effects will be. One submitter refers to the cumulative effects on the roads making them '*... even more dangerous*', another refers to cumulative effects in respect of density and amenity matters, and a third talks of detrimental cumulative effects where enhancement of biodiversity area is used as justification to subdivide pastoral land.
- [210] Notwithstanding the creation of the undersized lots, the density of residential development across the subject property will be more or less in accordance with the expectations of the Rural zone, and could be achieved by building on existing sites without subdividing at all. As such, I do not consider that the eight proposed dwellings on this land area will have cumulative effects on the rural zone. The situation is less clear cut in respect of the Proposed Plan, but even then, up to six residential dwellings could be established on the subject property with subdivision into 40ha lots, and four residential dwellings on the existing titles without subdivision. This Proposed Plan is not yet operative, and therefore the rules carry less weight than the current District Plan.
- [211] No houses can be built on this landscape without resource consent, but dwellings are not unexpected within the landscape, and the resource consent process seeks to minimise the visual effects. Looking at Mr Moore's panoramas in the Landscape report, it is possible that no more than six of the new houses will be visible at any one time (and even then, some houses are likely to be screened from the viewer). The houses will be relatively low on the landform with the exception of proposed Lot 6. In terms of cumulative effects of development on the landscape, I am of the view that the cumulative effects will be limited because of the number of new houses that will be visible at any one location, their positions on the hillside, the screening of some of the houses, and the distances involved when viewing them from across Papanui Inlet.
- [212] The Dark Skies interest groups are particularly concerned about the possible cumulative effects of lights on the landscape, although most have not voiced their opposition in that form. Nevertheless, that is their main issue in a nutshell. There are already houses along this stretch of the coastline, so it is likely that lights are already present during the evening hours. The eight new residential units, however, have the potential to create cumulative effects by increasing the amount and intensity of lighting. Again, there will be a limited number of houses visible from any one viewpoint, and there are means of mitigating their light effects (although these might be difficult to enforce). It is my opinion that there will be some adverse cumulative effects on the dark landscape. The scale of these adverse cumulative effects will depend on the brightness and duration of the lighting, and may not be significant if the lights are controlled appropriately and turn off completely late evening.
- [213] It is my opinion that the proposed subdivision will have adverse cumulative effects on the roading in the area which are more than minor. None of the roads of Papanui or Hooper Inlets are suitable for large volumes of traffic; nor are normal road speeds appropriate given the narrowness of the formation, the metal surfacing, and the

limited visibility in many places. The proposed subdivision will introduce an additional eight dwellings to this location which, at an estimated eight traffic movements per day per house, equates to a further 64 vehicle trips on these roads. While this number is not large, it is quite an increase in vehicle numbers for this environment.

- [214] The proposed housing will not affect enough land or the coastline for the cumulative effects on biodiversity to be more than minor, in my opinion. There is a vast area of undeveloped pastoral land remaining in place after subdivision, and the flora and fauna of this habitat will still have plenty of space. The protection and enhancement of the wetland areas and regenerating bush is expected to be beneficial to the ecology of the area. Finally, the position of the proposed housing above, and separated from, the coastal edge of the inlet is not expected to have adverse cumulative effects on the habitat of the marine species in the area.

Sustainability (6.7.1)

- [215] The District Plan seeks to enhance the amenity values of Dunedin and to provide a comprehensive planning framework to manage the effects of use and development of resources. It also seeks to suitably manage infrastructure.
- [216] It is my opinion that the proposed subdivision is not sustainable use of rural land in that it will create eight significantly undersized sites that will have little or no rural productive value or use. Most of the proposed house sites are located on pastoral farm land which is currently used for productive purposes. Up to 28.5ha of productive land will be removed from the present farm operation (although a portion of this land is wetland, vegetated or too steep for farming use currently) by the creation of the rural-residential style lots.
- [217] The applicant notes that the farm is marginal as an economic unit, and that the freeing up of some capital through subdivision will assist in ensuring its viability into the future. Making the property smaller, particularly if the land being removed is some of the better land, is unlikely to improve the sustainability of the farming operation long term, although there could be a capital injection into the property which improves the productivity in the short term at least. The subdivision seeks to hold the majority of the subject property in one large site of 194ha for the purposes of farming. This is a more sustainable use of farm land than smaller farm blocks of 15.0ha or 40.0ha are likely to be. However, the neither the District Plan nor Proposed Plan provides for subdivision of rural land into one large site and multiple small sites while maintaining an overall compliant density. I do not consider that the proposed subdivision is entirely sustainable use of the farm land.
- [218] The applicant proposes protection and enhancing existing wetland and indigenous vegetation areas. While these are existing features of the landscape, the formal and active management of these areas is expected to improve their quality. The proposed subdivision is considered to be sustainable use of these features and habitats.
- [219] The proposal is considered to be sustainable in ecological terms. The proposed housing will be away from the coastal edge, and is unlikely to adversely impact on the marine and coastal environment directly. There will still be ample pastoral farm land and vegetated areas, and the housing will not impact on the wetlands. The introduction of additional people, vehicles and domestic animals does have the potential to adversely affect the sustainability of wildlife in the area if the intensity of activity increases to the point where wildlife declines in numbers through death, migration or reduced breeding opportunities. Of these factors, I believe that domestic pets are likely to be the most influential on the existing wildlife.
- [220] I do not consider that the proposed additional housing will be sustainable use of the roads. The roads are narrow and very rural in nature, but the increased residential activity will result in increased traffic on these roads, and very likely in increased

expectations that the roading will be upgraded by Council. The application does not promote any upgrading of the existing roading as part of this proposal. I note that increased tourism and recreational activities in this location will also impact on the sustainability of the roads, but there is no expectation that those groups will contribute to the upgrading of the roads except in a general way through rates.

- [221] Some of the proposed house sites are not, in my opinion, in appropriate locations for the sustainability of the outstanding natural landscape. I consider that Lot 6 is too high on the hillside, and Lots 1, 2, 4 and 8, in particular, are quite visible. The housing is to be situated relatively low on the landscape and the applicant has promoted mitigation measures in order to reduce the visual impact on the proposed housing. Mostly, the housing will be viewed from across the inlet, and distance will also mitigate the visual effects. Therefore, most of the proposed building sites are acceptable in terms of the sustainability of the quality of the outstanding natural landscape, but not all. There are also the night time effects of lighting across a dark landscape to consider, as lights will be much easier to see over distance and could impact on the quality of the night sky for viewing. The lower and more discrete the housing lights are, the less likely they are to impact negatively on the sustainability of the night landscape and sky.
- [222] The quarry operation is an existing situation which will not change with this proposal except in terms of its 'site'. In fact, the area used by the quarry is not reducing in any way. The existing quarry consent has a sunset clause requiring quarrying to cease by 12 April 2027, and the sustainability of the quarry is therefore limited in any case.
- [223] There is no existing reticulated services in the area, and the proposed subdivision and residential development will not have any impact on the sustainability of Council's services.
- [224] Council's Consulting Engineer, MWH, has advised that there are suitable building platforms on the proposed lots subject to some controls on specific building platforms.
- [225] Overall, I am of the opinion that the proposed subdivision and residential development will not be fully sustainable use of Dunedin City's physical and natural resources. The fragmentation of a rural property into smaller rural-residential sites will reduce the productive potential of the land, although it is acknowledged that the bulk of the land will remain in a single property and will continue as a largely sustainable farm operation. The proposal is not sustainable use of roading, will have some impacts on the landscape (night and day), and could have impacts on the sustainability of wildlife. The proposal will be sustainable in terms of wetland and vegetation environments as these will be protected and enhanced.

6. OBJECTIVES AND POLICIES ASSESSMENT (Section 104(1)(b))

- [226] Section 104(1)(b) requires the consent authority to have regard to any relevant objectives, policies and rules of a plan or proposed plan. The Dunedin City Council is currently operating under the Dunedin City District Plan, and the Proposed Second Generation District Plan has been notified. The objectives and policies of both Plans have been taken into account. The following section of the report assesses the proposal against the relevant objectives and policies of both plans.

Dunedin City District Plan

Sustainability

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 4.2.1	Enhance the amenity values of Dunedin.	It is my opinion that the proposal will not maintain the Rural character or amenity values of this area because it seeks to create rural-residential style lots in a rural zone. Having noted that, the overall number of houses proposed is more or less consistent with the number anticipated for this subject property. Overall, the proposed subdivision is considered to be inconsistent with this objective and policy.
Policy 4.3.1	Maintain and enhance amenity values.	
Objective 4.2.2	Ensure that the level of infrastructural services provided is appropriate to the potential density and intensity of development and amenity values.	The new lots will be self-serviced, and will utilise existing roading infrastructure. While there is no issue with the servicing of the residential lots, the public roads are at substandard formation and are narrow. The increased use of the road is unlikely to be sustainable without upgrading works. None are proposed as part of this application. Accordingly, I consider that the proposed subdivision and land use proposals are inconsistent with these objectives and policies.
Policy 4.3.2	Avoid developments which will result in the unsustainable expansion of infrastructure services.	
Objective 4.2.3	Sustainably manage infrastructure.	
Policy 4.3.5	Require the provision of infrastructure at an appropriate standard.	
Objective 4.2.4	Ensure that significant natural and physical resources are appropriately protected.	
Policy 4.2.4	Provide for the protection of the natural and physical resources of the City commensurate with their local, regional and national significance.	The proposed subdivision of the subject site does not, in my opinion, protect the natural and physical rural land resource. There are implications for the Peninsula Coast Outstanding Natural Landscape Area, particularly Lot 6 which is the highest of the proposed building sites. The dark skies are also at some risk from insensitive and/or inappropriate lighting. The proposal seeks to protect the rural farmland resource by containing it within the one title. Overall, the proposal is considered to be inconsistent with this objective and policy.
Policy 4.3.7	Use zoning to provide for uses and development which are compatible within identified areas.	The residential use of the land is not considered to be incompatible with rural land uses generally. There is no expectation that the proposed residential activity will be any more incompatible with rural land uses than the permitted and historic residential activity which is already present in this location. The proposal is considered to be consistent with these policies.
Policy 4.3.8	Avoid the indiscriminate mixing of incompatible uses and developments.	
Policy 4.3.9	Require consideration of those uses and developments which: <ul style="list-style-type: none"> a. Could give rise to adverse effects. b. Give rise to effects that cannot be identified or are not sufficiently understood at the time of preparing or changing the District Plan. 	

Manawhenua

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 5.2.1	Take into account the principles of the Treaty of Waitangi in the management of the City's natural and physical resources.	The proposal has been assessed using the protocol established between Kai Tahu ki Otago and the Dunedin City Council. Te Runanga o Otakou has made a neutral submission on the

Policy 5.3.2	Advise Manawhenua of application for notified resource consents, plan changes and designations.	proposal. The proposal is considered to be consistent with this objective and policy.
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Rural/ Rural Residential

	Objective/Policy	<i>Is the proposal Consistent with or Contrary to the Objective?</i>
Objective 6.2.1	Maintain the ability of the land resource to meet the needs of future generations.	The subdivision proposal is considered to be inconsistent with this objective and policy. The subject property is comprised of multiple titles which are farmed as a unit. The proposed subdivision will create eight undersized rural lots for residential use. By retaining the bulk of the land in one site, the applicant will maximise the productive potential of the farm land, but only be creating lots with little or no productive worth.
Policy 6.3.1	Provide for activities based on the productive use of rural land.	
Objective 6.2.2	Maintain and enhance the amenity values associated with the character of the rural area.	The amenity and character of this rural area is largely defined by the dramatic landscape, the coastal environment, and a relatively low-level of residential development. The proposed development of the proposed sites will introduce eight new residential units into the area. The applicant seeks to minimise and mitigate the effects of this development on the amenity values of the area, but a number of the building sites are considered to be too prominent for this to occur. The house sites will, overall, cover a minor portion of the landscape, and the predominance of natural features will remain, although there will be human made features where previously there were none. The proposal will retain the unsealed roads, there will be a general absence of urban infrastructure, and the population density will remain low. It will also be in accordance with the expectations for the Rural zone, but not the Rural – Peninsula Coast zone. The proposal is considered to be inconsistent with this objective and these policies.
Policy 6.3.5	Require rural subdivision and activities to be of a nature, scale, intensity and location consistent with maintaining the character of the rural area and to be undertaken in a manner that avoids, remedies or mitigates adverse effects on rural character. Elements of the rural character of the district include, but are not limited to: a) a predominance of natural features over human made features; b) high ratio of open space relative to the built environment; c) significant areas of vegetation in pasture, crops, forestry and indigenous vegetation; d) presence of large numbers of farmed animals; e) ... f) Low population densities relative to urban areas; g) Generally unsealed roads; h) Absence of urban infrastructure.	
Policy 6.3.6	Avoid, remedy or mitigate the adverse effects of buildings, structures and vegetation on the amenity of adjoining properties.	
Objective 6.2.4	Ensure that development in the rural area takes place in a way which provides for the sustainable management of roading and other public infrastructure.	The proposed subdivision is not considered to sustainably manage the existing Council roading infrastructure. There are no other public services in the area. The proposal is considered to be inconsistent with this objective and policy.
Policy 6.3.8	Ensure development in the Rural and Rural Residential zones promotes the sustainable management of public services and infrastructure and the safety and efficiency of the roading network.	
Objective 6.2.5	Avoid or minimise conflict between different land use activities in rural areas.	The proposals are considered to be generally consistent with this objective. The proposed residential activity is not expected to conflict with any of the adjoining rural farming activities, but could have some impact on the wildlife of the area.

Policy 6.3.9	Ensure residential activity in the rural area occurs at a scale enabling self-sufficiency in water supply and on-site effluent disposal.	The proposed subdivisions will create lots which are expected to be self-sufficient for water supply and effluent disposal. On the basis of available information, the proposal is considered to be consistent with this policy.
Policy 6.3.11	Provide for the establishment of activities that are appropriate in the Rural Zone if their adverse effects can be avoided, remedied or mitigated.	Residential activity is an expected component in the Rural Zone, although not on sites at the sizes proposed by this application. While the overall density of proposed residential development is in accordance with expectations of the District Plan, the purpose of the subdivision is to create rural-residential style properties. It is my opinion that the nature of the subdivision is not appropriate for the zoning, and therefore is inconsistent with this policy.
Policy 6.3.12	Avoid or minimise conflict between differing land uses which may adversely affect rural amenity, the ability of rural land to be used for productive purposes, or the viability of productive rural activities.	The proposed subdivision is unlikely to create conflict between the proposed housing and the existing farming operation. In this regard, the proposal is considered to be consistent with this policy. It is possible that the additional housing will create reverse sensitivity issues for the operation of the quarry, which is not a rural productive activity but is a consented industry for this location.
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)	It is my view that the subdivision of the subject sites will have cumulative effects which are more than minor, and the proposal is therefore inconsistent with this policy.

Landscape

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives?
Objective 14.2.1	Ensure that the City's outstanding natural features and landscapes are protected.	The subject site is within the Peninsula Coast Outstanding Natural Landscape, and it is important that the landscape be protected. This does not mean that development is not anticipated for this land, but the District Plan seeks to control its effects. Council's Landscape Architect considers the adverse effects on the landscape will be more than minor in the short term, becoming less significant over time and possibly being negated or improved if all the mitigation measures are employed. The proposed subdivision will introduce eight new residential units on the landscape, some of which will be relatively prominent on the landscape. I consider that the proposal will be inconsistent with this objective and policy.
Policy 14.3.1	Identify Dunedin's outstanding landscapes, and identify and protect their important characteristics (as listed in part 14.5.1 of this section).	
Objective 14.2.3	Ensure that land use and development do not adversely affect the quality of the landscape.	While the Rural zone and Rural – Peninsula Coast zone rules anticipate development of this land at more or less the development proposed, I consider that the proposed subdivision will introduce development that will not fully integrate with the landscape, particularly Lot 6, because of its position on the hillside and general prominence on a largely undeveloped landscape. The proposal is considered to be inconsistent with these objectives and policies.
Policy 14.3.3	Identify those characteristics which are generally important in the rural area (as listed in part 14.5.3 of this section) and ensure they are conserved.	
Objective 14.2.4	Encourage the maintenance and enhancement of the quality of Dunedin's landscape.	
Policy	Encourage development which integrates	

14.3.4	with the character of the landscape and enhances landscape quality.	
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Hazards

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 17.2.1	Ensure that the effects on the environment of natural and technological hazards are avoided, remedied or mitigated.	Geotechnical investigation of the sites has satisfied Council's Consulting Engineer that subdivision consent should not be declined for reasons to do with land stability, although some lots still require further investigation, design and supervision at the construction phase. The proposal is considered to be consistent with this objective and policy.
Policy 17.3.2	Control building and the removal of established vegetation from sites or from areas which have been identified as being, or likely to be, prone to erosion, falling debris, subsidence or slippage.	
Objective 17.2.3	Earthworks in Dunedin are undertaken in a manner that does not put the safety of people or property at risk and that minimises adverse effects on the environment.	No earthworks have been applied for as part of this subdivision and land use proposal, but will be required in order to develop the proposed building platforms, and some of the accesses. Council's Consulting Engineer has recommended a number of controls for earthworks, particularly in regard to proposed Lots 9 and 10. The future earthworks, if managed appropriately by a suitably qualified person and confined to stable areas, are not expected to destabilise the hillside, but could have adverse effect visually on the landscape.
Policy 17.3.9	Control earthworks in Dunedin according to their location and scale.	

Subdivision

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 18.2.1	Ensure that subdivision activity takes place in a coordinated and sustainable manner throughout the City.	The proposal seeks to subdivide a large farming property held in multiple titles into eight significantly undersized lots and one large farm block. In one sense, the proposal does not fragment the rural land as the farm will still be a significant unit. In the other, it will fragment farmland into very small rural properties for residential use. By using an overall density calculation to justify the undersized lots, the applicant will be unable to further develop or subdivide the large site. The proposal is considered to be inconsistent with this objective and policy.
Policy 18.3.1	Avoid subdivisions that inhibit further subdivision activity and development.	
Policy 18.3.3	Allow the creation of special allotments that do not comply with the subdivision standards for special purposes.	There are no special allotments to be created.
Policy 18.3.5	Require subdividers to provide information to satisfy the Council that the land to be subdivided is suitable for subdivision and that the physical limitations are identified and will be managed in a sustainable manner.	The applicant has provided three geotechnical reports. This policy is concerned with process.
Policy 18.3.6	Control foul effluent disposal and adequately dispose of stormwater to avoid adversely affecting adjoining land.	Submitters have raised concerns about stormwater and effluent disposal causing damage to the environment. Council's WWS department has not expressed any concerns about the effects of drainage. In the absence of any definite specialist advice to the contrary, the proposal is considered to be consistent with this policy.
Objective 18.2.2	Ensure that the physical limitations of land and water are taken into account at the time of the subdivision activity.	The proposal has been submitted with three geotechnical reports, and building platforms have been selected in part for land stability purposes. The proposal is considered to be

		consistent with this objective.
Objective 18.2.3	Ensure that the potential uses of land and water are recognised at the time of the subdivision activity.	The use promoted by the applicants for the eight new undersized lots does not recognise the rural land potential of the sites and is not in accordance with the District Plan expectations of the zone. Having said that, the applicant seeks to retain the bulk of the land in one title to maintain its farming potential. The proposal is considered to be inconsistent with this objective.
Policy 18.3.4	Subdivision activity consents should be considered together with appropriate land use consent and be heard jointly.	The subdivision consent application is being heard with the associated land use application for residential activity and technical breaches.
Objective 18.2.6	Ensure that the adverse effects of subdivision activities and subsequent land use activities on the City's natural, physical and heritage resources are avoided, remedied or mitigated.	The subdivision will impact on the Outstanding Natural Landscape. The applicant's consultant has recommended a suite of controls on development in order to minimise the visual effects of the proposed development. The housing will be low on, and scattered across, the landscape, although in my opinion Lot 6 is too high to be fully discrete. This proposal is considered to be inconsistent with this objective.
Objective 18.2.7	Ensure that subdividers provide the necessary infrastructure to and within subdivisions to avoid, remedy or mitigate all adverse effects of the land use at no cost to the community while ensuring that the future potential of the infrastructure is sustained.	The proposal is for new development of Rural land where the proposed lots are to be self-serviced. There will be no need for an extension of service infrastructure to serve the subject sites. However, the roads are considered to be inadequate for rural-residential development and will require upgrading. No upgrades have been promoted by the applicant. The proposal is considered to be inconsistent with this objective and this policy.
Policy 18.3.7	Require the provision of all necessary access, infrastructure and services to every allotment to meet the reasonably foreseeable needs of both current and future development.	
Policy 18.3.8	Control foul effluent disposal and adequately dispose of stormwater to avoid adversely affecting adjoining land.	There is no expectation that effluent and stormwater disposal will destabilise the land and adversely affect adjoining land. The applicant should consult with the Otago Regional Council. On the basis of information available, the proposal is considered to be consistent with this policy.

Transportation

	Objective/Policy	Is the proposal Consistent with or Contrary to the Objective?
Objective 20.2.1	Avoid, remedy, or mitigate adverse effects on the environment arising from the establishment, maintenance, improvement and use of the transportation network.	The proposed subdivisions will utilise existing roading and some private access infrastructure. There will be several new driveways formed and/or upgraded. The Planner/Engineer – Transport has assessed the access options and has concerns about the standard of the existing roading infrastructure. The roads are narrow and metalled, and there is no proposal to upgrade them as part of this application. Accordingly, the proposal is considered to be inconsistent with these objectives and policies.
Policy 20.3.1	Avoid, remedy or mitigate the adverse effects on the environment of establishing, maintaining, improving or using transport infrastructure.	
Policy 20.3.2	Provide for the maintenance, improvement and use of public roads.	
Objective 20.2.2	Ensure that land use activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.	
Policy 20.3.4	Ensure traffic generating activities do not adversely affect the safe, efficient and effective operation of the roading network.	