

In the Matter of the Resource Management Act 1991

And

Application for Coastal Permits Applications ORC RM17.229.01 – RM17.229.03 and Land Use Consent DCC LUC 2017-408: Peter Ronald Graham, to establish a Hole in One Golf Activity with food/beverage and bike/seacraft hire facilities at Vauxhall, Dunedin Harbour and Reserve.

Decision of the Hearing Panel

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1. Introduction

This is the decision of a hearing committee comprising Cr Gretchen Robertson (chair), Cr Ella Lawton appointed by the Otago Regional Council (ORC) and Ms Ros Cleavin-Day appointed by the Dunedin City Council (DCC) to hear and decide an application by Peter Ronald Graham (the applicant) to establish and operate a Hole in One and other activities in a reserve adjacent to the Vauxhall Yacht Club. The proposal includes a caravan for selling drinks and food, bicycle & seacraft hire and the teeing off places on the reserve. The golf holes are to be in a pontoon that is anchored to the sea bed approximately 95 metres offshore.

The hearing was held in the Edinburgh Room of the DCC Municipal Chambers on Monday 19 February 2018. We adjourned the hearing mid-afternoon having heard from the applicant, submitters, the reporting officers and having heard the applicant's right of reply. We requested further information from the applicant about the nature and biota of the sea bed in the strike zone and the likely effect on it from the activity of retrieving the golf balls. This information was provided on 5th April. The information was sent to submitters for comment by the close of 16th April. The applicant was invited to provide a right of reply to those comments by close of 24th April. The applicant responded on 23rd April.

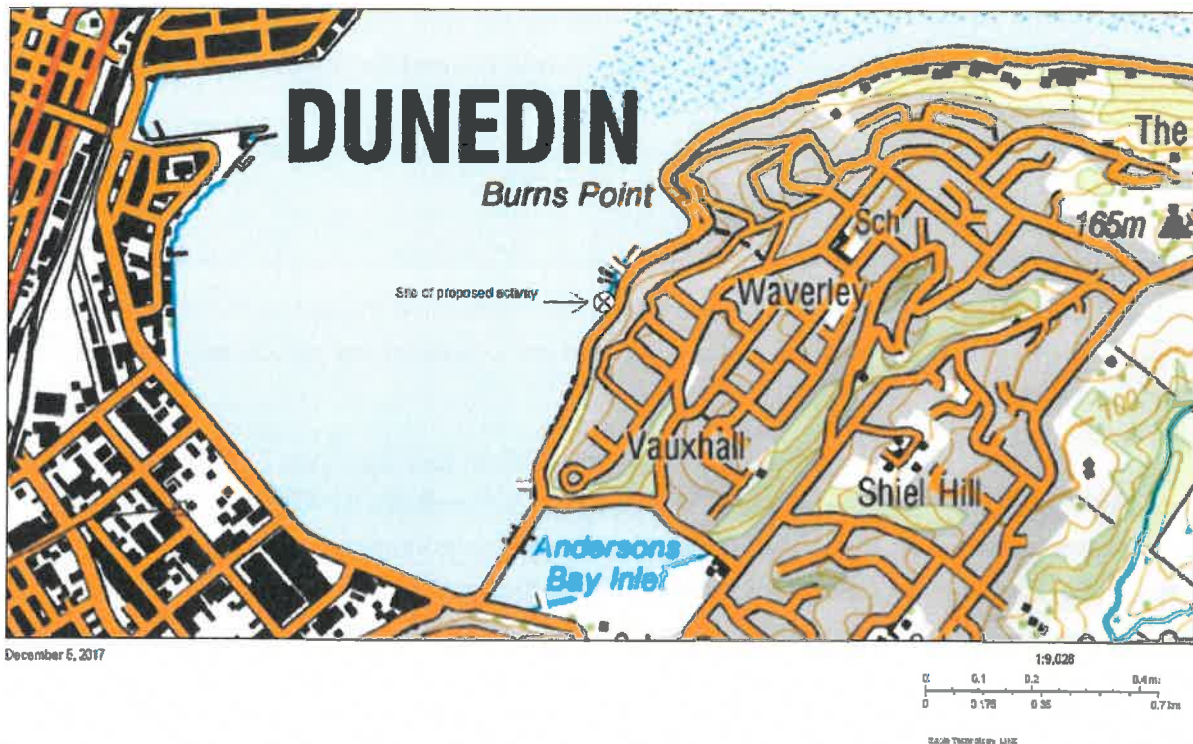
We carried out a site inspection before the hearing on 19 February.

2. The Proposal

2.1 Background

The golf proposal is to mimic the golf challenge that has operated in Lake Taupo since 1993. The activity would involve the placement of a moored pontoon 95 metres (m) off shore containing target holes. Golf balls would be struck from the shore with the intention of getting a hole in one. In addition to the golfing activity, the applicant intends to serve coffee and food from a caravan and provide bike and seacraft rentals from the site. The applicant has sought land use consent from the DCC to authorise aspects of the proposal that are regulated by the Dunedin City District Plan. Consent from the ORC is sought for the placement of the pontoon and occupation of the harbour for the pontoon, the strike zone (when balls are hit) and the disturbance of the bed while retrieving golf balls. The proposal includes retrieving the golf balls from the harbour.

The location is shown in the map below:



This is a recreational tourism activity which is to take place on a Department of Conservation owned reserve that is managed by the DCC. The address is 139 Portobello Road.

Details of the aspects of the proposal are set out in the application, and S42A reports prepared by both councils. In summary:

- The hours of operation proposed are 7 days per week and 6.30am to sunset or 10pm in summer (November to April) and 6.30am to 8pm in Winter (May to October).
- The teeing off area will have a concrete base with mats over it. There will be three teeing places. The mats, balls and clubs will be removed when the activity ceases each day.
- A 3-sided 1 metre high barrier will be behind the strike area to contain sliced shots.
- A floating pontoon will be 8m x 12m, 1.3 – 1.5 metres high made of steel and plywood. There will be three golf holes on it, each marked with a flag. It will have a solar powered camera and signage across the front of the pontoon. Reflectors and bird deterrents will be installed.
- The pontoon will be moored with two mooring blocks and remain in place continuously.
- The sports equipment (kayaks, canoes and bikes) hire and caravan will be in 3 existing car parks within the reserve.
- Customers and staff will utilise off-site toilet facilities which are on the northern side of the Yacht Club.
- A spotter is proposed who will cease golf activity when a person, birds, animals, or vessel is in, or is approaching the strike zone.
- The strike zone is expected to be 1.06 Ha
- Balls will be counted as they are given to customers, and as they are retrieved. There could be up to 10,000 balls struck per week. (10 customers per hour with 20 balls each during peak times).

- Balls will be retrieved regularly by divers. The further information indicated that wading to retrieve balls is not recommended and divers should be used for this except within 5 metres of the shore.
- There will be signs at the entrance to the reserve, on the caravan and on the pontoon.

3. Preliminary Issues

The applicant gave contact details of his company on the application instead of his own details. This information was publicly notified and on line. No person raised any issues, nor was adversely affected by this detail.

The Vauxhall Yacht Club stated on their written approval form that they own 153 Portobello Road. In fact they own the building that is located adjacent to 153 Portobello Road, and the land at this address is a reserve owned by the Dunedin City Council and adjoining the application site. This does not affect the validity of the written approval from the Yacht Club as occupiers of the adjacent site.

The original written approval by Richard Paterson the owner of 137 and 141 Portobello Road identified the property owned as including the reserve land on which the application is proposed. Mr Paterson has corrected this.

4. Evidence for Applicant

4.1 Peter Graham is the applicant. He gave details of living close to the activity, his knowledge of navigation and water sports, the harbour and his traffic management business. He discussed the potential for tourist activities in an underused harbour and how the golf proposal fits well with the site. He discussed the consultation undertaken. Mr Graham described the positive effect on employment, use of the reserve and little effect on existing harbour users.

In response to submissions Mr Graham said the golfing would not start before 9.00am to allow for rowing practice in the area. He noted it will be impractical to move the pontoon each day, and that existing moorings if occupied could also interfere with rowing. He engaged a noise consultant after concerns were raised about that effect from golfing. He noted that he cannot control human noise and will not be serving intoxicated persons.

He described regular events at the Yacht club noting that several submitters' photos of activity in the area were taken during large events. He noted the boat ramp is outside of the golf strike zone and golf will cease when the spotter sees a craft in the strike zone.

Mr Graham queried the need for review conditions other than for traffic effects, when conditions control all other effects. He noted Mr Horrell had recommended a 15 year term for the coastal consents and sought 25 years.

He concluded with a summary of his statement noting the importance of sharing harbour space, and his experience in health and safety and traffic management.

4.2 James Taylor is a Planner at Beca consulting. He described the activity, agreeing with the descriptions in the s42A report and noting it is a low impact tourism activity. At peak times there would be 2-3 staff and 10 persons per hour teeing off. He said noise levels will meet $L_{Aeq(15min)}$ 46dB at the nearest residential boundary. There will be a 1 metre removable safety barrier around the tee off area and a spotter to control golf activity when other harbour users are in the strike zone. He said golf balls will be retrieved by a diver or wader on a weekly basis. He proposed a management plan for this activity prior to exercise of the consent. He clarified that only one sign would be provided in accordance with the DCC Landscape Architect's recommendation. Below ground power will be provided to the caravan, which will have "Otago Harbour Golf Challenge and Café" printed across the top of it.

Mr Taylor agreed with the S42A reports' assessment of the status of the applications; that the DCC application was non complying. The ORC assessment of applications was discretionary. Consent was not required for the deposit of golf balls on the seabed.

Mr Taylor considered the actual and potential effects to be minor; that the pontoon is small and comparable with a moored vessel, noting that existing rowing lanes are in areas where there are unoccupied moorings. He noted that there is a 5 knot speed restriction in the area which will reduce likelihood of collisions.

He said the Operations and Management Plan yet to be provided will detail spotter activity and Health & Safety provisions. During question time he added that this plan could also include golf ball retrieval procedures.

Mr Taylor rejected the ORC recommendation for a 15 year term, noting that the reasons for such restriction were fanciful or could be addressed via review conditions and requested the 25 year term as sought.

Mr Taylor noted some inconsistencies in recommendations for the colour to be applied to the sides of the pontoon, and concluded that signage on three sides of the pontoon would be light in colour with 300mm high blue letters.

For noise effects Mr Taylor noted the owners of the two closest residences had given their written approval. He noted that compliance with DCC operative plan rules will not effectively control the noise and the use of the L_{Aeq} for assessing and imposing limits on noise, and voluntarily adding a 5dB special audible characteristic penalty for the golf striking sound was appropriate, measurable and enforceable at $L_{Aeq(15min)}$ 46 dB. He noted concerns about noise from intoxicated person, and said that Health and Safety requirements would prevent people in that state from using the facilities.

Mr Taylor said visual effects of the caravan and equipment hire would be minimised by keeping them within a footprint with minimal signage. Existing vegetation also helps limit visibility of these. He said the flush concrete pads and removable barrier at the tee off area minimises visual effects.

Mr Taylor said that recreation amenity on the existing reserve will be affected by occupying two car parks with the caravan and equipment hire, occupying the tee off area and temporarily occupying the strike zone over harbour water. He said the small scale of the activities and the ability to remove most of the facilities quickly ensures a minor effect on recreational amenity.

Mr Taylor said two of the existing car parks will be lost and the golf activity and coffee caravan could attract customers in cars seeking parks for a short time. Those using hire equipment may park for longer times, in keeping with current use of parks in this reserve. He agreed with the DCC recommendation that potential transportation effects could be reviewed.

Mr Taylor addressed some issues in his Appendix 2 to his evidence in response to submissions and in addition to information provided in the application. These relate to intoxicated persons, confining activities within a footprint, not having queuing, noise, signage and Health & Safety matters.

Mr Taylor agreed with the statutory assessments in the s42A reports except for Ms Shipman's assessment of noise.

In assessing alternatives Mr Taylor noted site selection took into account proximity to the coastal area, car parking, connection to walkways, consultation with Iwi and recreational groups. The other sites were either occupied by moorings, windsurfers or had insufficient parking.

Mr Taylor noted the proposal is consistent with s5 of the RMA; that in considering s6 the area is already significantly modified and that under s7 a reclaimed area is being utilised. For s8 there has been consultation with Aukaha who have accepted proposed conditions of consents.

Mr Taylor said concerns in submissions had been addressed in s42A reports and his evidence, and some amended conditions are proposed.

Mr Taylor said at low tide balls could be retrieved by wading and sought a change to conditions to provide for that. He sought a change to the noise level condition, explaining that $L_{Aeq}(15min)$ 46 dB will provide better protection from noise nuisance. He requested that the caravan remain on site and it is unlikely the trailer with hire equipment would be left there.

He concluded that this new tourist activity will encourage greater use of the Otago Harbour, that both s42A reports state effects will be minor; that as the activity is novel, an Operations Plan that can be reviewed is appropriate. He said that consents can be granted and asked that his updated conditions in appendix 2 of his evidence are included in the consents.

In supplementary evidence Mr Taylor said during major yacht club events, car parking extends to side streets off the Peninsula Road. He said Mr Graham will comply with any management plan during such events, and the proposed activity will not cause a noticeable increase in parking congestion. He added that during such events there are often temporary food and coffee vans, and the presence of the caravan proposed in this application will provide such service in major events.

In answering questions Messrs Graham and/or Taylor said

- He had not consulted with High School rowing clubs and hoped the public notification and site notice would allow their involvement if they had concerns.
- He had consulted with a windsurfing club that did not oppose the proposal.
- That maximum use would be 10 people teeing off per hour.
- That the reserve is currently used by people eating food there, and campervans.
- The golf strike will be limited by the size of golf club.
- That the proposal is not viable if the golf activity is removed from the application.

5. Evidence of Submitters

5.1 Haley van Leeuwen said she lived at 132 & 134 Portobello Road 150 metres from the Vauxhall Yacht club. She said the area is unique in Dunedin and used by paddle boarders, walkers and people eating food or taking photos. She said there will be negative impacts in this residential area; she can already hear people on the walkway and there will be more noise from drunken people, and Stag parties. She was concerned about the sound of waves lapping against the pontoon and the sound of balls being struck. She referred to unruly behaviour at the Taupo hole in portrayed on social media and did not want similar in an area that attracts families. She noted a noise fence proposed around the tee off area and was concerned about its visual impact. She said 2,400 balls per day could be hit or 17,000 per week which is too much activity, especially at night when the noise will interfere with normal evening activities at home. She was concerned people will stop using the area which is well used in summer.

Answering questions she said

- Her house is elevated above the site with different views of the harbour from different windows. That the noise will affect outdoor activities
- There are Vauxhall club events 1-2 times per month with sometimes large groups turning up.
- She has not heard a megaphone being used, but can hear starter gun noise.

5.2 Craig Latta said he operated Water Cooled Sports and is familiar with the use of the site and strike zone. He said the harbour floor is very muddy and doubted if golf balls could be seen to be retrieved. That in any case there is a UN agreement about not putting golf balls in the sea. He was concerned about uncontrolled people using the facility after hours with their own clubs with drinking and accidents with balls hitting people.

Mr Latta said the strike zone is a sheltered area where he takes paddle boarders and he will not be able to use the area any more. He said the pontoon will be a hazard to windsurfers and kayakers especially when national events are on.

Answering questions Mr Latta said

- He takes paddle boarders into this area when it is windy
- That windsurfing and Sunburst events start and finish in different areas depending on conditions
- That his paddle board lessons run from 8.30pm to twilight in the evenings.

5.3 Lyndon Weggery said he was a regular walker in the area. He had safety concerns about balls hitting people on the walkway, and said the golf activity is not compatible with existing use of the area. He said if the walkway is extended there will be more people on it with greater risk. He said instead of having a fixed term of consent there should be a trial period. He wanted the use of the reserve issues to have as much importance as the marine use issues.

Answering questions Mr Weggery said

- He suggested a short term or trial consent period to give Mr Graham a chance to prove minor effects.

- That it is a very dangerous activity with the likelihood of slice shots.
- That he has not seen congestion in the area with events being held as he walks mid-week.
- That when he walks he does not go into the reserve.

5.4 Brenda Leigh questioned the effectiveness of public notification as it was only the site notice that drew her attention to the application. She commended Mr Graham on his research. She has lived at the Cove for 35 years and enjoys the natural environment of the harbour. She said she is a golfer and could not believe golf was proposed at this site. She was concerned at the effect on marine life of having large numbers of balls deposited, which will sink in the mud and not be seen. She said the pontoon will be an eyesore with reflectors and lights and signs will be intrusive. She was concerned that inexperienced people might hire bikes and kayaks and injure themselves. She was concerned there might be lots of visitors to the coffee caravan, and the number of people who may turn up and/or accompany those who are golfing. She said the reserve should be for quiet enjoyment and it doesn't matter if it isn't used much. That picnic tables would be a better idea in this being one of few places where cars can pull off the road. She said there had been no surveys of local residents to see what they think and she could not think of any positive effects of the proposal. She said this is a wildlife capital and golf should be on land, not in the sea.

Answering questions she said

- That she did not know what was meant by "modified environment" in the 42A reports.
- That this activity will not stop cars pulling off the road but will deter people from getting out of their cars at this site.
- That reducing 3 signs down to 1 still means there is a commercial sign being the thin edge of the wedge in terms of commercialising the harbour.
- That she does not want the pontoon there, with or without a sign.

5.5 Craig McEwan is a Vauxhall resident. He described wildlife species that frequent the area, and noted the work done to clean up the harbour in recent times. He said there is a directive from the UN that golf balls must not be hit into the sea from cruise ships because of toxic effects on wildlife. He said part of the strike zone is soft mud therefore some golf balls cannot be retrieved. He said it is a quiet area used frequently by rowers, paddle boarders and an ideal area for learning how to use sea craft. He said the ocean cannot absorb everything that is thrown at it and the proposal is a good idea in the wrong area.

5.6 Lala Frazer appeared for STOP (Save the Otago Peninsula Inc Soc). She said the application refers only to what happens above water and she is concerned about the effect of golf balls and their retrieval on marine life. She said there was no assessment of effects in this respect. She noted DOC might be interested in large mammals and birds, but there is other marine life on the sea bottom. She noted that successive reclamation around the harbour was affecting the intertidal zone, and was concerned about the effect of the golf activity on shags that roost at the yacht club. She said the Shag Wharf at Oamaru has become a tourist attraction. She asked for the golf activity to be declined.

Answering questions she said

- Local shags were little shags, spotted shags and a few Otago shags.
- That bird deterrents on vessels were usually plastic bags or whirring devices

- That there is no reclamation planned with this proposal

5.7 John Parnell appeared for the Otago Rowing Club. He said the golf pontoon will have a serious effect on their training activities, especially in the dark. He said weather forces rowers into this more sheltered area, and in some conditions they cannot row anywhere else. He said secondary schools row in this area and his club has over 100 members. He said they row all year and produce champions. He said the pontoon location is in the middle of one of their rowing lanes where they had placed a buoy and produced a drawing to show this. He said rowers move backwards and will not see the pontoon especially in the dark and if they stray outside the rowing lane. He said this harbour is not like lake Taupo, that he realises rowers don't have exclusive rights to the area, but the pontoon will, if located there. He said Andersons Bay inlet would be more suitable.

Answering questions he said

- The rowing course could be re aligned when conditions are calm but in rougher weather they need to be in the strike zone.
- That the buoy was placed 95m from the shore and is still in place
- That there are approximately 45 rowers there at 5.30am

5.8 Other Submissions. We considered the submissions from those who did not appear, including

- Kai Tahu ki Otago who were neutral and sought conditions for low toxicity balls and methods of ball retrieval.
- Claas Damken and Durham Throp who were in support seeking conditions concerning signage.
- Richard Joseph, Gregory Batchelor, Garth Christensen, Alan Todd and the Ravensbourne Boating Club who supported the applications.
- Glen Sinclair, and the Otago University Rowing Club who agreed with equipment hire and the coffee caravan but opposed the golf activity.
- Tracy Hudson, Patricia McNaughton, Quentin & Michael Furlong, Theo & Lorna Van Kampen, Paul Van Kampen, Erin Anson, and Jennifer Macdairmid who were opposed to the applications due to noise effects and effects on amenity, wildlife, restrictions on activities in the strike zone and marine pollution.

6. Staff S42A Reports

6.1 Melissa Shipman was the author of the DCC report. She spoke to her report. She agreed that public access to the reserve will be restricted, but only for a small part of the reserve. She referred to the preliminary matters discussed in this decision and made a correction to her report. She said overall the proposal will enhance the recreational and cultural experience of the harbour. She noted the activity is non complying as the reserve is currently zoned residential under the existing District Plan, but the reserve has never been used for residential purposes. She said the parking area can be congested when events happen at the yacht club. At other times the effect of the activity on parking will be minor and manageable. She noted

the applicant had agreed to limit activities during major events. She suggested yellow painted lines could show the pedestrian/traffic area. Ms Shipman said she was originally willing to narrow the proposed review conditions but after hearing submitters, wished to keep wider review conditions.

Ms Shipman expects the activity will grow and conditions provide for this with operation time starting at 9.00am. She said an acoustic barrier behind the golf striking range could have an effect on visual amenity.

She wanted to introduce some new information about noise but as the hearing was well underway and parties would have had no time to respond, we declined to receive that information.

Ms Shipman said in respect of concerns about signage, the applicant had reduced the number of signs to one at the entrance to the reserve, one on the caravan and one on the pontoon. She noted the applicant wishes to leave the caravan on site overnight but requested that it is removed each day. She said that if excavations are required to secure a power connection to the caravan then a further application is required.

Answering questions Ms Shipman said

- Limiting the activity to cease at sunset was not precise and the condition could be amended to fix a time instead.
- That whereas the assessments have been based on a maximum of 10 people per hour using the golf facility, there may be others who come for equipment hire and coffee. Those effects have been referred to in the application but not discussed in detail which is why she wishes to keep wider scope for review conditions.
- The application provides for 13 carparks and there is scope in a stretch of vegetation to create another 5-6 parallel parks; that cars were parked there in the Masters Games.

6.2 Charles Horrell was the author of the ORC report. He started by making some corrections to his report and draft conditions. Mr Horrell said at present there are 3 consented moorings in the area, and the strike zone will affect the placement of future moorings. However, he noted the area is not a designated mooring area in the Coastal Plan, and he did not expect much future demand for moorings in this area.

Mr Horrell addressed suggested changes to conditions proposed by Mr Taylor. He agreed to add an advice note about the Operations and Management Plan and health and safety issues. He did not wish to have his review condition narrowed as suggested.

Mr Horrell wished to keep the term of the permits to 15 years and not the 25 requested by the applicant, because of the possibility of large scale development of the harbour.

Mr Horrell agreed with requests to change letter colour on the pontoon sign, and to change conditions to provide for wading to collect balls.

Mr Horrell addressed some submitter's comments: He noted that the Otago Rowing Club does not have exclusive occupation of the coastal marine area for its rowing lanes. He advised that the harbour master has stated that all persons have an obligation to maintain their navigation whether going forward or backwards; that it is impractical to remove the pontoon each day; that the requirement to cease striking balls when a person, bird or animal moves into the strike zone provides for safety.

He said that the UN requirement to not hit golf balls into the sea applies to vessels, and in this case the balls will be retrieved. He said a discharge permit for the balls was not required therefore there had been little assessment of the effect of the balls on the sea floor.

Mr Horrell said it is difficult to provide a term of consent as a trial, therefore review conditions provide for adjustment of conditions if effects are different to what is envisaged. He said that policy 3 of the NPS Coast calls for a precautionary approach to potentially adverse effects and if the panel have such concerns the term of consent could be reduced.

Mr Horrell noted concerns about whether balls will be retrieved and said conditions require counting the number of balls hit and those retrieved therefore the number of lost balls will be understood.

He said concerns about Shags being hit by balls are addressed with the condition requiring a spotter and golf activities to cease when humans or animals or birds enter the strike zone.

He concluded that the overall effects on the coastal environment will be minor and consents should be granted subject to conditions.

Answering questions Mr Horrell said:

For ecological assessment of the coast he has relied on the Department of Conservation comments. He said details of how balls are retrieved should be in the Operations and Management Plan.

7. Applicant Right of Reply

The applicant produced a scale map showing the position of the pontoon, an existing mooring and the outline of rowing lanes 50 and 95 metres offshore.

Mr Taylor said that the reserve has a recreational function and under the 2GP proposed District Plan the reserve will be zoned recreation. He agreed that yellow lines could mark out areas within the reserve. He did not think it necessary to remove the sign at the entrance to the reserve each night. He said some issues around the operation of the activities will be addressed in obtaining permission to use the reserve. He said there may have to be an excavation to put in a concrete pad and trench for a power line.

In respect of the ORC s42A report he said the proposed activity does not conflict with the existing values in the area. That the spotter procedure will ensure other users of the area are not affected. He said there is little risk of balls remaining in the sea bed as the viability of the

operation includes reusing the balls. He referred to the ball retrieval trial which was done in high winds. Despite the weather, the balls didn't move much from where they were dropped. Mr Taylor said if more information on ecological impact was needed this could be provided for in the Operations and Management Plan, rather than adjourning the hearing.

Mr Graham said they had to find a site where balls could be retrieved. He said retrieval may be delayed with weather events, but retrieval will be ongoing and frequent. He did not want a review condition for noise, rather that the proposed limit is enforced.

Mr Graham said waders will have little effect, noting divers have flippers and waders don't. He said if only one person is on site then coffee would have to wait while spotting is done if there are golfers present. It was noted that Ms Shipman had referred to the applicant moving a picnic table to mitigate the effect on the use of the reserve. This would be addressed in the permission to use the reserve.

Mr Graham concluded saying that this was something truly unique for the harbour that it is different, quirky and any person of any age or ethnicity can do it. He noted that activities in the past included tea gardens, a rifle range and a menagerie.

8. Further Information.

We were concerned that there was little in the application about the state of the sea bed in the strike zone, whether any significant biota were present, and what effect accumulation of balls and different methods of ball retrieval might have on that environment. Some submitters had raised similar concerns. We asked Mr Graham to provide an ecological assessment and statement from an experienced commercial diver on the viability of ball retrieval and method. Mr Graham engaged Dr Brian Stewart of Ryder consulting to undertake the ecological assessment and an experienced professional diver, Mr Christopher Dodds to comment on the viability of ball retrieval. Both provided written statements.

The information was circulated to submitters for comments. The applicant also provided a reply to the comments.

We have considered the further information and comments received in our consideration of issues as discussed below.

9. Statutory Assessment

Both S42A reports included a comprehensive assessment of statutory matters. The relevant objectives and policies of the NZ Coastal Statement, the proposed and operative Regional Policy Statements, the Regional Plan: Coast and the DCC proposed and operative District Plans were identified and discussed. We adopt those analyses here and note that Mr Taylor also agreed with them, and there was no challenge to those analyses.

9.1 The operative and proposed District Plans

Ms Shipman noted that Dunedin currently has two district plans: the operative Dunedin City District Plan, and the proposed Second Generation Dunedin City District Plan (the “Proposed 2GP”). She clarified the status of the plan provisions in relation to the proposal, noting that only the relevant rule provisions of the operative Plan were in effect, but confirming that consideration must be given to the objectives and policies of both Plans. We have accepted this advice.

10. Issues for Consideration

10.1 Status of Reserve

Ms Shipman outlined the relevant rule provisions of the operative Dunedin City District Plan in her officer’s report. The report identified the land subject to the application as zoned Residential 1, and determined the proposed activity to be a non-complying activity pursuant to Rule 8.7.6(iii) of the zone rules. Accordingly, we have given consideration in this decision to the requirements of Section 104D in regard to the application and the District Plan. It is noted that the vehicle access to the site was identified by Ms Shipman to be a restricted discretionary activity under Transportation rules of the Plan. However, we concur with Ms Shipman’s approach of assessing this matter as part of the overall non-complying activity.

We agree with Ms Shipman that the key objectives and policies relevant to the application are the overarching provisions which seek to protect the amenity values and character of residential areas. However, the land subject of the application is not a residential site but a reserve. Objective 8.2.6 and policy 8.3.11 are important to consideration of this application, as they seek to recognise and ensure provision is made for recreation activities within residential areas. As noted by Ms Shipman residential areas have historically been occupied by recreation activity, without particular provision for this activity within separate zones. We note that this issue is being addressed in provisions of the proposed District Plan, with reserve land including this location proposed to be zoned Recreation. Therefore, given the site is an existing recreation area, and the proposed commercial activity is based upon recreational activity, we have given particular consideration to the above objective and policy for recreational activities to ensure a balanced assessment of the proposal.

Objective 8.2.6 requires recognition of the positive effects of these activities while ensuring that their adverse effects are avoided, remedied or mitigated. We agree with Ms Shipman that while the proposed activity is commercial it is recreation focused, and that the provision of food and drink services has historically been an activity ancillary/associated with recreational activity and events, albeit mostly temporary in nature. The retail element of the proposal is therefore not considered to be repugnant to the use of a public reserve. We are satisfied that the proposed retail of food and drinks within a mobile structure is complementary to the public use of the reserve.

10.2 Parking and Access to site

We are satisfied that objective 20.2.2 and policy 20.3.4 of the Operative District Plan are the key policy provisions in regard to the transportation effects of this proposal. These provisions seek to ensure the safety, efficiency and effectiveness of the transportation network. In terms of traffic generation the activity promotes recreational activity that is similar in effect to what is

already being undertaken on the reserve, and is noted that the assessment by DCC transportation staff concluded there is capacity to cater for the additional parking and traffic generation. Therefore the proposal is consistent with the objectives and policies for transportation. Mr Graham also undertook to comply with yacht club management plans when major events are held at the yacht club. Those plans include traffic management. Therefore even in busy times the effect of the proposal on transportation is likely to be minor.

10.3 Noise Effects

Seven submitters were concerned about noise effects from the increased numbers of people in the reserve and the noise from generators to run the caravan and the noise from golf clubs striking the golf balls. There was also concern about noise from intoxicated and unruly behaviour in groups that may use the reserve. Haley van Leewan was concerned about the sound of waves lapping against the pontoon.

The applicant engaged Marshall Day Acoustics to survey noise at the site and recommend a noise limit for the activities. The report noted that the main source of noise for residences in the area is the noise from vehicles on the peninsula road. The Marshall Day report considered noise levels recommended in the proposed District Plan, NZS 6802:2008 and World Health Organisation Guidelines. The report concluded the noisiest activity would be striking of golf balls. During the day time this would be absorbed with the ambient noise, however once traffic decreased in the evenings it would be more audible. The closest residence that would be affected would be 137 Portobello road, and the occupier of that site has given written approval to the application therefore effects on that properties are not considered. The next closest properties are 141 and 134 Portobello Road. The report concluded that the predicted noise level at the closest residential boundary, with a special audible characteristic applied for the impact sound of golf ball strike, is 50dB $L_{Aeq}(15min)$. As existing noise on Portobello Road is consistently 3-5dB above that level the conclusion was that the noise level from the activity is acceptable. We note that Mr Taylor in his evidence proposed a limit of 46 dB $L_{Aeq}(15min)$.

In the absence of other expert reports on noise we must accept the conclusions of the Marshall Day report. We agree that the standards in the proposed District Plan should be considered as they better reflect the expected activities on reserves and during weekends, than the operative District Plan provides for.

Mr Graham advised that due to health and safety and other considerations he would not be serving intoxicated persons. He has no control over groups who may wish to use the reserve outside of the proposal's operating hours.

We believe the sound of waves lapping against the pontoon will be no different to the sound of waves lapping against the existing sea wall. Pontoon wave noise will be inaudible against the ambient noise in this area.

10.4 Visual Effects

The issues with signage have been resolved by modifications and conditions proposed in the evidence for the applicant. While there is a degree of conflict with the policy provisions of the Operative District Plan for signage, we are satisfied that the adverse effects of the signage will be reduced to an acceptable level by compliance with the conditions which reflect the changes proposed by the applicant: that there will be one sign at the entrance to the reserve, a sign on the

caravan and a sign on the pontoon. Under the policy framework of the proposed District Plan, there is a greater level of consistency with the recreational objectives, which are more specific and reflect the proposed zoning of the site. We are satisfied that with the limitations on signage proposed, the areas of inconsistency with some objectives and policies have been addressed.

The land based activities will not be very visible until viewed from the reserve. Apart from the caravan, there are no other buildings or structures proposed that are likely to impede views of the sea. The temporary fence to be placed behind the golfers is not likely to be seen from afar.

While the site subject to the application is part of an important edge to the Otago Harbour, this section of the harbour is not recognised as being of any particular outstanding or significant landscape value, and the Harbour Wall feature within the site is not modified or otherwise affected by the proposal. The existing reserve land is a highly modified environment in terms of natural values, being largely a sealed carpark, with a concreted walkway, landscaped borders and a small area in lawn grass.

The pontoon will be visible but will not be visually intrusive. It is a relatively small structure in the context of its setting. The coastal margin is heavily modified with the presence of a sea wall and the Yacht club, moorings and other coastal structures along the harbour edge. When balls are retrieved we assume a small craft will be used to contain them and this activity is consistent with other activities in the coastal area where people use various water craft and swim.

10.5 Effect on Recreation Activities

The reserve where the activity is proposed is currently used for sightseeing, eating food and other passive activities. There will still be space for those activities to continue, however there will be more people and vehicles there because of the new activities. Other parts of the land extending over to the Yacht club are available for existing passive activities to continue. The proposal will not impact on existing land based activities associated with the yacht club.

We consider that the key facts of the application are that the existing environment is a recreation reserve used as a base for active recreation, and all aspects of the application relate to active recreational activity. Some elements of the proposed activity (such as bike and water sports hire) already take place on public reserves. Whether or not this activity is occurring on a commercial basis may affect the location and frequency of this activity, but the nature of the physical effects on the environment is the same.

It is apparent to us that some Dunedin's tourism ventures require locations that are set in the coastal environment, and provided that effects on the environment can be managed effectively, it is appropriate that such activity take place on public reserves. For reduced impact and transportability (as well as to comply with reserve management strategies), these activities may not involve buildings. We do not consider that the proposed activity is likely to set an undesirable precedent, or represent a challenge to the integrity of the Dunedin City District Plan. The proposal is a combination of activities that are only likely to take place as a one-off type tourism operation, trading on the differences to other commercial recreational activity. The proposal is to have a low impact in terms of permanent facilities (on land). The existing character of the site is a narrow strip of recreational reserve situated between the Otago harbour and a major transport route, and the activity lends itself towards users arriving via that route

(pedestrian, cycle, car). Given the nature of the activity, and existing activities taking place in the vicinity on land and on the water, there are many external factors that can be expected to constrain the scale of the operation. The conditions of consent can mitigate any adverse effects of the activity.

Some submitters were specifically concerned about public safety and the effect of “slice” shots. Mr Graham has responsibilities under Health and Safety legislation which includes serious penalties for harming others. He indicated his familiarity with his obligations in this respect at the hearing. He has proposed screens to prevent balls from hitting people in the reserve and its environs.

The effect on aquatic recreation was a major concern for several submitters. Mr Latta from Water Cooled Sports appeared to be presenting a commercial competitor interest, however we accept that he also uses the area, and some paddle boarders and windsurfers are not associated with his business. John Parnell of the Otago Rowing Club was concerned that the pontoon encroaches on rowing lanes that are regularly used in this area. We accept that the pontoon is more likely to be on the edge of a rowing lane, according to the scale map that was produced by the applicant. With a minor adjustment the rowing lanes will miss the pontoon completely.

Mr Horrell pointed out that no person has exclusive rights to use the coastal area at present, therefore all users must accommodate each other. Mr Graham has stated that he will start his golf operations after morning rowing practice, and have a person to spot persons, birds or animals moving into the strike zone and cease golf activities until they have passed by. Doing this allows existing recreational activities to continue. There may be a perception that the strike zone is a no-go area; only time will reveal this. If that is the case we note that in the context of the harbour it is a relatively small space, and easy to navigate around the pontoon.

Some submitters stated that the idea was good but was in the wrong place and suggested other sites. The applicant gave some details of consideration of alternatives, including the presence of windsurfers, lack of parking and availability of land. We accept that this site was carefully selected.

Some submitters raised issues about the experience of persons hiring and using equipment. That is a health and safety issue for Mr Graham who indicated that he is well aware of his obligations in that respect.

10.6 Effects on Wildlife and Seabed

Birds may fly into the area and if this is the case the spotter must require golfing to cease until people and wildlife leave the strike zone. It is very important that birds are discouraged from roosting on the pontoon, and the application stated that bird deterrent devices will be installed. We note that golfing cannot happen when birds are in the strike zone which includes the pontoon space; therefore it is in the applicant’s own interests to keep birds out of the area.

Various submitters were concerned that balls may not be able to be retrieved, and/or that many will be left unfound on the sea bed. There was also concern about the effect of multiple balls resting on biota on the sea bed.

There was no information about this in the application therefore we requested further information as explained earlier in this decision.

We noted in the information provided by Dr Stewart that the sea bed is typical of the wider harbour environment. Biota inhabiting the strike zone is common to the wider Otago Harbour. Dr Stewart reported that the sea bed is “a deep layer (>250mm) of fine silt overlain by an armouring layer of shell hash some 20-50mm thick”. He said that “harm to the benthos from the presence of golf balls will be less than minor and transitory in nature”. Dr Stewart recommended that wading out 5 metres to retrieve balls was acceptable and beyond 5 metres divers should be used to minimise disturbance of the sea bed by walking on it. Ball retrieval is to be done manually to minimise disturbance to the bed.

Christopher Dodds who is a well experienced commercial diver conducted the trial ball retrieval test that accompanied the application. During the test, balls were easy to find, and had moved very little despite wild weather conditions after being placed. Mr Dodds therefore has experience in finding the balls and made a statement in the further information that in good still conditions he would not miss any. Some submitters rejected this statement; however we accept Mr Dodds statement given his experience and qualifications.

Given that calm still conditions are best for ball retrieval and will not always be present, we would suggest that balls are retrieved when conditions are good, rather waiting for set intervals that may not be suitable due to weather conditions.

We are satisfied that balls can, and will be retrieved, noting that Mr Graham said this is necessary for the viability of the golfing activity. It is important that balls hit and retrieved are counted in order to determine if any are being lost.

The sea bed is not unusual and does not contain anything that is rare or endangered. The accumulation and retrieval of balls may cause a localised disturbance to the sea bed, and note that this effect is completely reversible once the activity ceases. We also note that other activities in the sea bed have an adverse effect, for example the effect of swing moorings. We accept Dr Stewart’s advice that waders may be used to retrieve balls up to 5 metres offshore and beyond that divers must be used to minimise disturbance to the bed.

Two submitters were concerned about a UN agreement that golf balls should not be hit into the ocean off cruise ships. This is not a cruise ship operation and the retrieval of golf balls is part of this application. The UN policy is not relevant to this application.

13 Conclusions

We have carefully considered the applications and conclude that subject to conditions, the consents should be granted. Our assessment has taken into account the concerns of submitters, the information provided in the application and further information provided; the S42A reports and the assessments therein of the statutory provisions that must be considered.

The reasons for our decision are that the proposal is consistent with the relevant provisions of the Resource Management Act 1991, the NPS Coast, the Regional Plan: Coast and the operative and proposed District Plans. The assessment of effects indicates that the adverse

effects of the activities subject to conditions will be acceptable. There will also be some positive effects such as better use of the reserve, employment, and more recreation activities.

Our decision is that the suite of consents are granted, subject to consent conditions as set out in the land use and coastal permits.

14. Term of Coastal Permits and Conditions

The land use consent for the land based activities has no term, as this type of consent is normally for an unlimited period once the consent is given effect. However, Coastal permits are given for a fixed time period and Mr Graham sought a 25 year term for the Coastal permits. Mr Horrell recommended a 15 year term because there could be large future developments in the harbour. We agree with Mr Taylor, that future effects are speculative and it is logical to have the term of the permits consistent with the likely life of the pontoon. We find the term of the permits subject to a term should be 25 years, subject to review conditions.

There are some effects that are predictable, but may require further control once operations are established. These effects include parking and traffic, noise, and balls striking persons, birds or animals. One of the trade-offs for having longer term consents, is the ability of the Councils to revisit effects if they are different to or greater than what is expected. We consider the review conditions proposed by the S42A report writers are appropriate. Mr Graham should note that review conditions are only activated if effects arise that are not predicted here. Reviews are not mandatory.

Mr Graham stated that he would not begin the golf activity until 9.00am in order to avoid the early morning time for rowers. He said he wishes to continue his operations in summer until daylight fades. We think that it is better to state hours of operation to provide some surety for both the operators of the proposed activities and the submitters. Therefore the hours of operation for the caravan and hire equipment are to be:

Golf Activity: 9.00am – 10pm (subject to visibility and suitable weather conditions)
7 days a week.

All other activities: 6.30am to 10pm during November to April 7 days a week

6.30am to 8pm during May to October 7 days a week.

There were some other considerations about the use of the reserve such as leaving the caravan overnight, placement of a picnic table and location of an electrical cable. We understand those issues will be addressed when Mr Graham obtains a permission to use the reserve from the Parks Department of the Dunedin City Council.

15. Jurisdiction.

Land use permit LUC 2017-408 is administered by the Dunedin City Council

Coastal Permits 2017.229.01, 02 and 03 are administered by the Otago Regional Council

Cr Gretchen Robertson

Chair Hearing Panel

Two handwritten signatures in blue ink, one on the left and one on the right, both appearing to be cursive and somewhat stylized.

Date 29/5/18

Consent Type: Land Use Consent

Consent Number: LUC-2017-408

That pursuant to section 34A(1) and 104B and after having regard to sections 104 and 104D of the Resource Management Act 1991 and where relevant Part 2 matters, and to the provisions of the Operative Dunedin City District Plan and the Proposed Second Generation Dunedin City District Plan, the Hearing Panel **grants** consent to a **non-complying** activity being the establishment and operation of a recreational tourism activity, subject to the conditions below, imposed under Section 108 of the Act:

Location of Activity: 139 Portobello Road, Dunedin

Legal Description: Section 1, 5 Survey Office Plan 394230 (Computer Interest Register 403802) being a Local Purpose (Recreation) Reserve owned by the Department of Conservation but managed and maintained by the Dunedin City Council.

Lapse Date: 25 May 2023, unless the consent has been given effect to before this date.

Conditions:

1. *The proposal must be established and operated generally in accordance with the plans and relevant details submitted with the resource consent application received by Council on 16 August 2017 the additional information received on 15 September 2017 and 18 January 2018 (Noise Report), and statement of evidence dated 2/2/18, except where modified by the following conditions.*

2. *Hours of operation must be limited to the following hours:*

Golf Activity: 9.00am – 10pm (subject to visibility and suitable weather conditions) 7 days a week.

All other activities: 6.30am to 10pm during November to April 7 days a week

6.30am to 8pm during May to October 7 days a week.

Golf activity must cease immediately in the event of high winds and/or poor visibility to ensure the safety of reserve users and vehicles on Portobello Road as well as prevent any damage to the Vauxhall Yacht Club building.

3. *A Management Plan for the operation of the proposed on-shore activity must be submitted to the Council for approval prior to commencement of the activity. This Management Plan may be developed in conjunction with or incorporated as part of the Operations and Management Plan required by the conditions of Coastal Permit RM17.229.03. The Management Plan must include the methodology for managing the measures to be taken to address behaviour of patrons, availability of the land area to be occupied, and safety of other users of the reserve. The measures shall include the following:*

- (a) *Patrons exhibiting signs of intoxication will not be provided service by any part of the operation.*
 - (b) *The activity cannot establish anywhere on site except the approved footprint nominated in Drawing 4395484-CA-K001 dated 2 February 2018.*
 - (c) *No operational queuing or storage of any equipment is to occur outside of the approved footprint nominated in Drawing 4395484-CA-K001 dated 2 February 2018.*
 - (d) *All measures proposed for management of the on shore operations shall be consistent with the Operations and Management Plan required by Coastal Permit RM17.229.03.*
4. *The consent holder must ensure noise from activity taking place on the site will not exceed LAeq (15min) 46dB when measured at the boundary of 137 Portobello Road.*
 5. *With the exception of the coffee/refreshment van, all equipment and vehicles must be removed from the site each day.*
 6. *The concrete platform tee-off area must be flush with the grass on the reserve land so as not to provide a trip hazard outside of operational hours.*
 7. *No storage activity may occur on the reserve outside of the designated operational area (Area 1).*
 8. *No vegetation on the reserve shall be removed or compromised by the activities.*
 9. *A 1m high temporary safety barrier of muted colour must be erected at all times during any golf activity and removed following cessation of the activity each day. The following detail must be submitted to the Planning Manager for approval prior to commencement of any activity on the site:*
 - (a) *Barrier material/permeability.*
 - (b) *The colour of the barrier.*
 - (c) *The exact location.*
 10. *Signage shall be limited to the following:*
 - (a) *A 1.7m high and 0.8m wide sign shall be installed at the location nominated in Drawing 4395484-CA-K001 dated 2 February 2018.*
 - (b) *A toilet way finding sign shall be installed to the satisfaction of the Resource Consents Manager.*
 - (c) *The name of the business "Otago Harbour Golf Challenge and Café" installed across the top of the coffee cart/van. This coffee cart/van will also have products and services and their prices listed on the front and side of the coffee cart/van.*
 - (d) *The name "Water Sports and Bike Hire" on the trailers associated with these items.*
 11. *No signage is permitted on the concrete pad or any signage elsewhere on the site in the form of banners, flags, balloons or other form of temporary signage.*
 12. *No advertising signage unrelated to the business is permitted on the site.*
 13. *All hire operation and food/drink service related activity must occur within the designated Area 1 location.*

14. *The operator must remove any rubbish and or waste in the perimeter of the business activity at the close of each business day and preferably during the day as well.*
15. *All excavated areas shall be appropriately cordoned off during works and where not covered by the proposed concrete pad, grassed over, following completion of works. There must be no deposition of excavated soils on the reserve.*
16. *A total of 13 car parks shall be permanently marked within the reserve to clearly illustrate the parking layout on the site better facilitate the new through access only.*
17. *Area 1 (which occupies three of carparks at the southernmost end of the carpark) shall be identified on site and physically defined, if practical, so as to dissuade the use of this designated car parking area by other visitors to the reserve (NB Refer Advice Note 6 below).*
18. *The consent holder must advise the Council, in writing, of the start date of the works. The written advice must be provided to Council at rcmonitoring@dcc.govt.nz at least five (5) working days before the works are to commence.*
19. *The Council may once per year, on the last five working days of November, serve notice of its intention to review the conditions of this consent for the purpose of:*
 - (a) *Dealing with potential adverse traffic effects which may arise from the exercise of the consent and which is appropriate to deal with at a later stage.*

Advice Notes:

1. In addition to the conditions of resource consent, the Resource Management Act 1991 establishes through Sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
2. Resource consents are not personal property. This consent attaches to the land to which it relates, and consequently the ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
3. The lapse period specified above may be extended on application to the Council pursuant to Section 125 of the Resource Management Act 1991.
4. It is the responsibility of any party exercising this consent to comply with any conditions imposed on their resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
5. This is resource consent. Please contact the Building Control Office, Development Services, about the need for building consent for any structures and fixtures proposed as part of the activity.
6. A concession (occupation agreement) under the Conservation Act 1987 is required prior to commencing any activity on the site. This includes any works on the reserve to achieve compliance with the conditions of consent. Please contact the Leasing and Land Advisor, in the Council Projects and Asset Management Department.
7. Buildings built before 1900 or sites which were in use before that time are considered archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. Before disturbing an archaeological site, or to check whether a site is an archaeological site, the consent holder is advised to discuss their proposal with Heritage New Zealand.
8. The consent does not authorise the sale of food and drinks to visitors as part of the business activity. It is noted that if any food is offered for sale, or supplied in conjunction with an entry fee to a function, the site would be deemed to be a food premises. All food would need to meet the requirements of the Food Act 2014 and Food regulations 2015.

GR

For exemptions, an application for a detailed Scope of Operations form can be completed (refer to Council's Regulatory Services Team). Refer to the Council's Environmental Health Department for all license enquires.

9. If the consent holder:

a) discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:

i) notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.

ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

Site work may recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:

i) stop work within the immediate vicinity of the discovery or disturbance; and

ii) advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to the Heritage New Zealand Pouhere Taonga Act 2014; and

iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work must recommence following consultation with the Consent Authority.

10. It is recommended that the operation of the proposed business activity be undertaken in a manner consistent with the event management plans of the Vauxhall Yacht Club (as proposed in the applicant's evidence). This is to ensure the operation of the business during events does not contribute to any conflict over the use of the reserve. While it is noted that the applicant did offer to make this matter a condition of consent, it is not considered that the content of and compliance with the Club's event management plans is within the scope and jurisdiction of the Section 108 of the Resource Management Act 1991.

GR

Appendix 1: Copy of Approved Plan for LUC-2017-408
(Scanned image, not to scale)

Site plan of on shore activity for proposed tourism venture (Appendix 1 of statement of evidence of James Taylor for Applicant)



COASTAL PERMIT

Pursuant to Section 104B of the Resource Management Act 1991, the Otago Regional Council grants consent to:

Name: Peter Ronald Graham

Address: 149 Portobello Road Vauxhall Dunedin 9013 NZ

To place a pontoon structure within the Coastal Marine Area

For the purpose of operating a commercial golfing activity

For a term expiring 5 years from the commencement of this consent

Location of consent activity: Vauxhall, approximately 400 metres south west of the intersection of Doon Street and Portobello Road

Legal description of consent location: Common Marine and Coastal Area

Map Reference: NZTM 2000: E1407812 N4915682

Conditions

Specific

1. Excepted provided for by conditions below or within Coastal Permit RM17.229.02, the placement of the pontoon and mooring system shall be as described in the application lodged to the Consent Authority dated on 16 August 2017, further information received 15 September 2017 and as illustrated in Appendix 1, drawings 1-3.
2. The pontoon shall not exceed 8 metres in width, 12 metres in length and between 1.3 to 1.5 metres in height.
3. The Consent Holder shall investigate options from a suitably qualified person to provide for effective bird deterrence for the pontoon and implement appropriate best practicable option bird deterrence devices within one month of the first exercise of this Coastal Permit.
4. The Consent Holder shall install navigational lighting in consultation with the Otago Regional Council Harbourmaster to ensure visibility is maintained.

Performance Monitoring

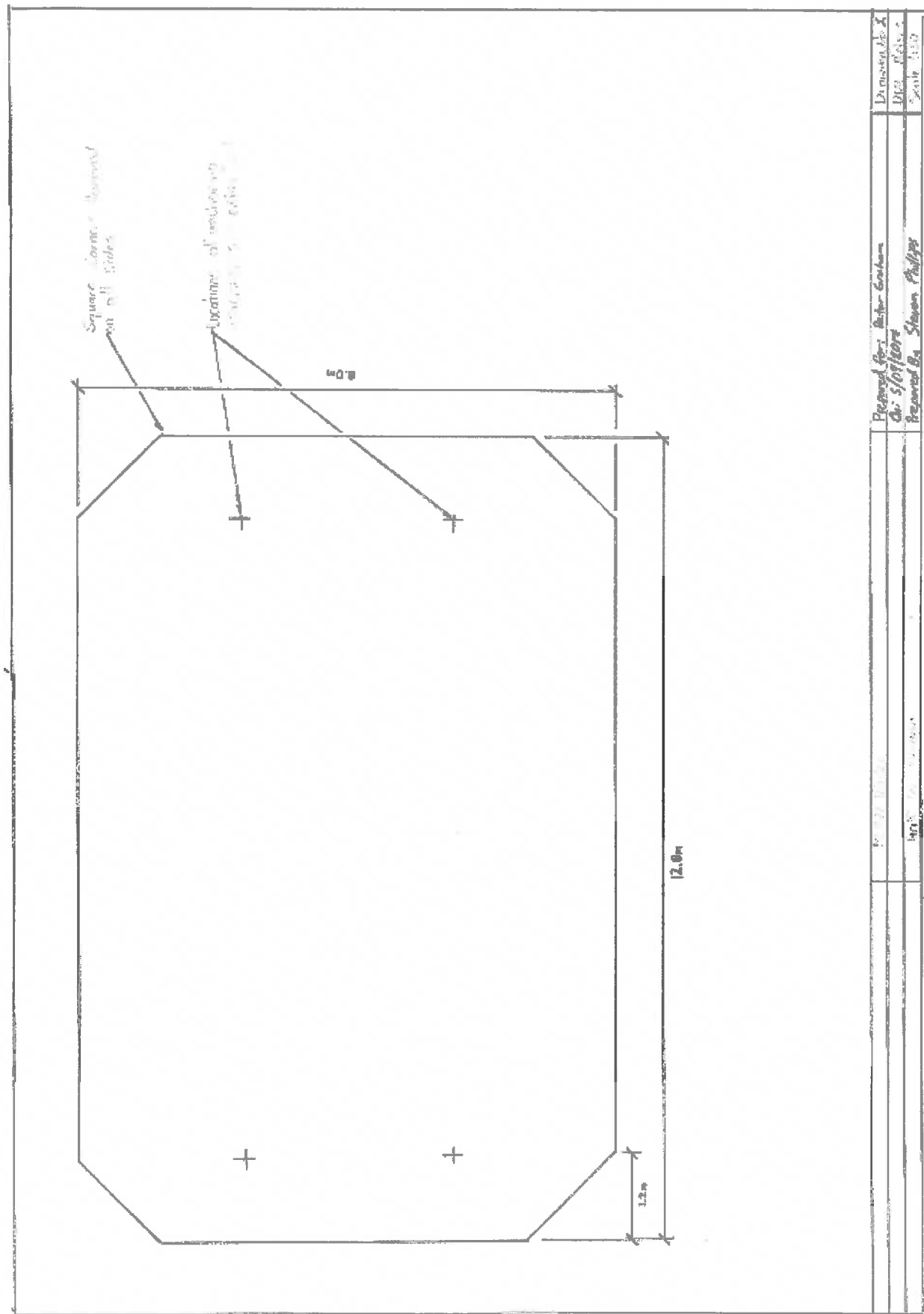
5. The Consent Holder shall notify the Otago Regional Council Harbourmaster in writing at least five working days prior to the exercise of this consent.

General

6. The only signage to be displayed on the pontoon shall read "Otago Harbour Golf Challenge" in blue lettering no more than 300 millimetres in height and 8 metres total in width.



Drawing 2.



COASTAL PERMIT

Pursuant to Section 104B of the Resource Management Act 1991, the Otago Regional Council grants consent to:

Name: Peter Ronald Graham

Address: 149 Portobello Road Vauxhall Dunedin 9013 NZ

To occupy the Common Marine and Coastal Area with a floating pontoon

For the purpose of operating a commercial golfing activity

For a term expiring 25 years from the commencement of this consent

Location of consent activity: Vauxhall, approximately 400 metres south west of the intersection of Doon Street and Portobello Road

Legal description of consent location: Common Marine and Coastal Area

Map Reference: NZTM 2000: E1407812 N4915682

Conditions

Specific

1. This Coastal Permit shall be exercised in conjunction with Coastal Permits RM17.229.01 and RM17.229.03.
2. The pontoon shall not exceed 8 metres in width, 12 metres in length and between 1.3 to 1.5 metres in height.
3. The consent holder shall clearly display the assigned permit number RM17.229.02 on the pontoon.
4. The pontoon shall be secured at all times with a mooring system as shown in Appendix 1 to this permit. Each mooring block shall be at least one tonne air weight concrete blocks or steel equivalent.
5. If Coastal Permit RM17.229.03 is not exercised for a continuous two year period the Consent Holder shall remove the pontoon.
6. The Consent Holder shall install navigational lighting in consultation with the Otago Regional Council Harbourmaster to ensure visibility is maintained.
7. The Consent Holder shall investigate options from a suitably qualified person to provide for effective bird deterrence for the pontoon and implement appropriate best practicable option bird deterrence devices within one month of the first exercise of this Coastal Permit.

Performance Monitoring

7. a) The mooring system shall be visually inspected and maintained by a person suitably qualified and experienced in the inspection and maintenance of swing moorings at least once every 24 months. Such inspection as a minimum shall include:
 - i. check all chains for kinks and remove such kinks;

- ii. check all chains for deterioration and replace any components if there are signs of significant deterioration; and
 - iii. check ropes for fraying and replace any frayed ropes
 - b) In addition, once every 3 years from the date of placement, the mooring shall be lifted clear of the water and the mooring block and associated equipment shall be inspected and maintained and all parts showing wear replaced.
 - c) A written inspection report shall be completed by the person who has conducted an inspection required by Conditions 7 a) and 7 b) and a copy of the report shall be forwarded by the consent holder to the Consent Authority within two weeks of the inspection.
8. The Consent Holder shall take colour photographs of the pontoon within 3 months of the fifth and tenth anniversary of the commencement of this Coastal Permit and submit to the Consent Authority.

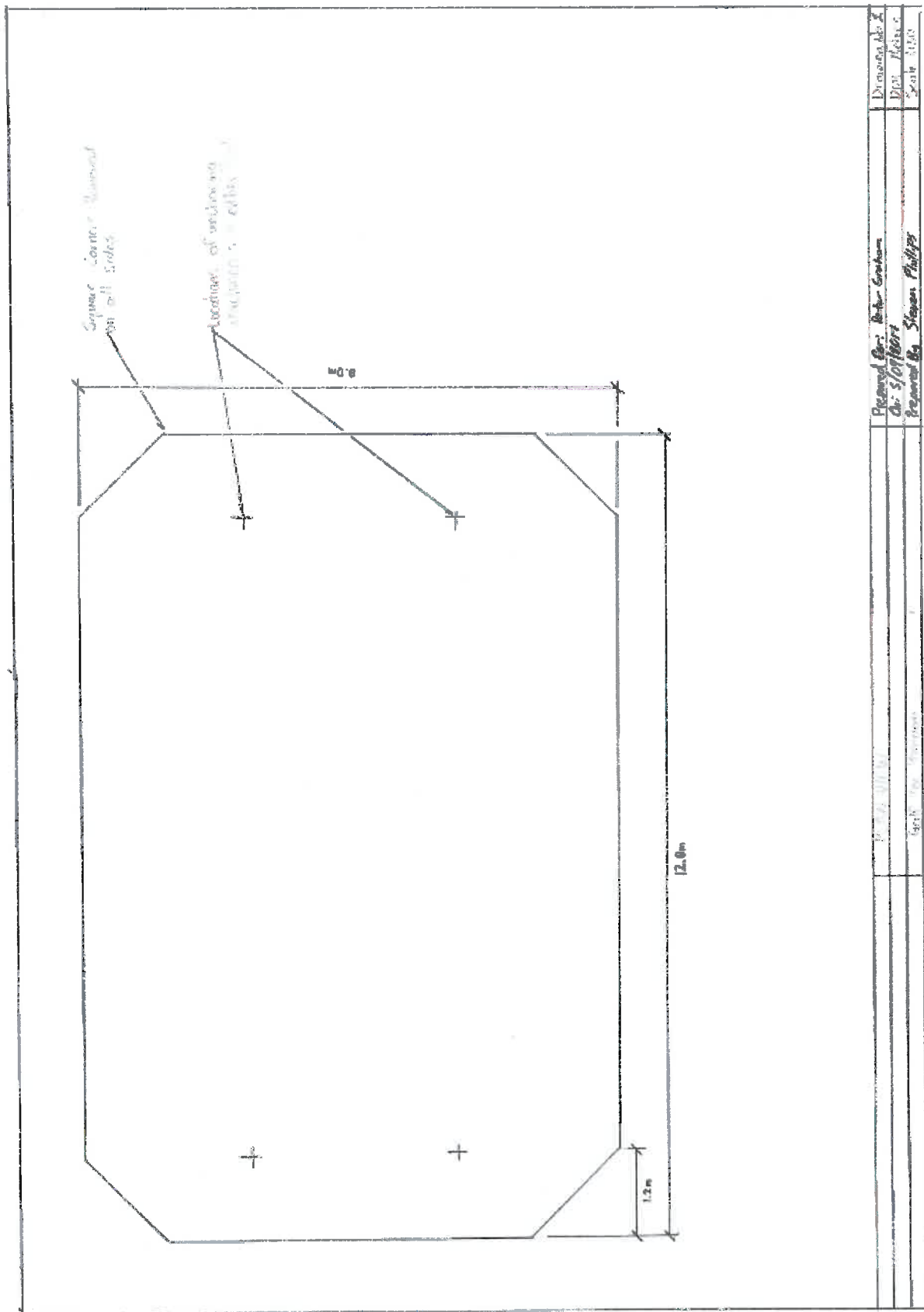
General

9. The only signage to be displayed on the pontoon shall read "Otago Harbour Golf Challenge" in blue lettering no more than 300 millimetres in height and 8 metres total in width.
10. The pontoon shall be maintained in a structurally sound, tidy and sanitary state.

Review

11. The Consent Authority may, in accordance with sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this Coastal Permit within three months of each anniversary of the commencement of this consent, for the purpose of:
- (a) Determining whether the conditions of this Coastal Permit are adequate to deal with any adverse effect on the environment which may arise from the exercise of the Coastal Permit and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the consent.;
 - (b) Ensuring the conditions of this Coastal Permit are consistent with any National Environmental Standards Regulations, relevant plans and/or the Otago Regional Policy Statement; or
 - (c) Requiring the Consent Holder to adopt the best practicable option, in order to remove or reduce any adverse effect on the environment arising as a result of the exercise of this Coastal Permit.

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Drawn by: S. H. H.	Drawn by: S. H. H.
Checked by: S. H. H.	Checked by: S. H. H.
Approved by: S. H. H.	Approved by: S. H. H.
Scale: 1:100	Scale: 1:100

COASTAL PERMIT

Pursuant to Section 104B of the Resource Management Act 1991, the Otago Regional Council grants consent to:

Name: Peter Ronald Graham

Address: 149 Portobello Road Vauxhall Dunedin 9013 NZ

To occupy the Common Marine and Coastal Area and to disturb the Coastal Marine Area while striking golf balls and to recover golf balls

For the purpose of operating a commercial golfing activity

For a term expiring 25 years from the commencement of this consent

Location of consent activity: Midpoint location: Vauxhall, approximately 380 metres south west of the intersection of Doon Street and Portobello Road

Legal description of consent location: Common Marine and Coastal Area

Map Reference: Midpoint location: NZTM 2000: E1407834 N4915683

Conditions

Specific

1. This Coastal Permit shall be exercised in conjunction with Coastal Permits RM17.229.01 and RM17.229.02.
2. The area of temporary disturbance and occupation is restricted to the area indicated in Appendix 1 of this Coastal Permit.
3. The Consent Holder shall cease exercising this Coastal Permit at any time that a person, bird or marine mammal enters the striking zone as indicated in Appendix 1 of this Coastal Permit.
4. All golf balls collected from the Coastal Marine Area shall be collected :
 - (a) Within 5 metres of the shore by wading, snorkelling or diving methods
 - (b) Greater than 5 metres from the shore by scuba diving or snorkelling by a certified diver or divers. Standing or walking on the seabed in this area shall be minimised.
 - (c) All ball retrieval shall be by hand, and disturbance of the sea floor must be minimised while retrieval occurs.
5. Golf balls that enter the Coastal Marine Area shall only be low toxicity golf balls free from cracks and abrasions.

Performance Monitoring

6. Prior to the first exercise of this Coastal Permit, the Consent Holder shall prepare and submit to the Consent Authority an Operations and Management Plan. The plan shall include as a minimum:
 - (a) A description of the activity;
 - (b) A detailed description of the spotter procedure and how Condition 3 of this Coastal Permit will be met including taking into account visibility;

- and
- (c) A detailed description of the golf ball retrieval procedure.
7. The Consent Holder shall submit a written report to the Consent Authority by 1 July each year. The report shall include, as a minimum:
- Evidence of compliance with Conditions 2, 3, 4 and 5 of this coastal permit;
 - Effects of ball placement and retrieval on the sea bed.
 - A copy of the record of complaints received in relation to the activity; and
 - The number of unrecovered golf balls.
 - The number of balls landing outside the strike zone
 - Measures taken to keep balls within the strike zone.

General

8. The consent holder shall maintain a permanent record of any complaints received, in respect to the exercise of this consent. A copy of the record shall be included in the annual written report required for by Condition 7 of this consent and made available for inspection at other times upon request. The permanent record shall include, but not be limited to, the following information for each incident.
- Name and address of complainant;
 - Date and time when the alleged complaint occurred;
 - The most likely cause of the alleged incident; and
 - Any corrective action taken by the consent holder to avoid, remedy or mitigate any further incidents.
9. That all practical measures are undertaken to minimise the risk of contamination and sedimentation of the Otago Harbour.

Review

10. The Consent Authority may, in accordance with sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this Coastal Permit within three months of each anniversary of the commencement of this consent, for the purpose of:
- Determining whether the conditions of this Coastal Permit are adequate to deal with any adverse effect on other users of the Coastal Marine Area which may arise from the exercise of the Coastal Permit and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the consent.;
 - Ensuring the conditions of this Coastal Permit are consistent with any National Environmental Standards Regulations, relevant plans and/or the Otago Regional Policy Statement; or
 - Requiring the Consent Holder to adopt the best practicable option, in order to remove or reduce any adverse effect on the environment arising as a result of the exercise of this Coastal Permit.

Notes to Consent Holder

- If this Coastal Permit is not given effect to within a period of two years from the date of commencement of this consent, this Coastal Permit shall lapse under Section 125 of the Resource Management Act 1991.*
- This Coastal Permit does not allow for the dredging or scraping of the sea floor with ball retrieving tools.*
- The purpose of the Operations and Management Plan in Condition 6 is to*

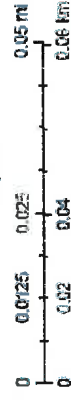
manage potential effects on other users of the Coastal Marine Area, the sea bed and to satisfy other NZ legislation including the Health and Safety at Work Act 2015. The Consent Holder should ensure that the vessel(s) used for retrieving golf balls is surveyed for commercial operation.

Appendix 1.



January 25, 2018

1:1,128



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Otago Regional Council

Area bound by: NZTM 2000: E1407896 N4915638, E1407908 N4915699, E1407771 N4915743, E1407798 N4915632