

Port Otago Limited
P O Box 8
Port Chalmers

Attention: Rene Bakx

Dear Sir

RESOURCE CONSENT APPLICATION

**LUC-2016-189
40 BEACH STREET
PORT CHALMERS**

The above application to undertake earthworks for the purpose of land stability at 40 Beach Street, Port Chalmers was processed on a notified basis in accordance with Section 95 of the Resource Management Act 1991. The Consent Hearings Committee, comprising Councillors Andrew Noone (Chairperson), Lee Vandervis, and Andrew Whiley, heard and considered the application at a hearing on 31 August 2016.

At the end of the public part of the hearing, the Committee, in accordance with Section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public. Following the conclusion of the hearing, a site visit was undertaken by the Hearings Committee.

The Committee has **granted** consent to the application on 7 September 2016. The full text of this decision commences below with a consent certificate attached to this letter.

The Hearing and Appearances

The applicant was represented by:

- Rene Bakx (on behalf of the applicant Port Otago Limited)
- Len Anderson (Counsel for the applicant)

Council staff attending were:

- Kirstyn Lindsay (Advisor to Committee),
- Jeremy Grey (Processing Planner),
- Lee Paterson (Consultant Engineer for Council)
- John Eteuati (Water and Waste officer) and
- Wendy Collard (Governance Support Officer).

Submitters in attendance included:

- Naomi Wilson
- Don Anderson

Procedural Issues

It was noted that Mr Robert Murray Owen withdrew his submission on 29 August 2016. The Committee accepted the withdrawal and noted that no consideration would be given to Mr Owen's submission.

It was also noted that Cr Andrew Noone is a member of the Chalmers Community Board, the Board were briefed by Port Otago on the 9th March 2016, Cr Noone did not take part in those discussions.

Principal Issues of Contention

The principal issues of contention are as follows:

- Adverse effects on neighbours
- Effectiveness of landscaping
- Adverse effects on transportation network
- Adverse effects on Council's infrastructure
- Adverse effects on stability

Summary of Evidence

Introduction from Processing Planner

Mr Jeremy Grey outlined the proposal noting that resource consent was sought to undertake earthworks which exceed the scale thresholds and the permitted proximity of the works to Council-owned infrastructure of the Operative Dunedin City District Plan (the Operative Plan) at 40 Beach Street, Port Chalmers. The subject site is legally described as Lot 1 DP 26574 held in Computer Freehold Register (CFR) OT18D/5 comprising 1.0878 ha. The works will also extend into two parcels described as Sec 466 and Sec 467 SO 21294, Town of Port Chalmers held in CFR OT10C/180 (2,293m²) and CFR OT10C/181 (1,842m²) respectively. The legal road reserve within this area is misaligned with actual road formation and as such, some of the earthworks necessary for the stability management will also occur within road reserve. Up to 45,000 m³ of material will be removed and benched terraces will be formed. Proposed method of works will be predominantly involve ripping but may require some blasting.

Mr Grey noted that the Proposed Dunedin City District Plan (2GP) was notified on 26 September 2015 but at this time none of the proposed rules are relevant to the proposed activity. He noted that overall, that the proposal is assessed as a restricted discretionary activity.

Mr Grey noted that there were four submissions received on the publically notified application, one of which was subsequently withdrawn. Of the remaining three submissions, two were in support and one did not indicate a position.

In his assessment, Mr Grey considered that the actual and potential effects associated with the proposed activity will likely be no more than minor. However, his position was contingent on strict adherence to recommended conditions of consent. Mr Grey sought further clarification regarding two matters; the first relating to the Council-owned site at 2 Island Terrace and whether the works will encroach onto this land and the second how the works will account for the Council-owned sewer pipe located within the subject site. Subject to these issues being addressed satisfactorily, Mr Grey recommended to the Committee that the consent be granted. In response to the Committee's questions regarding the reuse of the spoil, Mr Grey confirmed that it is likely that any reuse would require new consents under the Operative District Plan.

The Applicant's Case

Mr Len Andersen opened the applicant's presentation by noting that the purpose of the works was to ensure that the applicant's operation and public safety was safeguarded from future instability. He noted that currently Beach Street was obstructed by shipping containers put in place to protect road users from further slippage on the site. The containers reduced the width of the road and redirected traffic onto the railway line.

Mr Andersen noted that the applicant did not raise any issues with Mr Grey's report and the draft conditions as proposed were acceptable to the applicant. Specifically, Mr Andersen noted that the works would be carried out in accordance with an approved construction management plan, erosion and sediment control plan, stormwater management plan and a traffic management plan. He accepted the conditions which related to noise and blasting. When questioned by the Committee, Mr Andersen noted that draft condition 14 which required notice to be given to neighbours of blasting could be further refined to restrict when blasting could occur and advise neighbours of those specific times.

Mr Andersen noted that the landscape management plan had been prepared by Landscape Architect Mike Moore. It was the intention of the applicant to plant the existing benches at the top of the slope that are to be extended by the earthworks and that these are planted in appropriate indigenous species. The slopes below the benches would also be planted in native species and hydro-seeded and left to revegetate naturally.

Mr Andersen spoke to the submissions on the application noting Ms Wilson's concerns regarding the future stability of the slope. He noted that proposed conditions of consent requires the works to be overseen by a suitably qualified engineer to ensure the works are stable and do not create areas of instability on the site or adjacent land. Further to Ms Wilson's submission, he noted in respect to her concerns regarding replacement planting, that the landscape plan submitted with the application detailed the planting and its maintenance proposed for the site.

Mr Andersen noted in the Port Chalmers Historical Society submission, it was supportive of the proposal as applied for. With regard to Mr Don Anderson's submission regarding the reuse of the spoil material, the applicant was supportive of the reuse of the material for the cycleway should this option be available.

Mr Rene Bakx outlined the history of the subject site; including a slope failure in 1999 and remediation works undertaken to correct this. He reaffirmed the need for the works to stabilise Flagstaff Hill. Mr Bakx noted the placement of the shipping containers to protect road users from rock slippage and fall was obstructing access along Beach Street and introduced conflict with the rail network. He considered that the proposed works would provide a long-term engineering solution to the current instability of the hillside. The applicant engaged reputable engineers to assess the site and was confident in the solutions that had been proposed. Mr Bakx confirmed the volume of earthworks as 45,000m³. He acknowledged Mr Don Anderson's submission regarding the use of the material for the proposed cycleway and noted that the applicant had been in discussions with the New Zealand Transport Agency with regard to the timing and prospects of the reuse of the material.

When questioned by the Committee, Mr Bakx noted that Beach Street would be closed for periods of time but that this would be managed by Council's Transportation department through the traffic management plan. There were options to ensure that alternative public access remained available to the boat harbour.

In response to Mr Grey's questions regarding Council-owned infrastructure and the property at 2 Island Terrace, Mr Bakx clarified that the property at 2 Island Terrace was only affected by a minor degree at the northwest corner of the property. He noted that the stability of this land would not be impacted. Mr Bakx noted that the land was owned by Dunedin City Council and leased by the applicant and the any works located on this land would be subject to lease negotiations. If the Dunedin City Council (as landowner) was not amenable to these works, these could be redesigned to avoid the property and this would not be fatal to the application. He noted that there was a swale drain proposed to intercept stormwater and divert it away from the slope face across 2 Island Terrace. While this is the preferred location for the swale, the applicant has engineering advice that it could be relocated outside of the property boundary if necessary but that this would require further modifications to the slope design.

With regard to the impacts of Council owned water and waste infrastructure, Mr Bakx expected that the sewer pipe which traverses the property will be affected by the excavation and would need to be demolished as a result of the works. He also expected the man hole located in the Island terrace road reserve to be affected. He noted that Water and Waste services had confirmed that the sewer pipe could be decommissioned or vested as private sewer. It is the applicant's preference that the pipe be removed and capped at the man hole.

Mr Bakx noted that the works are expected to take between 3 and 12 months but this depended on the contractor engaged to run the project, the conditions of consent and weather conditions. He noted that the contractor would be responsible for providing the various site management plans and for adhering to any conditions of consent. When questioned by the Committee, Mr Bakx confirmed that it was in the applicant's best interest to complete the works as quickly as possible. The use of blasting to expedite the works would not be confirmed until a contractor had been confirmed but it was a possibility that blasting would occur. The Committee raised concerns regarding access to the boat harbour along Beach Street. In response, Mr Bakx noted that a condition of consent required a traffic management plan which will address public access along Beach Street.

Evidence of Submitters

Ms Naomi Wilson spoke to her submission raising concerns about the ongoing stability of the site, landscape planting, potential damage to her property and prolonged noise effects. Ms Wilson stated that, in her opinion, the stability works were only required due to the poor management of the site by the applicant. She noted that her house had historic value and given its connection with artist, Ralph Hotere, she considered it to be taonga. She was concerned that the vibration and blasting would adversely affect the house. Ms Wilson highlighted the poor management of the landscape treatment to that portion of the hill that was remediated after the previous slip. She sought reassurance from the Committee that any consent conditions would be carefully monitored and that non-compliance would result in enforcement action.

Mr Don Anderson spoke to his submission. He was concerned that an opportunity to reuse the spoil from the proposed earthworks was being missed by not diverting the spoil to the proposed cycleway. Mr Anderson showed the Committee a range of photos and gave commentary regarding his preferred route for Sawyers Bay-Port Chalmers leg of the proposed cycleway.

Evidence of Council Officers

Mr Lee Paterson made himself available to answer questions of the Committee. The Committee sought comfort regarding the engineering design of the works. Mr Paterson considered that the design work had been undertaken by a reputable engineering company and conditions of consent accepted by the applicant would require the works to be overseen by a suitably qualified person. He believed that the works would improve the Factor of Safety. With regard to the potential blasting, Mr Paterson believed that there was the capacity on the site to utilise large machinery which would reduce the need for blasting. When asked about the quality of the spoil material, Mr Paterson confirmed that it was good quality material and could be put to a number of uses, including the cycleway.

Mr John Eteuati responded to the Committee's questions regarding the foul sewer which traverses the area of works. He noted that the foul sewer is a virgin pipe and can be decommissioned if required. With regard to the man hole in Island Terrace, Mr Eteuati noted that if this was to be damaged then the applicant would need to relocate this. He noted that in regard to the stormwater and foul sewer pipes in Island Terrace, Water and Waste Services would require these to be filmed prior to the works commencing to establish the condition of the pipes. Water and Waste Services would also require the water pipes in Island Terrace to be pressure tested before the works and inspected to for any leaks after the works to ensure the integrity of these is maintained.

Processing Planner's Review of Recommendation

Mr Grey reviewed his position and noted that a key aspects of the application related to the timing of the works and the timeframes within which the works would be undertaken. Mr Grey believed that it is important that the surrounding community remain informed and involved and regular updates should be made to affected parties. He considered that the timing of any blasting should be controlled and specific notice of blasting be given to affected parties. Mr Grey noted the concerns raised by Ms Wilson regarding the landscape treatment and determined that the weed control outlined in the landscape plan should also become a specific condition of consent. Mr Grey accepted that the effects of the works on council infrastructure can be managed and that the potential effects on the property at 2 Island Terrace would be best managed through the existing lease.

Applicants Right of Reply

Mr Andersen on behalf of the applicant noted that the timing was dependant on a number of factors and as such it was hard to lock it down definitively. In relation to any potential damage caused to neighbouring properties, Mr Andersen cautioned the Committee to ensure that they did not impose conditions to address issues where reasonable civil remedies were available. He noted that the blasting condition could be tightened to impose more specific timeframes and notice service requirements. Overall, Mr Andersen sought that the consent be granted with conditions.

Statutory and Other Provisions

In accordance with Section 104 of the Resource Management Act 1991, the Planner's Report detailed in full the relevant statutory provisions and other provisions the Committee considered. Regard was given to the relevant provisions of the following chapters of the Dunedin City District Plan: 4 Sustainability, 11 Ports, 17 Earthworks, and 20 Transportation and the relevant provisions of the proposed Dunedin City District Plan. The Statutory provisions within Part 2 of the Act were considered; with particular attention given to section 5. Consideration was also given to the Regional Policy Statement for Otago and proposed Policy Statement for Otago.

Main Findings on Principal Issues of Contention

The Hearings Committee has considered the evidence heard, the relevant statutory and plan provisions and the principle issues in contention. The main findings on the principal issues have been incorporated within the reasons discussed below.

Decision

The final consideration of the application, which took into account all information presented at the hearing, was held during the public-excluded portion of the hearing. The Committee reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991. In addition, a site visit was undertaken during the public-excluded portion of the hearing, the Committee inspected the site and this added physical reality to the Committee's considerations.

*That, pursuant to sections 34A(1) and 104C and after having regard to Part 2 matters and section 104 of the Resource Management Act 1991, the Dunedin City Council **grants** consent to a **restricted discretionary** activity being to undertake earthworks that will breach the maximum change in ground level and volume of excavation thresholds and boundary and water and waste infrastructure proximity provisions at 40 Beach Street, Port Chalmers, legally described as Lot 1 DP 26574 (CFR-OT18D/5), Sec 466 and 467 SO 21294 Town of Port Chalmers (CFRs OT10C/180 and OT10C/181), along with portions of Aurora and Island Terrace road reserve, subject to conditions imposed under section 108 of the Act, as shown on the attached certificate.*

Reasons for this Decision

1. The Committee determined that the works as applied are a restricted discretionary activity. The Committee notes that in making its decision, its discretion is restricted to the following relevant matters:

ADVERSE EFFECTS ON THE AMENITY OF NEIGHBOURING PROPERTIES

2. The Committee recognises that the works will occur over a prolonged period of time (up to 12 months) and that for the duration of the works there is the potential for adverse effects such as noise, dust and vibration. The Committee looked to the Marshal Day acoustic report submitted with the application. While the Committee found the report light and lacked specific positions of claimed noise levels and did not quantify sub-sonic or vibration effects, Marshal Day did confirm that where works were taking place within the line of sight of neighbouring properties, noise levels were anticipated to be 65 dB L_{AEQ} . These levels fall with the long-term construction noise standards for the hours between 7.30am to 6.00pm as set out in NZS 6803:1999. The noise of the operation will preclude works occurring outside of these times. The Committee believe that is appropriate for those noise standards to be adopted.
3. Turning their mind to timing of the works, the Committee are mindful that it is a balancing act where any restriction on the time periods placed on the works has the potential to extend the duration of the works overall. That said, the Committee consider that the neighbouring properties should have some respite from the effects of the construction and, as such, have determined that works shall not occur on Sundays and Public Holidays.
4. In terms of vibration effects, the Committee recognise that the Marshal Day report states that vibration effects will be noticeable but of short term and limited in duration. The Marshall Day report suggests that any blasting should maintain a separation distance of at least 100m from any dwelling to ensure the 5mm/s as promoted in the accepted German Standard DIN 4150-3:1999-02. The Committee considers that this standard should be complied with during any blasting. To further reduce any effects on neighbours, the Committee restricts the hours of blasting to between 9am and 4pm, Monday to Friday with blasting occurring in one hour blocks for no more than two hours on any given day.
5. The Committee also consider that it appropriate that notice of the blasting shall be served on the neighbours a minimum of 48 hours before blasting occurs. The notice shall give the time that blasting is to occur and the duration of the blasting. No blasting shall occur if notice has not been served.
6. Turning its mind to the potential dust effects, the Committee accept the draft condition 12 of the S42A report and will require dust suppressant measures to be employed.
7. The Committee notes that there is the potential for the works to extend into 2 Island Terrace and also occur within the Aurora Terrace and Island Terrace Road Reserve. The Committee reminds the applicant that these works may only occur at the pleasure of the Dunedin City Council. The applicant is advised to get permission from the Council's Property and Transport department who administer these pieces of land.
8. The Committee consider that it is important that the works are undertaken in a timely manner. That is, once the works commence there should not be any unnecessary delays in their completion. The Committee note that the applicant has stated that the works will be completed within 3-12 months. To provide certainty for the neighbours, the earthworks shall be completed within 12 months from when they commence and post-care landscaping works shall be completed within 12 months of when the earthworks are completed.

9. The Committee consider overall, that it is important for the applicant to actively engage and inform the neighbouring community regarding these works. To that end, five days prior to the start of works, the applicant shall provide written notice to the neighbours and Council advising them of the impending commencement of the works. The applicant shall also provide two-monthly updates detailing the progress of the works to neighbouring properties and the Council. The progress reports shall detail the extent of the work undertaken and provide a projection of the works still to be completed and estimated timeframes for these.

EFFECTS ON VISUAL AMENITY AND LANDSCAPE

10. With respect to the effects on visual amenity and landscape, the Committee recognise that the site will have an adverse visual impact while the earthworks are being undertaken and that this effect will be present for the duration of the works and until planting becomes established. The Committee acknowledges mitigation proposed by the landscape development and management plan prepared by Mike Moore and submitted with the application.
11. The Committee notes that previous benching work has occurred within Lot 1 DP 26574. The Committee consider that it is important that the lot be managed as a contiguous unit and believe that the landscaping management should occur across the entire site. As such, the landscape and development plan should be amended to extend the landscaping over the northern and north-western portion of Lot 1 DP 26574. The landscape and development plan with incorporated changes should be resubmitted as part of the construction management plan for approval by the Resource Consents Manager.
12. The Committee notes Ms Wilson's concerns regarding the ongoing maintenance of the landscaping and seek to address this by imposing specific conditions requiring active weed control to be undertaken and moribund plantings to be replaced.

EFFECTS ON ANY ARCHAEOLOGICAL SITE AND ANY CULTURAL SITE

13. The Committee accept the recommendation in the s42A report that an accidental discovery protocol be imposed on the consent.

EFFECTS ON THE TRANSPORTATION NETWORK

14. The Committee are mindful that management of the road, including any temporary closures are managed through the Local Government Act and a separate process under this legislation will manage those effects. A condition of consent requires the applicant to submit a Traffic Management Plan for approval by the Council's Transport department.
15. The Committee recognises that without a defined end point for the spoil it is difficult to assess the effects on the traffic network. The Committee recognise that if the spoil is transported by truck back to Dunedin, once off Beach Street, transportation will occur on the State Highway network which is designed for heavy traffic movements. The applicant is encouraged to consider the suitability of alternative transport options such as rail or barge to transport the spoil from the site.
16. Post-works, the Committee encourages the applicant to revisit the current legal road corridor within Beach Street and apply for appropriate amendments to the location of the legal road to ensure that legal public access is secured.

EFFECTS FROM THE RELEASE OF SEDIMENT

17. The Committee accepts that the nature of the works is such that sediment and erosion effects will need to be managed. It supports the recommendation in the s42A report that a Stormwater Management Plan and an Erosion and Sediment Control Plan are necessary to contain effects within the subject site. It notes that these plans will need to be approved prior to any works commencing on the site.

DESIGN AND ENGINEERING EFFECTS

18. The Committee recognises that the works have been designed by a reputable engineering company and that this design work has been subsequently peer reviewed by the Council's Consultant Engineer. The Committee are satisfied that the works are viable and can be undertaken as applied for. It notes that the details of the works including methodology and timing are reliant on the contractor engaged. The Committee accept the recommendation of the s42A report that a construction management plan be submitted for approval by Council prior to works commencing.
19. The Committee note that the contractor will be responsible for ensuring all conditions of consent are complied with but remind the applicant that the ultimate responsibility for compliance lies with it.

EFFECTS ON THE STABILITY OF LAND AND BUILDINGS

20. The Committee refers to the direction given above regarding the restrictions imposed on the blasting works to limit the extent of vibration effects on neighbours. The Committee recognise that, as with any works, there is the potential for damage to occur to neighbouring properties. The applicant is encouraged to assess the pre and post work state of neighbouring properties to ensure that no damage has occurred as a result of actions undertaken on its site.

EFFECTS ON UNDERGROUND UTILITIES

21. The Committee acknowledge that the foul sewer pipe traversing the subject site is likely to be interfered with as a result of the works. It notes that this is a virgin pipe and can be decommissioned without impact on the provision of infrastructure services. It further accepts that the man hole in Island Terrace may need to be relocated if its integrity is threatened by the works. The relocation of the man hole would be subject to approval of Water and Waste Services. The Committee recognises the concerns raised by Water and Waste Services regarding the integrity of the Council's infrastructure network. It notes that Water and Waste Services has requested a number of pre and post work testing of the network to be undertaken. The Committee considers that these tests are appropriate and imposed as conditions of consent.

OTHER MATTERS

22. The Committee appreciates the well-considered submission of Mr Anderson but note that the issues raised in his submission fall outside of the scope of matters which can be considered through this consent process. The Committee does however recognise the quality of material to be removed and encourages the applicant to actively investigate all economic and environmentally sustainable reuse options for the spoil won from site.

DETERMINATION

23. The Committee considered that the proposed activity is consistent with the relevant objectives and policies of the Operative Dunedin City District Plan predominantly Objective 17.2.3 and Policy 17.3.9 (Earthworks Section) that seek to control the location and scale of earthworks and to ensure that earthworks are undertaken in a manner that is safe and in a manner that minimises adverse effects on the environment.
24. The Committee also considers that the proposed activity is consistent with the relevant objectives and policies of the proposed Dunedin City District Plan, significantly objective 30.2.3 and policies 30.2.3.1, 30.2.3.2 and 30.2.3.3.
25. The Committee further considers that the proposed activity is consistent with the relevant objectives and policies of the Regional Policy Statement for Otago and proposed Regional Policy Statement for Otago.
26. The Committee believe that the adverse effects of the proposal will not be significant and can be adequately mitigated through conditions of consent.
27. The Committee concluded that the granting of the consent would be consistent with the purpose of the Resource Management Act 1991 to promote the sustainable management of natural and physical resources.

Commencement of Consent

As stated in Section 116 of the Resource Management Act 1991, this consent shall only commence once the time for lodging appeals against the grant of the consent expires and no appeals have been lodged, or the Environment Court determines the appeals or all appellants withdraw their appeals, unless a determination of the Environment Court states otherwise.

Right of Appeal

In accordance with Section 120 of the Resource Management Act 1991, the applicant and/or any submitter may appeal to the Environment Court against the whole or any part of this decision within 15 working days of the notice of this decision being received. The address of the Environment Court is:

The Registrar
Environment Court
PO Box 2069
CHRISTCHURCH 8140

Any appeal must be served on the following persons and organisations:

- The Dunedin City Council.
- The applicants.
- Every person who made a submission on the application.

Failure to follow the procedures prescribed in Sections 120 and 121 of the Resource Management Act 1991 may invalidate any appeal.

Please direct any enquiries you may have regarding this decision to Kirstyn Lindsay, whose address for service is City Planning, Dunedin City Council, PO Box 5045, Dunedin 9058.

Monitoring

Section 35(2)(d) of the RMA requires every council to monitor resource consents that have effect in its region or district. The scale and nature of the activity, the complexity and number of the conditions needed to address the environmental effects and whether the conditions have been complied with determines the number of monitoring inspections required. Given the nature of your intended works, this consent will require two inspections.

The City Planning Department sets out the fixed fees charged for monitoring in its schedule of fees. The fee for your scheduled inspections will be included in the invoice for your application.

It should be noted that if additional inspections are required, beyond those scheduled at the time the consent is issued, then there is the ability to apply additional charges to cover the costs of these extra inspections. Often you can reduce the need for additional inspections by complying with the conditions of consent in a timely manner and by ensuring on-going compliance with those conditions. Please ensure that you read the conditions of your consent carefully to establish your obligations when exercising your consents.

Yours faithfully

A handwritten signature in black ink, appearing to read "Andrew Noone". The signature is fluid and cursive, with a large initial 'A' and a stylized 'N'.

Cr Andrew Noone
Chairman
Hearings Committee

Consent Number: LUC-2016-189

Pursuant to sections 34A(1) and 104C and after having regard to Part 2 matters and section 104 of the Resource Management Act 1991, the Dunedin City Council **grants** consent to a **restricted discretionary** activity being to undertake earthworks that will breach the maximum change in ground level and volume of excavation thresholds and boundary and water and waste infrastructure proximity provisions at 40 Beach Street, Port Chalmers, legally described as Lot 1 DP 26574 (CFR-OT18D/5), Sec 466 and 467 SO 21294 Town of Port Chalmers (CFRs OT10C/180 and OT10C/181), along with portions of Aurora and Island Terrace road reserve, subject to conditions imposed under section 108 of the Act.

Location of Activity: 40 Beach Street, Port Chalmers

Legal Description: Lot 1 DP 26574 (CFR-OT18D/5), Sec 466 and 467 SO 21294 Town of Port Chalmers (CFRs OT10C/180 and OT10C/181)

Lapse Date: 13 September 2021

Conditions

1. *The proposed activity must be undertaken in general accordance with the site plan, elevations and relevant information, including the Project Specification contained in the report by the report by Opus International Consultants Limited, entitled "Flagstaff Hill Proposed Cut Design North East Slope" dated 1 January 2010, provided with resource consent application LUC-2016-189, received by the Council on 4 May 2016.*

NOTIFICATION

2. *The consent holder must provide notice to the Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz of the start date of the works. This notice must be provided at least five (5) working days before the works are to commence.*
3. *The consent holder must provide written notice to the neighbouring properties of the start date of the works. This notice must be provided at least five (5) working days before the works are to commence.*
4. *The consent holder must send by email to rcmonitoring@dcc.govt.nz a progress update at the end of each two month period following commencement of the works. The update must detail the extent of the work already undertaken and give a projection on the earthworks will be complete. The same details must be provided in writing to neighbouring properties, within the same time period.*
5. *The Consent holder must serve 48-hours' notice of any blasting to the neighbours and the Council. The notice must give the time that blasting is to occur and the duration of the blasting. No blasting must occur if notice has not been served. Notice to the neighbours must be in a written form and to Council via email to rcmonitoring@dcc.govt.nz.*

ENGINEERING AND CONSTRUCTION WORKS

6. *The consent holder must:*
 - a. *be responsible for all contracted operations relating to the exercise of this consent; and*
 - b. *ensure that all personnel (contractors) working on the site are made aware of the conditions of this consent, have access to the contents of consent documents and to all associated erosion and sediment control plans and methodology; and*

c. ensure compliance with land use consent conditions.

7. The consent holder must complete all earthworks within 18 months from when they commence.
8. The proposed earthworks must be designed, specified and have its construction supervised by a suitably qualified person.
9. The consent holder must prepare a Construction Management Plan, which details the construction methodology. Construction Management Plan must include a Construction Programme which must confirm construction timing and details of storage and disposal of excavated material. A copy of the Construction Management Plan must be provided to Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz, one month prior to works commencing.
10. A suitably qualified person must be engaged to determine any temporary shoring requirements at the site during earthworks construction and the consent holder must install any temporary shoring recommended.
11. Following completion of the works, certification by a suitably qualified engineer that the worked areas are suitably stable and that additional instability has not been created that could affect the subject site or any adjacent land. The certification must be submitted to Resource Consents Manager within one month of the works being completed.

SEDIMENT AND EROSION CONTROL

12. The earthworks must be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater management, traffic management, along with dust and noise controls at the sites.
13. At least one month prior to the works commencing, an Erosion and Sediment Control Plan and Stormwater Management Plan to manage storm water run-off, sedimentation and erosion effects before, during and upon completion of the earthworks, must be submitted to the Resource Consents Manager for approval. These plans may be incorporated into the Construction Management Plan required by Condition 9 above.
14. All measures (including dampening of loose soil where possible) must be maintained to ensure that dust, resulting from the earthworks, does not cause a nuisance.
15. All on-site stockpiling must be undertaken in a manner to ensure that visual impact and sediment generation effects are minimised.

NOISE AND VIBRATION

16. Works must not occur outside of the hours of 7.30am - 6.00pm, Monday to Saturday. Works must not occur on public holidays.
17. All construction noise must comply with the following noise limits as per New Zealand Standard NZS 6803:1999:

Time of Week	Time Period	Leq (dBA)	L max (dBA)
Weekdays	0730-1800	70	85
Saturdays	0730-1800	70	85

18. All blasting must occur at least 100m away from any residential dwelling and must be undertaken in accordance with German Standard DIN 4150-3:1999-02. Blasting must only occur between the hours of 9am and 4pm, Monday to Friday with blasting only authorised in one hour blocks for no more than two hours on any given day.

TRAFFIC MANAGEMENT

19. *The consent holder must prepare a Traffic Management Plan (TMP), which must be submitted to, and approved by, the Transport department, prior to works commencing. The TMP must include, but not be limited to, the following:*
 - a. *Confirmation that TMP must comply with the requirements of the NZTA Code of Practice for Temporary Traffic Management.*
 - b. *All rock/earthworks material taken away from the site by truck must be taken away via Beach St direct to George Street/State Highway 88.*
 - c. *Road closures are at the discretion of the DCC Traffic Management Coordinator, and may require further public notification.*
 - d. *Details of any catch fences that may be required to ensure the operational safety of the transport network.*
 - e. *Confirm that any excavation work proposed within legal road must be undertaken in accordance with the National Code of Practice for Utility Operators' Access to Transport Corridors, and will require an authorised corridor access request prior to these works commencing.*
 - f. *Provide details of the full extent of proposed works, especially those within legal road.*

NETWORK INFRASTRUCTURE

20. *The foul sewer pipe which traverses Lot 1 DP 26574 may be decommissioned if required. All decommissioning works are the sole responsibility of the consent holder. Notice of the decommissioning works must be given to Water and Waste Services at least 14 days prior to these works commencing.*
21. *Should Water and Waste Services determine that the final design and methodology of the works threaten the integrity of the man hole located at the eastern termination of Island Terrace, then the man hole must be relocated at the cost of the consent holder. Relocation of the man hole must be undertaken in consultation with Water and Waste Services*
22. *Prior to the works commencing, the consent holder must arrange for Water and Waste Services (or their agent) to film the stormwater and foul sewer pipes and pressure test the water pipe in Island Terrace. Water and Waste Services require at least 14-days' notice to arrange this testing.*
23. *At the completion of the works, the consent holder must arrange for Water and Waste Services (or their agent) to film the stormwater and foul sewer pipes and test the water pipe for leakage in Island Terrace. Any damage (and subsequent repairs) to the infrastructure network caused by the works authorised by this consent must be the responsibility of the consent holder.*

LANDSCAPE PLAN

24. *A Landscape Development and Management Plan must be submitted to Council for approval of the Resource Consents Manager. The plan must be submitted at least one month before the works commence. The Landscape Development and Management Plan must manage the entire area of land contained within Lot 1 DP 26574 (CFR OT18D/5). At a minimum the plan must include species to be planted, spacing of planting, care and maintenance programme and weed control.*
25. *All post-care landscaping works must be completed within 12 months from when the earthworks are completed.*
26. *For five years following the completion of the landscaping works, all plants which become moribund must be replaced.*
27. *Active weed management and control must be undertaken for Lot 1 DP 26574 (CFR OT18D/5).*

CULTURAL VALUES

28. *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 Pouhere Taonga 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.*

Any koiwi tangata discovered must be handled and removed by tribal elders responsible for the tikanga (custom) appropriate to its removal or preservation.

Site work must recommence following consultation with the Consent Authority, Heritage New Zealand Pouhere Taonga, 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 Pouhere Taonga, 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 Historic Places Act 1993; 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.

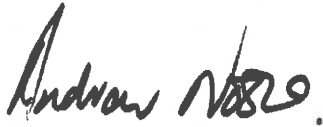
Advice Notes:

1. The consent holder is strongly encouraged to assess the pre and post work state of neighbouring properties to ensure the extent of any damage which may occur as a result of actions undertaken on its site.
2. The consent holder is reminded that any works occurring within Road Reserve or within 2 Island Terrace may only occur at the pleasure of the Dunedin City Council. The consent holder is advised to get permission from the Council's Property and Transport department who administer these pieces of land.
3. The consent holder is encouraged to actively investigate all economic and environmentally sustainable reuse options for the spoil won from site.
4. The consent holder is encouraged to consider the suitability of alternative transport options such as rail or barge to transport the spoil from the site.

5. The Transport department that recommends a TMP pre-application meeting be undertaken between the Site Traffic Management Supervisor (STMS) for the works, and Council's Traffic Management Coordinator, in order to determine appropriate methodology for the TMP and extent of the site working space. It should be noted that Transport would reserve the right to require additional traffic management in the future based on actual effects once work has commenced.
6. Post-works, the consent holder is encouraged the applicant to revisit the current legal road corridor within Beach Street and apply for appropriate amendments to the location of the legal road to ensure that legal public access is secured.
7. Should the man hole in Island Terrace be relocated, the new location and methodology of the works is required to be undertaken in consultation with Water and Waste Services.
8. Any altered stormwater or captured groundwater must not cause a nuisance, in general must drain to an approved outlet, which may require building consent. Openings to allow drainage to kerb and channel within road will require a Corridor Access Request as detailed above.
9. The following documentation is recommended as best practice guidelines for managing erosion and sediment –laden run-off and for the design and construction of erosion and sediment control measures for small sites:
 - ARC Technical Publication No. 90 Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region, March 1999.
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guide for Small Sites."
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
 - Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).
10. Any disposal of excavated material that is not to a facility approved to receive such material may require additional land use consent.
11. In addition to the conditions of a 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.
12. 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.
13. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
14. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the 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.

15. This consent allows noise effects to uniquely impinge on the only close private property at 2 Aurora Terrace such that double glazing costs would have been a condition of consent had the owner not already paid for this noise insulation in response to other Port Otago noise. This advice note suggests but cannot require that it would be in the interests of fairness for the consent holder to retrospectively pay for this sound-proofing recognising that the current earthworks proposal would necessitate such noise insulation.

Issued at Dunedin this 13th day of September 2016

A handwritten signature in black ink, appearing to read 'Andrew Noone'.

Andrew Noone
Chair
Hearings Committee

Appendix 1: Copy of Approved Plan for LUC-2016-189
(Scanned image, not to scale)

