



Report

TO: Hearings Committee

FROM: Melissa Shipman, Planner

DATE: 24 January 2018

SUBJECT: **RESOURCE CONSENT APPLICATION
LUC-2017-408
139 PORTOBELLO ROAD
PETER RONALD GRAHAM**

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 23 January 2018. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

SUMMARY OF RECOMMENDATION

- [2] For the reasons set out in paragraph 217 - 222 below, I consider that the proposal will have effects that are no more than minor subject to compliance with conditions. The proposal does not offend the objectives and policies for the underlying zone in recognition of the existing character of the reserve and its predominant use for recreation and car parking. Any adverse effects associated with any conflict between the proposal and other recreational activities and any potential health and safety issues (for the land based aspect of the proposal) can be addressed by way of conditions, in particular, requiring an amended signage scheme and a Management Plan (unless provided at the Hearing). I consider the conditions should include a review condition which allows the Council to re-consider the need for reducing the scale of the activity or for additional conditions as necessary to better management any unforeseen adverse effects which might arise and or arise from customer/visitor interest in the activity. As a result, I have concluded that the proposal should be granted.

DESCRIPTION OF PROPOSAL

- [3] Resource consent is sought to establish and operate a recreational tourism activity at 139 Portobello Road which is a recreation reserve owned by the Department of Conservation but managed and maintained by the Dunedin City Council.
- [4] The tourism business will comprise of:
- A golf hole in one challenge where people are able to hit a golf ball form a tee at the edge of the harbour and aim for a pontoon located approximately 95m off shore in the Otago Harbour.
 - A water sports and bike hire pick up/drop off point; and

- A coffee/food van which also operates as the office for the above activities.

[5] These activities are outlined individually in more detail below:

Golf Hole in One

- [6] The Golf Hole in One Operation involves three teeing-off platforms on a concrete base 1m setback from the edge of the reserve adjacent to the water's edge and approximately 10m setback from the reserve carpark at the southern end of the reserve see Area 2, page 2 of the AEE, **see Appendix 2 of the Panel Papers**). The three tee-off areas are separated such that golf swings do not interfere with the adjacent golfer necessitating an 8m long tee-off area. The land based aspect of the golf activity involves a 2.5m x 8m teeing-off area being approximately 20m² in area.
- [7] The tee-off area will be constructed by removing the existing grass cover and inserting a concrete base. Three synthetic mats will be placed over the tee-off area. It is not clear whether the mats will remain in situ outside of operating hours. The colour of the synthetic mats has not been stated however it is the applicant's desire for the mats to 'complement the existing environment'. No signage is proposed on the mats.
- [8] A floating pontoon is located approximately 95m off-shore (as depicted by 'Area 3', page 2 of the AEE). The pontoon comprises an 8m x 12m (96m²) structure in the harbour (identified as Area 3 page 2 of the AEE, **see Appendix 2 of the Panel Papers**).
- [9] The area within which a ball could be potentially hit was originally identified as an 'exclusive zone', however the applicant has confirmed that the area is only a ball striking zone and not intended to prevent any party from passing through the area. The total area of the striking zone is 1.06ha.
- [10] A direct line of sight is proposed between the tee zone to the floating pontoon.
- [11] No disruption is proposed to the stone wall feature located below the proposed teeing off zone. A 1m separation distance is provided between the edge of the teeing off zone and the stone wall.
- [12] The pontoon will have several fixtures attached to it, golf pontoon monitoring equipment (CCTV), a solar powered camera, flags and signage. Three coloured flags are also proposed indicating the three holes to aim at. The applicant has confirmed that the flags will not be taken down every day following cessation of activities. Lighting was also originally proposed, however, this has been removed and only reflectors will be installed now (compliant with Harbourmaster requirements).
- [13] Signage was originally proposed on the edges of the pontoon and possibly the top of the pontoon, however, the final design is yet to be confirmed. The AEE indicate signage was preferred on the south, north and east side and an indicative diagram provided at Figure 3 in the AEE.
- [14] A temporary portable 1m safe fence is proposed while the activity is in operation. It will be placed in front of the teeing area to prevent persons walking in front of the teeing area. No design has been provided to date.

- [15] A spotter is proposed to monitor golf ball teeing to ensure that balls are only hit when there is a clear and open space in the harbour. The policy of the operation will be for access priority to be given to other activities on the water, including wildlife. The applicant has offered the following conditions (or other similar/suitable wording):

The spotter must advise players to immediately cease hitting balls when any bird enters and remains within the temporary occupation zone.

The spotter must advise players to immediately cease hitting balls when any marine mammal enters and remains within the temporary occupation zone.

- [16] The applicant has confirmed that the water sports rental, café operator and the spotter may be the same person at times, depending on demand.
- [17] Golf balls will be retrieved from the seabed by a scuba diver and dinghy on a weekly basis and re-utilised for the activity. A Golf Ball Retrieval Methodology is appended to the application (Appendix 3, of the Applicant's AEE, **see Appendix 2 of the Panel Papers**) outlining the parameters/methods utilised to predict ball retrieval success rates.

Water Sports

- [18] A 5.5m x 8.0m area (44m²) occupying three carparks within the existing carpark on the southern side of the Vauxhall Yacht Club will be utilised for the water sports equipment hire and for the Coffee/Food Van. The van is expected to take up at least one carpark with the remainder being utilised for the bike/boat hire equipment. The applicant has not proposed to limit hire equipment exclusively to this recreational equipment. The hire equipment includes kayaks, canoes and bikes (and assuming life jackets and helmets) will be available for hire. If the coffee van takes up one carpark, the water sports hire operation will be limited to a total of two carparks and may involve include a bike trailer and/or kayak canoe trailer as well as lifejacket and wetsuit racks (possibly in winter) with vehicles towing these trailers being parked elsewhere on the reserve.
- [19] The applicant has not indicated how the designated carpark area will be reserved and/or set aside for the specific use of the consent holder.
- [20] While the application mentions that temporary lighting will be set up in this area to enable the operation to run at night by direct lighting towards the golf pontoon offshore, additional information received suggests that this lighting is no longer being proposed given the hours are reduced to daylight hours only for safety reasons.

Coffee/Food Van/Office

- [21] Coffee service, food sales and equipment hire and golf tickets will all be purchased via the on-site caravan. A 44m² footprint will house the caravan and other services i.e. kayak trailer/bike trailer etc.
- [22] It is assumed that the caravan will be self-sufficient and not require any services like power and/or water from the Yacht Club. The application does not confirm the volume of LPG or whether a generator will be required at the site.
- [23] All customers/patrons will utilise off-site port-a-loo toilet facilities which are already established on the northern side of the Yacht Club (153 Portobello Road).

- [24] The application states that the caravan will be mobile and will change regularly over the course of the operation (sub-contracted) as suppliers of the service will vary. The applicant has amended the application to allow any mobile coffee van supplier (with their own van signage) to undertake this element of the proposal as an independent operation so long as their caravan fits within the area dimensions approved (i.e. three carparks containing the van and the other business operations i.e. kayak/bike hire). The applicant has not indicated whether the boat and bike hire activity will still function out of the caravan in the event of the coffee/food service being operated by an independent operator.
- [25] A copy of the application, and additional information received by email since the application was lodged is contained in Appendix 1 of this report.

Parking/Access/Generated Traffic/Scale of the Activity

- [26] The application outlines the scale of the activity by stating expected staff numbers and visitor numbers (page 7, section 2.1.7.2).
- [27] The application states that up to **3 staff will be on-site at any one time and that up to 10 visitors per hour is anticipated during the peak season and 1-2 per hour in the off peak season.** The existing southern entrances to the existing Vauxhall Yacht Club carpark will be utilised for the activity, although it is possible that some people will utilise the northern end of the reserve before taking part in any of the activities proposed.
- [28] Vehicles are intended to enter the site from the south and exit via the northern access. No signage is being proposed which will restrict egress/ingress beyond what is already present at the site.
- [29] Larger shuttles and buses are anticipated however, if notified in advance, these operators will be briefed and required to utilise the public carpark on the northern side of the Yacht Club which the Applicant has indicated provides greater manoeuvrability for such vehicles.
- [30] Visitors are expected to arrive on foot, by cycle and by vehicle. The existing access off Portobello Road will be relied upon to access the site.

Signage

- [31] In addition to the pontoon signage, the applicant proposes multiple signs to identify the activity from the southern approach (see Figure 7, Applicant AEE). These include once advance warning sign erected 60m before the southern entrance on the left side of Portobello Road and two further similarly designed signs at the southern entrance to the carpark. The signs are illustrated in photo mark-ups as being blue with black writing and black diagrammatic information.
- [32] All three signs are proposed to be of the same dimension, approximately 2m high and 0.8m wide and single sided. All signs are intended to be located within the boundary of the site.
- [33] Dimensions are not provided but Figures 6 and 7 in the AEE (**see Appendix 2 of the Panel Papers**) are indicative of their scale.

Hours of Operation

- [34] The applicant initially proposed hours of 10am to 10pm for 7 days a week for the golf activity, however, following consultation with ORC and the reliance on

visibility for management of the activity (i.e. spotter) daylight hours are now proposed being 0900 – 2200 hrs each day.

- [35] For all other activities the following hours are proposed, also 7 days a week:
- 6.30am to 10pm or sunset in summer (November to April) and
- 6.30am to 8pm in winter (May to October).
- [36] The applicant states (page 3 of the AEE, **see Appendix 2 of the Panel Papers**) that all vehicles and non-permanent fixtures will be removed at the end of every business day.

DESCRIPTION OF SITE AND LOCATION

- [37] The application site is located at 139 Portobello Road which forms part of a composite site making up the Vauxhall Yacht Club Reserve together with the land at 153 Portobello Road. The land comprises a strip of recreation land located alongside a busy coastal road, Portobello Road. The site has an approximately 105m road frontage with Portobello Road, a District Road.
- [38] The Vauxhall Yacht Club is located centrally in-between reserve land, with the subject site being located to the south of the Club and additional reserve land wrapping around the club and the land to the north of the Club. The Club itself appears to be located wholly within the Coastal Marine Area.
- [39] The banks of the high cliffs on the opposite side of Portobello Road provide a backdrop to the reserve, with the road dissecting through the middle. The road is a two way road with designated cycle/pedestrian ways on the western side adjoining the site only. Residential development is located atop the cliffs and adjacent slopes above the road.
- [40] The total reserve area is specified in the application as 2,492m², however, when combined with the reserve land on the northern side of the Club the total land area is closer to 4,500m². A carpark occupies approximately half of the 'application site' comprising approximately 116m² of mostly rectangular shaped asphalted surface. The land is relatively flat, although elevated somewhat above the surface of the Otago Harbour along the western edge of the reserve. Several native plantings are located across the reserve, mostly in small clusters at the triangular section in the southern corner of the site and at the edge of the car parking area. The carpark provides approximately 15 carparks on the western side of the reserve. Two vehicle accesses are proposed to the 'application site' area. A 27m long strip of roadside planting located in the middle of the two entrance points to the reserve provides a partial screen of part of the carpark from the road.
- [41] All areas of the reserve not occupied by the carpark or access are green space utilised for recreation. One formalised access (concrete steps) down to the water's edge is located at the northern end of the site approximately 18m south of the main Yacht Club building. While not forming part of the application site, the northern part of the Vauxhall Yacht Club Reserve comprises a larger car parking area with multiple formalised accesses down to the water's edge (board walk, mooring, boat ramps). A port-a-loo is located within that carpark adjacent to the northern wall of the Yacht Club.
- [42] The reserve at 139 Portobello Road is owned by the Department of Conservation and DCC has a concession agreement from DOC allowing the DCC to maintain and utilise the area for recreation reserve. The adjacent reserve land at 153 Portobello Road to the north, including the Yacht Club site is owned and managed by the DCC.

- [43] The Otago Harbour Walls on the perimeter of the site are a **Category 1** protected structure.
- [44] The legal description of the site is Section 1, 5 Survey Office Plan 394230 (Computer Freehold Register 403802) comprising 2492m². A Gazette Notice is registered on the Certificate of Title (7689701.1) appointing DCC to control and manage the reserve. The land is also subject to the Reserves Act 1977. Section 5 comprises land located approximately 500m further south of the application site. This land is not part of the 'application site' area.
- [45] **Note:** The application site is the reserve area located on the immediate southern side of the Yacht Club. Where the application refers to the 'reserve' in several locations it is necessary to determine whether the applicant is referring to the application site reserve area being 1612m² or the wider reserve area, being the Vauxhall Yacht Club Reserve (which includes 153 Portobello Road). A calculation made at Section 2.1.1, page 2 of the AEE, in reference to the % of land occupied by the proposed activity, is only based on the reserve area to the south of the Club however, the calculation also includes the remote land area of Section 5 (877m²) which is located approximately 500m south of the site.

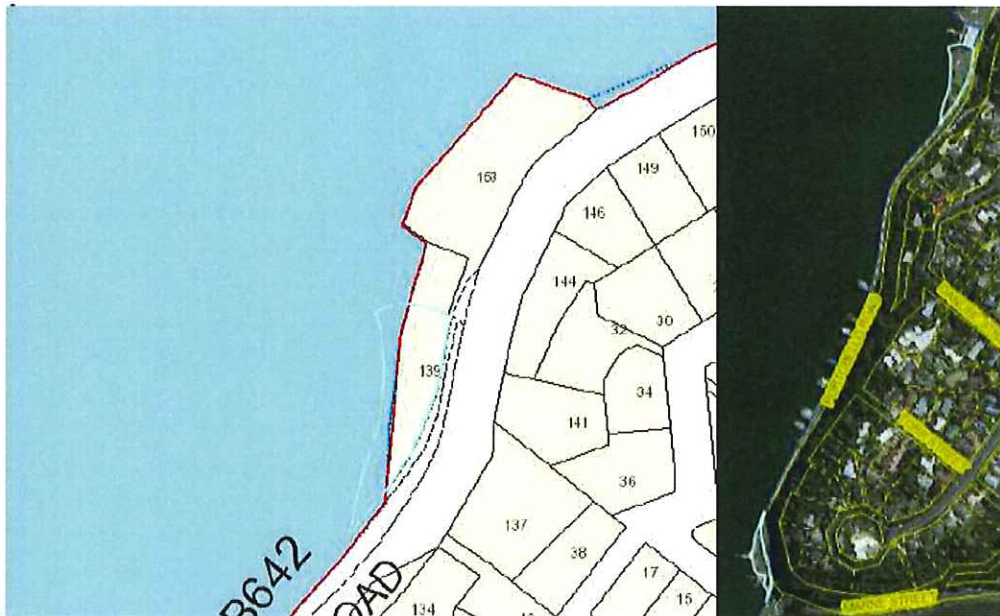


Figure A: Site Map 139 Portobello Road

BACKGROUND TO THE APPLICATION

- [46] The applicant has indicated that the proposed tourism venture is designed to encourage greater use of the Otago Harbour and Peninsula and Peninsula and complements the newly developed cycle path that extends from St Leonards through to Vauxhall. The Applicant anticipates that the proposal will provide additional activities for both local residents and tourists.

ACTIVITY STATUS

- [47] Dunedin currently has two district plans: the operative Dunedin City District Plan, and the Proposed Second Generation Dunedin City District Plan (the "Proposed 2GP"). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.

- [48] The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to Section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

Dunedin City District Plan

- [49] The subject site is zoned **Residential 1** in the Dunedin City District Plan. The stone sea wall alongside the western edge of the application site is a scheduled protected item (**B642 Otago Harbour Walls**) and extends to the north and south of the site.
- [50] Resource consent is required as the activity does not meet/comply with the following rules:
- [51] Recreational Activity is defined within the District Plan to mean: "...*the use of the land for recreation purposes*" and is a permitted activity (Rule 8.7.1(i)(ii)) on the proviso that any associated structures do not exceed 25m² in floor area.
- [52] As the proposal activity is a commercial venture albeit still recreational, the activity is considered to be a **non-complying activity** pursuant to Rule 8.7.6(iii) (not specifically identified as a permitted, controlled or discretionary activity).
- [53] The existing vehicle access to 139 Portobello Road is non-complying with the District Plan transportation rules. While the proposal does not seek to alter the existing arrangement which relies on existing use rights, these may be considered to be lost by the new proposal. A technical non-compliance is created by the presence of two vehicle crossings along a district road frontage length of between 100-200m long where only one is permitted under Rule 20.5.7. The activity is therefore a **restricted discretionary activity** under Rule 8.7.4(i) loading and access.

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

- [54] The Proposed 2GP was notified on 26 September 2015. The 2GP zoning maps indicate that it is proposed that the subject site be zoned as **Recreation**. The maps also indicate that the property is within the **Hazard 3 – Coastal Overlay zone**. The site is identified within an **Archaeological Alert Layer** and forms part of a **Wahi Tupuna site – Otakou Harbour**.
- [55] The Proposed 2GP was notified on 26 September 2015, and some 2GP rules have immediate legal effect. In this instance, there are no relevant 2GP rules to consider.

Summary

- [56] Overall, the activity is considered to be a non-complying activity under the rule provisions of the Operative District Plan.

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

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

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

- [58] Some minimal excavation is required to insert the concrete pad beneath the surface layer of soil on the reserve, however, it is considered, more likely than not, that no activities have been undertaken on the site that appear on the HAIL as the site has historically been utilised for a reserve adjacent to the road and it is highly unlikely that HAIL activities have taken place at this location. Therefore, the National Environmental Standard is not applicable to the proposal, and any soil disturbance is not subject to any further limitations beyond the limits in the District Plan i.e. 100m³ and 1.5m change in ground level for sites less than 2.0ha in area (2.492 m²).
- [59] Additionally, while the proposal introduces a new commercial recreational activity on the reserve, the predominant activity being 'recreation' is not considered to be changing from its current use and that new land use will not raise any implications for human health. As such, the National Environmental Standard, which also controls change in land use where the proposal introduces a new harm to human health is not deemed applicable to the proposal.

NOTIFICATION AND SUBMISSIONS

- [60] Written affected party approvals were received from parties in the following table:

Person	Owner	Occupier	Address	Obtained
Vauxhall Yacht Club	✓	✓	153 Portobello Road	25/5/17
Richard Grant Paterson	✓	✓	137 and 141 Portobello Road	31/5/17

Procedural Matters

- [61] Three procedural errors have been identified prior to writing this report and during the preparation of this report. They are as follows:
- [62] (1) The application form as lodged by the applicant and as notified has incorrect contact details for any correspondence to the applicant. The address and phone contact information is for Traffic Management Limited's contact details instead.
- [63] (2) The Vauxhall Yacht Club has stated on their signed written approval form that they are the owner of the property at 153 Portobello Road. While it is accepted that this may their postal address and that they are the owners of the building that is located in-between 139 and 153 Portobello Road, this address is located in common Coastal Marine Area (crown land within the CMA). The owner of 153 Portobello Road site is the Department of Conservation.
- [64] (3) The original written approval form signed by Richard Paterson, the owner of 137 and 141 Portobello Road identifies the property owned as including the reserve land on which the application is proposed. The issue was raised verbally by a submitter during the submission period as a procedural error. Mr Paterson has been contacted and the acknowledged his error in that his intention was to refer to the vacant land adjoining his own property (141) rather than the reserve land. The applicant has indicated by email on

27/10/17 that a new affected person's approval form would be submitted prior to the hearing (refer additional information, **Appendix 3 of the Panel Papers**).

- [65] (4) The application as notified was for the address of 139 Portobello Road with a legal description applying to that land only. Some ancillary activities outlined in the application i.e. toilet facilities and car parking for larger shuttles/buses are located within the northern part of the reserve which has a different address (153 Portobello) and legal description. The Vauxhall Yacht Club reserve address as outlined earlier in the site description section of this report includes land to the north of the application site.
- [66] (5) The applicant has raised the possibility of introducing an acoustic fence to the application. No details of the fence have been submitted, however, the introduction of a new physical structure to the reserve may raise issues of scope in the event that the Panel consider such a mitigation measure as being necessary.
- [67] In my opinion, the above errors are not considered to have disadvantaged any party for the following respective reasons:
- [68] (1) The correct contact details for the applicant are identified within correspondence for the applicant. Applicant details as notified (in the paper and online) contained correct contact information for correspondence to the Applicant. Additionally, anyone contact Traffic Management Ltd will have realised upon phoning them that it was incorrect and has had an opportunity to respond. Although any phone message and or correspondence may not have been responded to, if sent to that address/phone number, the correct procedure for anyone who has concerns with the application is to lodge a submission, therefore, this error is not considered to have disadvantaged any individual or party.
- [69] (2) The incorrect location and ownership of the site by the Yacht Club is not considered to impact on the ability for a submitter to lodge a submission. It is unlikely that any submitter concerned about the activity would respond differently if they believed the Yacht Club owned the land to the north of the site to be public land as opposed to being owned by the Yacht Club.
- [70] (3) As in point (2) above, the error on Mr Paterson's affected persons form regarding his own properties address is unlikely to have impacted on the likelihood of a member of the public lodging a submission. There is a remote possibility that someone might be more overly concerned with the enterprise being proposed on public versus private land, however, all other application material and documentation alerts the reader to the Council ownership of this reserve therefore, on balance, there does not appear to be a legal issue over the public notification of the site. The submitter has emailed the Council and advised of his error (**Appendix 3 of the Panel Papers**).
- [71] (4) The predominant activity is located within the legal area as notified. The use of the off-site port-a-loo and carpark by some potential buses/shuttles arriving at the site is considered to be associated activities located off-site. Arguably, these are activities which could occur with any permitted use of the public reserve. The use of an existing port-a-loo and the carpark within the northern area of the reserve can be undertaken by users of the public regardless of the proposed activity. While the proposed activity at 139 Portobello Road is a commercial operation which may ultimately place a little extra demand on these resources and/or increase traffic generation, these matters are not considered to raise issues of scope or to disadvantage any party. The application has been publicly notified and one of the most potentially affected parties (Vauxhall Yacht Club) has provided their written

approval. No other party is considered to be disadvantaged by the port-a-loo and carpark use. If the error raises concerns with the panel, the activity can be limited in scope to remove the possibility of organised bus tours to the site. However, there is nothing stopping a bus tour group or any other member of the public from using the northern side of the reserve of their own free will and participating in the activity to the south. Demand on port-a-loo usage is monitored by the Council's Parks Group and will be addressed accordingly.

- [72] It is recommended that the Panel turn their mind to each of the matters raised above at the hearing and determine if there is an issue of procedure or scope. If further clarification is required, the Panel may wish to seek legal advice on any of these matters if they are minded to grant the activity.
- [73] Additionally, the application as notified was for a one operator business with joint operation of the caravan and golf activity. Additional information received by the Council following notification suggests that there is a possibility of an alternative independent operator running the caravan food and drink service activity on the site (which may involve different caravans). The application as applied for is intended to occupy three carparks. As the effects of an independent operator are expected to be similar to the activity as notified there are not considered to be any issues of scope. The activity will be confined to the same area of the site and while it may result in an extra staff member, the staff numbers for the activity as a whole included up to 3 staff members on-site. Signage on the exterior of the van may differ with different operators; however, this may be able to be addressed by way of conditions.
- [74] In accordance with Section 104 of the Act, where written approval has been obtained from affected parties the consent authority cannot have regard to the effects of the activity on that person. In the event that a correct written approval form is provided from both of the above parties in the applicant's evidence prior to the hearing, the consent authority the consent authority cannot have regard to the effects of the activity on that person.
- [75] This report has been written on the basis of those written approvals having been re-obtained for the reasons set out above. It is recommended that the corrected forms be provided prior to the hearing in the Applicant's evidence.
- [76] The application was publicly notified in the Otago Daily Times on 3/10/17.
- [77] Copies of the application were sent to those parties the Council considered could be directly affected by the proposal. Submissions closed on 30 October 2017. Copies of the submissions are available at **Appendix 3 of the Panel Papers.**
- [78] **19** submissions were received by the close of the submission period; **7** in **support**, **10 opposed** and **2 neutral**.
- [79] As the submissions received at the Regional Council raise some inter-related issues for the land use consent these submissions are also included in the table below.
- [80] In total, a **combined 26** submissions were received by the Otago Regional Council and the Dunedin City Council, with **16 opposed**, **7** in **support**, and **3 neutral**. For the purposes of indicating the general direction of support for the activity, (excluding the neutral submissions), the inclusion of the water based element of the activity (i.e. the regional consenting aspect of the consent) changes the percentage of support from approximately 37% support to 26%.
- [81] All of the submissions (to both Council's) are summarised in the table below with those only received by ORC highlighted at the bottom of the table, and a

full copy of the submissions is attached in **Appendix 3 of the Panel Papers**. Only the matters relating to the land use aspect of the application are included below for the purposes of this report. The Otago Regional Council report will address all other matters relating to the activity in the Coastal Marine Area:

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
Patricia McNaughton	Oppose	No land based matters raised. The rubbish concern raised is only in relation to golf balls, not general rubbish associated with the activity.	No
Lyndon Lawrence Weggery	Oppose	Safety concerns associated with proximity to shared walkway/cycleway – astray golf balls an increase in cycle/pedestrian resulting from the cycle hire activity.	Yes
Ms Quentin & Dr Michael Furlong	Oppose (in part)	- Signage proposal creates visual clutter. Lighting creates a tacky commercial look. - No objection to water sports bike hire activity or caravan food/drink sales.	No
David Jackson (Hon Sec Otago Rowing Club)	Oppose	No land use matters raised.	Yes
Gregory Batchelor	Support	- Supports new tourism venture. - Any health and safety concerns are addressed.	No
Haley Van Leeuwen	Oppose (in part)	- Noise effects relating to the Hole in One Operation only given the hours of operation. - Parking congestion concerns – alternative site suggested in Kitchener Street. - No objection to water sports bike hire activity or caravan food/drink sales – makes good use of the area.	Yes
Alan Todd	Support	Tourism benefits	No
Richard Joseph	Support	- Injects vibrancy – underutilised part of the harbour. - Likely to become a popular tourist and recreational facility – attracting families, social groups, corporate teams, schools and the public. - Flow-on effect to better utilise other areas of the harbour. - Supports the vision and initiative.	No
Adam Cullen	Oppose (in part)	Opposes the location of the activity on the south side of	No

		the Yacht Club – prefer north side (toilet access, bigger car park, better access, existing boat ramps for launching watercraft). Better sites can be found on the Harbour with less impact on any residents. ▪ Supports hire activity and caravan food/drink service only – seeks provision to address unruly/rowdy/intoxicated customers). ▪ Opposes signage locations– impedes vision. ▪ Opposes signage size – residential area/natural environment. ▪ Noise effects – hours of operation inappropriate given proximity to residential activity. Conversations heard from the car park already. No concerns with existing car noise currently. ▪ Carpark demand – not big enough to cater for existing and proposed activity particularly in spring/summer (overnight campers, increased park and ride/walk usage into the City). ▪ New signage requested to better direct toilet usage across the other side of the reserve. ▪ Traffic – egress from carpark already extremely difficult at peak times. ▪ Drive through function should be maintained. ▪ Considers additional staff need to be employed for these activities. ▪ Visual effects – tee off facility interrupts harbour views.	
Garth Nicholas Christensen	Support	▪ Highly desirable proposal for Dunedin and the community.	No
Save The Otago Peninsula Incorporated Society (STOP)	Oppose	▪ No land use matters raised.	Yes
Craig McEwan	Oppose	▪ Opposes use of public reserve for commercial gain. ▪ Opposes paving of the existing natural area and the prevention of public access during operation (for	No

		walking, running, picnicking and playing by the water, parking). - Noise effects - existing use comprises quiet transient use compatible with residential above. - Generator noise. - Hours of operation unsuitable. - Activity will promote groups of people gathering. - Traffic effects - safety concerns for coaches parking on the northern side as the thoroughfare to the south is also used as the Yacht Club access.	
Tracy Hudson	Oppose	- Noise effects - residential area above. - Hours of operation unsuitable. - Traffic effects - increased traffic generation associated with higher use of the cycle/walkway - capacity issue. - Property values will decrease.	Yes
Brenda Jeanette Leigh	Oppose (in part)	- Opposes golf activity. - Supports hire activity and caravan food/drink service with reservations about kayak/canoe hire. - Traffic effects/health and safety - high usage of the pedestrian/cycleway is likely to coincide with peak activity operation. Portobello Road carries a high volume of traffic. - Visual effects - the signage is unattractive in the natural environment. - Staff numbers - inadequate - Public access is restricted by the proposal - Prevents quiet enjoyment of the reserve.	No
P Barton (Secretary - Ravensbourne Boating club)	Support	Promotes an increase in recreation activity in the Harbour Area.	No
Glen Sinclair	Neutral	- Opposes golf activity - incompatible with water sport users. - Supports hire activity and caravan food/drink service.	No
Karly Wilden (Otago Rowing Club)	Neutral	- Opposes golf activity. - Supports hire activity and caravan food/drink service.	No

Claas Damken	Supports	- Visual and Safety Effects: Signage location/text – promotes appearance of a private carpark – deterring users of the carpark away. Safety issue – sign siting does not provide advance warning for city bound drivers (morning coffee stop activity combined with problematic road bend) causing potential traffic safety issue. Signage reduction requested. - Traffic Safety – vehicles stopping at the southern entrance could hinder visibility and become a hazard spot.	No
Durham Rewa Throp	Support	- Visual effects – signage should be reduced to one double sided sign as the site is a park not a commercial area. - Hours of Operation – should be reduced to 9am to 6m only given the residential neighbours.	No
Submissions Received by Otago Regional Council			
Theo and Lorna Van Kampen	Oppose	No land use activity matters.	No
Paul Van Kampen	Oppose	No land use activity matters.	No
Te Runanga o Otakou Inc	Neutral	Request due care and respect in and around the Memorial for the Maori Prisoners from Taranaki located at the Vauxhall Yacht Club grounds.	No
Erin Anson	No	- Traffic effects – safety issues with cars pulling out onto Portobello Road. - Amenity – tranquil setting, walking and sitting providing health benefits. - Conflicts with the values of people living in the area.	Yes
J Macdiarmid	Oppose	- Noise effects – groups drawn to the activity. Query – generator noise. - Hours of Operation – 7 days interferes with resident's peace and quiet.	Yes
Brenda Jeanette Leigh	Oppose	No land use activity matters.	No
Lyndon Lawrence Weggery	Oppose	No land use activity matters.	Yes
Craig Latta	Oppose	No land use activity matters	Yes

[82] Two members of the same club have submitted independently on the application. There are no matters of procedure relating to this matter.

- [83] **2 late submissions** in opposition were received, one by J Macdiarmid was received at the Otago Regional Council on 30/10/17 and the second by Craig Latta on 1/11/17.

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

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

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

Permitted Baseline

- [85] An important consideration for the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. The purpose of the permitted baseline assessment is to identify the non-fanciful effects of permitted activities and those effects authorised by resource consent in order to quantify the degree of effect of the proposed activity. Effects within the permitted baseline can be disregarded in the effects assessment of the activity.
- [86] As the proposed activity is occurring within an underlying Residential Zone, albeit on land which is a public reserve, there is no relevant application of the permitted baseline for this application. No other commercial operation is in existence on this reserve, or has occurred in the past on the reserve.
- [87] However, the existing environment comprises of a piece of recreation land with carpark and picnic facilities (seating/tables) which is actively utilised by members of the public and by Vauxhall Yacht Club members for recreational activities. Some submitters have provided anecdotal evidence of the area being used as a congregation point by youth and travellers. Given the application site area only includes land to the south of the Club, the activities occurring on the northern side of the reserve are not included in the baseline assessment. The coming and goings of recreational users of this space i.e. kayakers, swimmers, picnickers, and vehicles using the carpark form part of the receiving existing environment for assessment purposes.

Assessment of Effects

(Dunedin City District Plan)

- [88] As the activity is a non-complying activity, assessment is not limited to those assessment matters set out in the Residential Section of the Plan (Sections 8.13) or in the Transportation section of the Plan (Section 20.6. However, it is helpful to refer to some of those included to assist with an assessment. Accordingly, assessment is made of the following effects of the proposal in no order of importance:

- Sustainability;

- Noise Effects;
- Visual Effects;
- Recreational Amenity Effects
- Residential Amenity;
- Amenity Effects;
- Transportation;
- Infrastructure;
- Heritage Effects
- Hazard Effects;
- Positive Effects;
- Cumulative Effects;

Sustainability Effects

- [89] Sustainability relates to the protection of amenity values and the protection of significant natural and physical resources, the avoidance of mixing of incompatible activities, and the avoidance of the unnecessary expansion of infrastructure. It is my opinion, that the proposal will have some adverse effects on the amenity of the reserve by occupying the open areas of the reserve and cordoning off through access along the water's edge, however, this will not impact adversely on the sustainable management of the reserve to a more than minor extent for the reasons as outlined below. The level of infrastructure service required for the activity is negligible (with an existing port-a-loo and carpark being utilised). The inter-related water and land based activities necessitate an integrated management approach to the activity which can be reflected in the conditions for consenting if the Panel is minded to grant approval to the activity in its current form or in an altered format/intensity.

Noise Effects

- [90] The proposal involves activities that may result in an increase in noise within the reserve and off-site in the immediately surrounding residential environment). As the written approval of 137 and 141 Portobello Road has been obtained (being the closest adjoining residential neighbour to the activity), any adverse effects on that party must be excluded from an assessment.
- [91] Seven submitters have raised issues about the noise effects of the type of activity and the hours of operation, many with respect to the adjoining residential environment and other with respect to the enjoyment of the reserve. It is acknowledged that there are some key factors which may influence/limit the scale and intensity of the operation: namely, a maximum of three people can tee off at any one time, the applicant's activities (excluding the tee-off area) are confined to the designated carpark area which is three carparks; the drinks/food service is limited to the caravan capacity; and the equipment hire facility is limited to what can be stored and accessed within the three carparks designated for their use (unless it is their intention to store additional equipment within the Yacht Club – which may necessitate a variation). Additionally, environmental factors will be at play being a reduced intensity over winter months in particular, weather patterns (i.e. cold days or rainy days or windy days affecting patronage and or visibility), and daylight hours (a spotter must confirm adequate visibility).
- [92] While submitters have raised adverse noise effects associated with the activity attracting groups of people and unfavourable groups (i.e. intoxicated, unruly), some evidence by submitters indicates that this activity may already occur on the reserve. The presence of the managed activity may deter such incidents rather than promote, however, the additional services on the site, food and drinks may also prolong their stay. The Council manages the reserve and in

the event that the reserve is being used for alternative purposes, there may be management measures, lighting, security which could alter such activities from occurring or limit the frequency with which they occur. Non-alcoholic beverages are likely to be promoted by the caravan. Should the applicant wish to provide for the sale of liquor a separate license would need to be obtained and the current application would need to be modified.

- [93] Notwithstanding the above, the applicant advises that the scale of the operation will be up to 10 people per hour. The applicant's AEE and the applicant's expert noise consultant's assessment is based upon this level of activity. If granted, any substantial increase beyond those figures would require a new assessment as to whether the scale, intensity or character of the activity has changed such that a variation is required. The possibility of raising the scale and/or intensity of the activity is limited by the issue of scope and potential procedural issues.
- [94] It is not clear whether caravan activities will require a generator for power or whether a power connection to the Yacht Club could be relied upon. If a generator is necessary, it clarification is required as to whether generator noise has been assessed by the Applicant's noise expert. Generator can be conditioned if necessary (hours of operation) in the event of concerns about such activity in proximity to residential activities.
- [95] The Applicant submitted additional information following notification of the application which included a Noise Report by Marshall Day Acoustics. The Marshall Day Acoustics report only assesses the activity against the Proposed 2GP noise standards which are not operative, however, the Council's Environmental Health Officer (**Appendix 3 of the Panel Papers**) believes assessment of this type of noise is more appropriate in LAeq than the 10 percentile approach of L10 which would disregard much of the noise.
- [96] The report surmises that predicted noise levels exceed the 2GP limits by 1dB at the closest boundary. The report concludes that despite this breach, because of the existing elevated level of traffic noise, and their review of national and international guidance for appropriate noise levels in residential areas, the noise level of 50dB LAEQ(15 min) including special audible character adjustment, predicted at the boundary of the 134 and 141 Portobello Road will result in acceptable noise effect. The written approval of 141 has been obtained therefore any noise effects on that party cannot be taken into account.
- [97] The Council's Environmental Health Officer states that there is little or no chance of district plan limits (Operative) being exceeded or a noise nuisance is being created. The Officer acknowledges that the existing noise environment has been assessed and is considered to already exceed district plan noise limits due to traffic movements. Therefore, current noise levels at nearby residential properties are not expected to fall below 50dB LAeq until approximately 22.00.
- [98] The officer also acknowledges the very exposed nature of the site which results in it being windy often. The Officer states that this is likely to have a significant masking effect, although the Officer has not acknowledged that it is likely that noise associated with the golf activity would be reduced in times of high wind or potentially not operational due to safety concerns (i.e. astray golf balls close to the road or Golf Club).
- [99] While the 2GP also allows for higher noise levels on a Sunday than the current Plan limits the Officer does not see any difference in terms of the existing noise environment when comparing a Saturday as opposed to a Sunday. The officer states that adding a 5dB special audible characteristic (SAC) penalty to

the predicted noise level which is what the applicant's consultant has done to assess the noise, could indicate that a breach of the District Plan noise limits by up to 5dB may occur during the evening (maximum of 50dB LAeq including the SAC).

- [100] Despite this, the officer recognises that the predicted noise levels are based on fairly intensive use of the facility and the likelihood of the facility being used this frequently at all hours of operation especially later in the evening is low.
- [101] The Officer helpfully notes that predicted noise levels are based on driving range assessments which may account for a slightly louder activity than the proposed activity.
- [102] While acknowledging that the Marshall Day report takes a precautionary view of the likely noise impact and considers worst case scenario noise effects, for the reasons outlined above, overall, the officer considers it unlikely that any more than minor adverse noise effects will result, subject to a review condition. The Officer notes that in making this assessment, he has considered his local knowledge of the site context as well as the existing noise environment.
- [103] Relying on the Officer's report, and the report of Marshall Day Acoustics, any adverse noise effects are considered to be no more than minor, subject to conditions of consent including a review conditions and subject to confirmation that the generator noise has been considered and raises no further concerns. No conditions controlling the hours of operation beyond what has been applied for are considered to be necessary on the advice of the Council's Officer. The evidence on noise indicates that weekend hours are also acceptable.

Visual Effects

- [104] The existing environment comprises a reserve with few above ground physical structures and low-lying for the few that are located on the application site. With the exception of the concrete pad for the tee-off area, the physical structures proposed on the reserve are limited to potentially up to two trailers with racks of kayaks, canoes, wetsuits, etc. for hire, one caravan and ancillary signage.
- [105] It is unclear whether any vehicles will be attached to the trailers, however, so long as they are located within the designated location (taking up no more than three carparks) then the parking of vehicles alongside the trailers is acceptable and only if they are confined to the designated area (Area 1). The use of the carparks is commensurate with the types of activities being carried out on this reserve on a recreational basis already. Currently structures on the reserve are limited to low key wooden tables and seating within the grassed areas. While the tee-off area requires a concrete pad, this can be required to be flush with the grass and removed following decommission of the activity (by way of condition of consent). The mats on top of the concreted area are removable.
- [106] The trailer storage of kayaks/canoes/wetsuits are not an uncommon feature of a recreation reserve and located in a carpark, particularly at the southernmost end of the carpark, they are not considered to cause any adverse visual effects (**see Figure A for an indication of the topography**) in close or distant views of the reserve from the north, south and or above (to the east) looking down. Were it not part of a commercial activity based on this reserve, this is something that could be anticipated as a permitted recreational activity (i.e. albeit limited to no more than 25m² of floor area).

- [107] Signage is proposed on the edge of the reserve boundary facing the southern entrance to the reserve as well as an advance warning sign located 60m south of that entrance. Several submitters have raised concerns about the siting, nature and volume of signs, in particular requiring them to be reduced in number. Concerns have also been raised with the nature of the signage and whether it alludes unintentionally will signal a non-public use of this part of the reserve.
- [108] No additional permanent signage is proposed in the operational aspect of the land based activities, being Area 1 and Area 2. However, it needs to be clarified whether the Applicant anticipates use of any additional flags and or temporary/moveable signage. This form of signage would need to form part of the application in order to be considered.
- [109] A 1m high barrier on the grass around the tee-off area will be utilised as a mechanism to prohibit people from enter the hitting area. This would seem to be a necessary mitigation measure for the safety of the public, however, the material of the barrier has not been confirmed. A condition of consent, if granted, could require the barrier to be of a colour and permeability so as to both protect amenity on the reserve as well as alert people walking through the reserve to the activity, and potentially to exclude any signage other than for safety information (subject to size parameters m²).
- [110] It is not clear whether vehicles used in the operation of the activity (i.e. pulling the trailers and on the caravan) and parked in the designated area will have signage on them advertising the business. Since vehicles with advertising on them are able to be parked on the reserve at any time, it might be onerous to limit signage on any motorcar or trailer, however, the caravan is a larger vehicle and provides a larger platform for advertising as a more permanent feature of the reserve (9am to 10pm). Therefore, it is recommended that a condition requiring signage on the caravans be submitted to the Council prior to commencement of the operation. If alternative vendors are utilised for the food/drink service as mentioned previously, then provision for a mixed signage arrangement would need to be included.
- [111] Submitters concerns for visual clutter and detracting from the amenity of the reserve by signage in the locations proposed are valid and reflect Officer comment on the signs as well.
- [112] Both the Council's Urban Design Officer and the Council's Landscape Architect have provided assessments of the level of signage proposed (**Appendix 1 of the Panel Papers**). This assessment however, is limited in scope to the signage on land only. Any signage being proposed on the pontoon, is addressed in the Otago Regional Council Officer's report. Additionally, any safety issues associated with the signage are addressed under the Transport Effects heading further below.
- [113] The Council's Landscape Architect Barry Knox has commented that the proposed amenity and tourist benefits must be considered alongside the values and visual character of the harbour location. To achieve this, his general comment indicates that potential visual clutter associated with signage in Portobello Road could be improved by reducing to one sign located at the entrance to the carpark. A horizontal format is recommended by the officer rather than a vertical one, however no comment is made by the officer on the appropriateness of the sign size.
- [114] The Council's Urban Design Officer, Peter Christos recognises the important visual edge that Portobello Road provides to the Otago Harbour necessitating the need to protect it from inappropriate development. The Officer identifies the road as also supporting the City's vision for improved cycling connectivity

and eventual east/west harbour cycle route, and serving as a major tourist route and daily trip route for peninsular residents. The Officer aptly comments on the limited opportunities along the harbour side of the road limiting opportunities to establish new activities to the Vauxhall Yacht Club, the MacAndrew Bay Yacht Club, and beach/carpark and boat sheds.

- [115] Given the site context and meandering nature of the road to the north of the site, the Officer considers the views approaching the site along Portobello Road are the more critical views to consider. The Officer requires more information on the layout/use of space within 'Area 1' in order to determine the impact on adjoining public space. The Applicant will have an opportunity to provide greater clarity on this matter (i.e. mock sketch and/or photos of the equipment that will be stored and the manner of storage) within that space in response to this report.

- [116] The Officer considers the tee-off pad to be sufficiently set back from the road and largely screened by existing planting but of a size that will remove a large area of grass from space available for other users impacting on the level of amenity within the reserve. The Officer has suggested a coloured concrete and/or alternative surface material to reduce the stark contrast. The Officer seeks additional information around the necessity for screens in-between the tee-off areas and regarding the type of fencing safety barrier around the activity.

- [117] The Officer does not consider the signage proposal respects the high amenity values of the harbour edge, noting that there is already too much signage along this route. A recommendation is made by the Officer for a reduction in the number and size of the signage. While a suggestion is made by the officer for signage to be integrated into existing Council signage along this route, this proposal would fall outside of the scope of this application and potentially necessitate a separate approval process.

- [118] The Recreation Officer, Angus Robertson has provided comment on the visual effects of the activity, albeit that a separate application to this department will be made for a lease of the respective areas by the applicant. The Officer indicates a preference for the caravan to be removed from the site each day. Although he has not made comment on the removal of trailer storage it is assumed that due to security these will be removed on a daily basis. The officer has indicated that the concrete platform would need to be flush with the ground level to enable practical maintenance for the DCC contractor and while a condition of consent would require its removal upon cessation of the activity, the lease arrangement is likely to duplicate this. Similarly, the necessity for removal of a picnic table close to the activity will be addressed in the lease document and provision for a replacement at the applicant's cost also forming part of that document. The Officer has indicated a requirement for signage not to exclude use of the public use of the reserve. A submission has been lodged indicating that the signage as proposed promotes exclusive use for the activity. In my opinion, a simple resolution to this is a reduction in the size of the sign to negate such an impression, a reduction in the number of signs to one at the southern entrance to the reserve. Although not the subject of this application there is also the ability for Council to better promote the reserve with new reserve signage better promoting the identification of the reserve (for visitors in particular as part of the Vauxhall Yacht Club Reserve). The Urban Design Officer's comments on a high level of signage along Portobello Road are noted.

- [119] While a reduction in signage overall, is being promoted by both submitters and officers, a request by a submitter for additional signage highlighting the location of toilet facilities on the other side of the reserve seems valid and necessary to avoid unintended adverse effects on reserve amenity (particularly

when the Yacht Club is closed). A condition of consent is recommended to establish the size and siting of such a sign. Notwithstanding the current application and its additional demand for toilet facilities, the Council Parks and Recreation Department have the ability to install such signage if they see think it will provide better use of the reserve.

- [120] Overall, any adverse visual effects are considered to be no more than minor subject to conditions of consent being implemented around a reduction of the signage to one sign at the entrance to the reserve with a reduction in the height of the sign, and a limit on signage within the designated activity areas to trailers and vehicles and caravans (subject to final approval by Urban Design). Conditions are also considered necessary for the concrete tee-off area and any barriers erected on site to be appropriately coloured with no further signage erected on them.
- [121] Note: Any visual effects of the pontoon are considered by the Regional Council and any moveability of that structure reflected on in that report.



Figure A: Residential Backdrop to the Activity (source: google)

Recreation Amenity Effects

- [122] The potential for conflict/competition between recreational users of the reserve space both within the reserve and within the water is a reality of such applications where commercial activity is proposed on a public reserve, particularly one that is to occupy the reserve for 7 days of the week.
- [123] While it is difficult to separate the inter-relatedness activities of hitting the golf balls (land based) from the resulting pontoon and golf ball activity in the water, this report focuses on those activities that occur on land, leaving the potential recreational conflict in the water (Coastal Marine Area) to be addressed in the Otago Regional Council report.
- [124] The use of the application site will remove the ability to utilise this part of the reserve, except before 9am and after 10pm on any given day. The Council's Landscape Architect and Urban Designer have not raised any concerns about the commercialisation of the space, rather focussing on the visual effect of the

activity itself, however, the Council's Parks Officer reflects on the commercial occupation of reserve land generally.

- [125] The Officer states that *"Reserve land should be primarily for community use so ensuring the safety of the public in this space is paramount. While appropriate commercial activities can enhance the space by adding vibrancy, encouraging a wider use of the reserve and increasing the number of people accessing and using the reserve, this must not compromise people's ability to safely use the space whether they are customers or not"*. The officer notes that *"...where Council-administered land is used for commercial gain it is appropriate that a charge is applied which indirectly contributes to the upkeep of the spaces"*.
- [126] Overall, the Parks Department seek to ensure 'a balanced approach to the commercial activity on the reserve land'. Subject to the conditions outlined in this report being adopted and implemented, a balanced approach is considered to be achievable at this site. The Panel may wish to further restrict the hours of operation if they consider that such a balance is not achieved. Or, alternatively, if the Panel is minded to grant consent, a review condition will allow for the activity to be reviewed once in operation, given the unique characteristics of the Golf Hole in One Activity and the high volume traffic environment adjacent, and the multi-faceted nature of the activity.
- [127] In terms of site selection, the relatively confined location which is dictated by the ocean on one side and Portobello Road on the other, with large provision for car parking make it suitable for consideration as a site for the proposed recreational activity.
- [128] The site is located on a major tourist route and the number of reserves (this side of Macandrew Bay to the north) with associated car parking facilities of this scale, which are both accessible off the road and of this quality (tables, bins, toilet facilities, access to the water) are few and far between. The two picnic tables and other seating located within this part of the wider Vauxhall Yacht Club Reserve could be indicative of the more sheltered nature of this side of the Yacht Club but also of the lower intensity of recreational activities being carried out in the reserve space than the northern reserve area (i.e. multiple boat ramps, wharf, Yacht Club exercises, above ground utilities).
- [129] No observational data has been provided of the existing level of useability of the grassed areas of the reserve and/or the carpark. However, it is accepted that the site forms part of the highly visible edge areas of the harbour when viewed from the cycleway/walkway on Portobello Road. Anecdotal evidence from submitters suggest that the carpark is highly utilised, albeit no one has mentioned full to capacity/bursting at the seams. This may be more likely for the larger events held at or associated with Yacht Club or other groups using the reserve. The applicant has not signalled how the site will be 'reserved' for their use but it is anticipated that some signage will be required on the carpark tarseal (perhaps 'staff only') and/or a small tow-away sign at the head of the carpark informing public that of the hours of operation. It is anticipated that there will be the odd day where the designated space is occupied, particularly if the use of the carpark for park n ride increases (unless it becomes a towable offence).
- [130] Other green space is available within the wider reserve (i.e. the northern side of the Yacht Club) however, the link to it is somewhat broken by the Yacht Club. It is unlikely that there is future provision for a better connection (away from the busy road activity) on the water side of the Yacht Club but this may be a possibility in the future.
- [131] The Recreation Officer has raised potential safety issues associated with continued use of an existing park table and its bench seats which are located

beside the activity. There a number of options available to address this including removal of the table and relocation of the table further back, or simply locating an additional table elsewhere on the reserve as an alternative picnic area, or none of the above. This is a matter that the Parks Officer's will be able to adequately address under any lease arrangement for the site. It is noted however, that another picnic table is located close by.

- [132] Overall, the activity is considered to be relatively low impact on the recreation amenity of the reserve. Its use is potentially expanded by the proposal and while restricting access to part of the reserve, in the same breath it also encourages a more broad access to recreational reserves not just on this reserve but along the Harbour as well. A cycle hire from the city is desirable, however, a cycle hire at point of source may win greater favour with tourists/residents.

Transportation Effects

- [133] The application site comprises a relatively narrow width of relatively open reserve land (Yacht Club aside) separated by the reserve carpark itself from the busy commuter traffic, pedestrian and cycle ways along Portobello Road. Some vegetation currently limits views into the site at road level and the Yacht Club building itself may limit views to the application site from parts of the southern approach. The applicant proposes signage only on the northern approach to the site and at the entrance to the reserve. It is noted most of the existing signage along this stretch of road is located on the Harbour side of the road due to width constraints i.e. proximity to the cliff on the eastern side of the road.
- [134] The applicant has not provided any expert evidence to support their conclusions on traffic effects, relying on the existing track record of the carpark supporting existing recreational activity. While both accesses to the site are currently utilised for both egress and ingress, the proposal involves the provision of through access only, although proposed signage does not include such restriction. If any additional signage is required, other than pavement painted arrows to encourage the new access arrangement, the applicant will need to provide further information. As mentioned previously, the applicant anticipates up to 10 new visitors per hour on the site. The applicant also proposes to mark up the car park area to outline the car parking capacity at the site more clearly to users. It is assumed that the Applicant that they are referring to marking the entire carpark rather than the three designated carparks. If this is not the case, it should be clarified.
- [135] In the event of coaches/buses/shuttles utilising the northern carpark for parking this will have the residual effect of increasing foot traffic around the Yacht Club. No access on the harbour side of the Yacht Club is provided nor is any demarcated foot access currently provided.
- [136] While submitters have raised some concern about the flow of cars/people from the northern carpark to the southern carpark, there is currently no constraint on people using the northern part of the reserve then using the southern part of the reserve. The Yacht Club have provided their written approval indicating that they don't see an issue with access to their sheds. Additionally, Councils Transport Officer has raised no concern about access. The scale of the proposal as applied for is not considered to raise any adverse effects which are more than minor, however, if the intensity of the activity was to increase then the suitability of the activity in this location would need to be re-considered and access reviewed and or the siting of the activity. While the tee-off area is a permanent feature of the activity all other aspects of the application are moveable including the pontoon (albeit the cost associated with the fixing of the pontoon aspect of the proposal to the ground may be more prohibitive to

ease of relocation. There is the potential to mitigate any potential effects further by painting a pedestrian walkway around the yacht Club building which better highlights the most suitable path for pedestrians particularly during peak periods (for example Vauxhall Yacht Club or Andersons Bay Sea Scouts events, regattas).

- [137] While the application states that the operation of the coffee car/refreshment car is intended to be an ancillary activity to the main attraction being the hole in one change and equipment hire, it is plausible in the absence of other vendors, outlets in proximity of the site that the mobile café/coffee/food service becomes more of a focal point or a an equal attraction. This may change the duration of time with which patrons stay on site, however, the Transport Officer has not raised any concerns associated with such a change in the character of movements, albeit the scale, intensity and character of the activity, are set by the application and any major diversion from this will warrant a variation. As set out above, the officer has recommended a review condition which would also allow for any aspect of the operation to be reviewed and any necessary additional mitigation measures to be required.

- [138] The Council's Transport Officer has reviewed the proposal and has acknowledged the existing number of accesses breaches the minimum access per frontage rule in the District Plan. With regard to the through access arrangement and existing sight distances, the Officer considers them to be acceptable for the proposed activity.

- [139] Regarding the parking on the site, the Officer considers there to be sufficient capacity and manoeuvrability for the safe and efficient operation of it with the activity operational. The Officer acknowledges the admission by the applicant that only a small number of visitors would arrive by shuttle/bus to the northern side of the Yacht Club.

- [140] Regarding expected traffic generation, the Officer relies upon the expected visitor numbers in the application which he considers to have a negligible adverse effect on the safety and functionality of the transport network.

- [141] On the matter of signage, the Officer is opposed to the advance warning signage which the Officer considers to be located within legal road, as it would set a significant undesirable precedent for private commercial signage within legal road. The Officer considers that the safety and efficient functioning of the road network to be paramount and vehicle access to the site can operate safely and efficiently without such signage. No additional comment is provided by the officer in the event that the signage was recessed slightly further into the site.

- [142] Overall, the Officer considers the proposal will have a no more than minor effect on the safe function of the transport network subject to the following conditions:
 - i) The applicant shall undertake all practicable measures to ensure that the operation of the proposed activity does not affect the safe function of the transport network.

 - ii) Parking shall be provided on the site (i.e. the southern parking area) for at least 15 vehicles. The car parks shall be permanently marked and shall comply with the minimum dimensions stipulated in Appendix 20B of the District Plan.

 - iii) Pursuant to section 128 of the Resource Management Act, the transportation requirements of this activity may be reviewed one

year after the commencement of the activity, to ensure any adverse effects on the transportation network are sufficiently managed.

- [143] The Condition (i) is considered to be difficult to enforce as the extent of measures intended is not specifically defined, I consider that it should be captured under the review condition the Officer promotes at Condition (iii) instead. Condition (ii) requires the offer of marking the carparks, however, it is recommended that it be altered so ensure it is undertaken prior to commencement of the activity and 'shall' is transposed for 'must' to reflect current planning practice.
- [144] Relying on the Officer's comments, the transport effects are considered to be no more than minor subject to conditions and those amendments referred to above.



Figure B: 153 Portobello Road (source: google 'Otago Yacht Club')

Provision for Stormwater, Water and Sewerage

- [145] The Council's Consents and Compliance Officer for Water and Waste Group has reviewed the application. The Officer notes that there is no DCC water infrastructure in the vicinity of the site, so any water for the food/drink service operations will need to be brought to site. The Officer raises the possibility of needing to comply with the New Zealand Fire Fighting Code of Practice for Fire Fighting Water Supplies.
- [146] The proposal does not involve any modification to the carpark surface, therefore, the Officer does not anticipate any change to stormwater flows. No conditions are promoted as being necessary by the Water and Waste Group.
- [147] Therefore, relying on the Officer comment, no adverse effects on infrastructure are anticipated other than the possibility of additional demand on the existing port-a-loo (see **Figure C** below).



[148]

Figure C: Port-A-Loo Siting on the Vauxhall Yacht Club Reserve
(source: google 'Otago Yacht Club')

Hazards and Safety

[149] Section 6(h) of the Resource Management Act 1991 requires the Council to recognise and provide for the management of significant risks from natural hazards, as a matter of national importance. In addition, under Section 106 of the Resource Management Act 1991, the Council may decline a subdivision consent, or it may grant the subdivision consent subject to conditions, if there is a significant risk from natural hazards.

[150] The assessment of the risk from natural hazards requires a combined assessment of:

- (a) *the likelihood of natural hazards occurring (whether individually or in combination); and*
- (b) *the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and*
- (c) *any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).*

[151] The site is not annotated in the current Hazards Register as being subject to any hazard, however, the Proposed 2GP identifies the site as being located within a Coastal Hazard 3 Overlay Zone. The activity does not involve any new physical structures to be attached to the land, and only minimal excavation is proposed, therefore, the application was not forwarded to the Council's consultant engineer, Stantec New Zealand Ltd for review.

[152] Having regards to this assessment, it is considered that there are no significant risks from natural hazards that need addressing as part of this application.

Heritage and Cultural Effects

[153] The integrity of the protected wall running the length of the western extent to the application site is to remain intact and is unlikely to be adversely affected by the proposed activity. The excavation is anticipated to be less than 600mm in depth and the application states that the separation provided between the

tee off area and the edge of the reserve is approximately 1.0m. Soil disturbance matters are addressed earlier in this report under NES considerations. The cut and volume of soil disturbance does not breach residential zone thresholds.

- [154] Existing access to the water at the northern end of the application site is retained and will not be restricted by the activity. It is not clear whether the those steps will be promoted as the entry point for the rented kayaks and canoes or whether the applicant will promote the northern side of the yacht club as the entry point to reduce disruption to the golf activity. The issue of scope is raised earlier in this report.
- [155] Te Runanga o Otakou Incorporated have requested due care and respect in and around the Memorial for the Maori Prisoners from Taranaki located at the Vauxhall Yacht Club grounds. The location of the memorial is not identified in their ORC submission. However, following contact with iwi representatives, it has been confirmed that the memorial is located at the opposite end of the site, closer to the Yacht Club building (See **Figure D** below).



Figure D: Location of the Memorial for Maori Prisoners from Taranaki

- [156] Therefore, any adverse heritage or cultural effects that are considered to be no more than minor.

Residential Amenity

- [157] While the site is located in a residential zone, the site has clearly operated under existing use rights as a recreation zone (administered under separate legislation) albeit with no commercial activity to date. The site is located within a wider residential setting, although that residential setting is dissected by a high volume commuter route and by the topographical barrier, being the cliffs above Portobello Road. Given these factors, the proposal is not considered to impact on the residential character of the surrounding residential neighbourhood within which it is located. Several residents have raised potential increase in noise effects off the reserve as being reasons for opposition. Noise effects are addressed more specifically in the noise effects assessment above.
- [158] Visually, it may be possible to view the proposed activities on the application site from residential properties above (as evidenced by submissions referring to toilet habits of visitors to the reserve), however, the activities below would

not detract to a more than minor extent on the wider 180 degree view shaft achievable from that elevation.

[159] The photograph provided at **Figure A** above illustrates the topographical change between the two land uses.

[160] Overall, any adverse effects on residential amenity are considered to be no more than minor.

Earthworks Effects

[161] Soil disturbance matters are addressed earlier in this report under NES considerations. The cut and volume of soil disturbance does not breach residential zone thresholds. Therefore, a condition of consent is recommended to ensure that any cut material is removed from the reserve upon completion of the works and any grassed areas reinstated around the tee off area.

Positive Effects

[162] The proposal is likely to support a greater participation in recreational activity on the harbour. This area of the reserve currently provides a break from the more active areas on the northern side of the Yacht Club, however, the golf activity is not considered intensive in itself (with the intensity of the operation set by a limit of three people teeing off in unison). Although the provision of a food/drink service may act as a drawcard to the activity independently, it is unlikely to become the predominant activity. The size and attendance by any onlookers is more uncertain, however, conditions of consent will allow a review of the activity in the event of the activity causing unforeseen activity and or behaviour in the reserve and flow-on effects on the transport network.

[163] Several submitters have indicated support for the activity highlighting that the activity will increase the vibrancy of the area and provide tourism benefits for the wider City. The activity has the potential to increase recreation participation in this area but also along the entire Peninsula (i.e. hireage for off-site activities down the peninsula. The activity is well located strategically to serve recreation activities further down the Peninsula as well, albeit the scale and intensity of the activity would have to remain consistent with what has been applied for until a variation application is secured.

Cumulative Effects

[164] The concept of cumulative effects, as defined in *Dye v Auckland Regional Council & Rodney District Council* [2001] NZRMA 513, is:

"... one of a gradual build-up of consequences. The concept of combination with other effects is one of effect A combining with effects B and C to create an overall composite effect D. All of these are effects which are going to happen as a result of the activity which is under consideration".

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

[166] While several submissions oppose the siting of the activity and requested either declining the golf activity and/or relocating it to the north, the concern is not related to cumulative adverse effects, but rather driven by traffic, amenity related concern. No submissions have raised specific objection to the use of a public reserve for private commercial use – however, it is noted that a

separate notification process is likely to occur under the lease arrangement by the Parks and Recreation Department.

- [167] As no other commercial activities are currently being carried out on the Vauxhall Club reserve, and no other land use consented commercial activities are carried out in the nearby area (that I am aware of at the time of writing this report), there are not considered to be any adverse cumulative effects raised by the proposal. While there are a number of individual components to the activity i.e. hole in one, hire operation, food and service caravan, cumulatively, they are not considered to raise any adverse effects subject to conditions of consent being implemented and the intensity of the activity being managed (i.e. the operation does not expand outside of the defined area and no spill-over effects occur on the transportation network).
- [168] Although no statistical observed information is provided by the applicant regarding existing use of the reserve, there are a number of recreational activities carried out on an intermittent basis on the reserve (including the northern side of the Yacht Club) by members of the public and by the Yacht Club and other Clubs (Andersons Bay Sea scouts), however, based on anecdotal evidence (observation and submissions) their use of the reserve combined with the proposed activity is not anticipated to raises cumulative adverse effects that are more than minor.

Proposed 2GP

- [169] At time of writing, there are no applicable assessment rules, because the only 2GP rules that have legal effect currently are ones relating to rural subdivision and the clearance of indigenous vegetation. As noted in paragraph 15 above, the proposed zoning for the subject site is **Recreation**, and the 2GP rules for this zone do not yet have legal effect.

Effects Assessment Conclusion

- [170] After considering the likely effects of this proposal above, overall, I consider the effects of the proposal can be appropriately mitigated by conditions of consent so as to be no more than minor.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

- [171] Section 104(1)(ab) of the Resource Management Act 1991 requires that the Council have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.
- [172] In this case, no offsetting or compensation measures have been proposed or agreed to by the applicant, however, the potential impact on a public picnic table area close to the tee-off area (**Parks Officer Comment, Appendix 1 of the Panel Papers**) may necessitate a relocation of the table to an off-site location (i.e. the northern side of the Yacht Club).
- [173] The applicant may offer to compensate the reduced or removed ability to utilise the picnic table by relocating it. In this event, the Committee must have regard to the positive effects of these measures. In the event that this occurs, it is my assessment that such an offer would contribute to a no net loss of recreational facilities, albeit the picnic tables may be in a more sheltered position on the southern side of the yacht club and the siting of the new table may necessitate consultation with users of the yacht club so as not to impact adversely on their current use of the reserve.

- [174] The matter may be more appropriately addressed as part of any lease arrangement by the Council Parks Department.

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of Objectives and Policies of the District Plan (Section 104(1)(b)(vi))

- [175] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Dunedin City District Plan and the proposed 2GP were taken into account in assessing the application.

Dunedin City District Plan

- [176] The following objectives and policies of the Dunedin City District Plan were considered to be relevant to this application:

[Note: This is not a comprehensive list – for full details of the objectives and policies of the District refer to the DCC website].

Sustainability Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 4.2.1 Enhance the amenity values of Dunedin. Policy 4.3.1 Maintain and enhance amenity values.	The proposal is considered to maintain the amenity values of the reserve and at the same time while contributing to a higher usage/participation rate in the use of the reserve and along the coastal edge. The structures proposed on land are of low height and will not impede views of the harbour therefore the proposal is considered to be consistent with this objective and policy. The proposal is considered to be consistent with these objectives and policies as recreational use has historically existed in unison with residential activities (and in residential zones) near to this site. The activity is not considered to be incompatible with the residential environment above the site. The proposal promotes greater utilisation of the reserve. The proposed venture is also unique in that it relies on the integrated management of the road, cycle and pedestrian networks as well as proximity/access to water bodies for recreation to which promotes a more holistic approach to new tourism ventures along the Peninsula, thereby promoting sustainable management.
Objective 4.2.3 Sustainably manage infrastructure	
Objective 4.2.5 Provide a comprehensive planning framework to manage the effects of use and development of resources.	
Policy 4.3.5 Require the provision of infrastructure services at an appropriate standard.	
Policy 4.3.7 Use zoning to provide for uses and developments which are compatible within identified areas.	
Policy 4.3.8 Avoid the indiscriminate mixing of incompatible uses and developments.	
Policy 4.3.10 Adopt an holistic approach in assessing the effects of the use and development of natural and physical resources.	

Residential Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 8.2.1	Although not anticipated in a residential

Ensure that the adverse effects of activities on amenity values and the character of residential areas are avoided, remedied and mitigated.	area, the proposal is consistent with this objective and policy because an existing recreational site which is physically separated from residential development by both the road and topography. This contributes substantially towards enabling any adverse effects to be appropriately mitigated. Adverse effects on the adjoining residential areas are limited to noise at a level that is considered acceptable by the expert assessments.
Policy 8.3.1 Maintain or enhance the amenity values and character of residential areas.	
Objective 8.2.4 Ensure that the existing urban service infrastructure servicing residential areas is sustained for the use of future generations.	The proposal is consistent with this objective and policy because it does appear to place any extra demand on the infrastructure other than roading which Transport advises can accommodate the expected traffic generation.
Policy 8.3.7 Ensure that all development in unserviced residential areas makes adequate provision for the disposal of effluent on-site without having any adverse effects on the environment.	
Objective 8.2.5 Recognise and conserve townscape precincts, historic buildings and historic sites in residential areas.	This proposal is considered to be consistent with this objective and policy. Earthworks are minimal only and will not interfere with the protected historic rock walls alongside the site.
Policy 8.3.12 Recognise and protect the heritage quality of the City's identified residential buildings and residential townscape precincts, facilitate the continued usefulness of the buildings themselves, and recognise, protect and preserve the heritage contained in archaeological sites within the City.	
Objective 8.2.6 Recognise the positive effects of recreational activities while ensuring that their adverse effects are avoided, remedied or mitigated.	The application promotes the positive effects of the proposed activity as do several of the submitters. Any adverse effects can be sufficiently mitigated to reduce adverse effects to no more than minor therefore the proposal is considered to be consistent with this objective and policy.
Policy 8.3.11 Provide for recreational activities within the Residential Zones while managing their adverse effects.	

Transportation Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 20.2.2 Ensure that land use activities are undertaken in a manner which avoids, remedies or mitigates adverse effects on the transportation network.	The proposal is considered to be on balance, inconsistent with these objectives and policies only in terms of the signage aspect of the proposal, otherwise the majority of the proposal could be considered consistent. A reduced signage proposal could mitigate any adverse effects reducing the level of conflict to consistent.
Objective 20.2.4 Maintain and enhance a safe, efficient and effective transportation network.	
Policy 20.3.4 Ensure traffic generating activities do not adversely affect the safe, efficient and effective operation of the roading network.	
Policy 20.3.5 Ensure safe standards for vehicle access.	
Policy 20.3.8 Provide for the safe interaction of	

pedestrians and vehicles.	
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Signs Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 19.2.1 Avoid, remedy or mitigate the adverse effects of signs on amenity values.	The underlying zone is residential and the controls on commercial signage in a residential environment substantially limit the size of signs to 0.5m ² in area per site. Notwithstanding this, the existing character is recreational, rather than residential; however, there is very limited signage on the reserve. It is the number and placement of the signage on the site that results in signage that is considered to be contrary to this objective of the District Plan.
Objective 19.2.2 Ensure that signs do not adversely affect the safe and efficient functioning of the road network.	
Objective 19.2.4 Promote the efficient use of signs by managing the adverse effects of visual clutter.	In the interests of self-promotion and high visibility, the applicant has failed to consider the implications of their signage for the maintenance of a safe road network. The level of signage within the site is yet to be confirmed. Currently, the application is considered to be contrary to this objective. The signage promotes visual clutter, for example a total of three advance warning signs are being proposed on a high volume traffic network, two of which are located at the entranceway rather than one. In the interests of self-promotion and high visibility, the applicant has failed to consider the implications of their signage for the maintenance of a safe road network and reserve amenity. The level of signage within the site is yet to be confirmed. Currently, the application is considered to be contrary to this objective and the policies.
Policy 19.3.1 Ensure that signs do not detract from the amenity values of the area in which they are located and the amenity values of areas from where they are visible.	
Policy 19.3.2 Control the design, location, size and number of signs erected at any given location to avoid, remedy or mitigate any adverse effects.	
Policy 19.3.4 Promote simplicity and clarity in the form of the sign and the message the sign conveys.	

Environmental Issues Section

Objective/Policy	Is the proposal Consistent with or Contrary to the Objectives and Policies?
Objective 21.2.2 Ensure that noise associated with the development of resources and the carrying out of activities does not affect public health and amenity values.	While the activity is located within a residential zone with residential development located nearby, the existing character of the reserve is that of recreational activity which forms the existing noise character of the site. Additionally, the physical site is also separated from the closest residential neighbour by the physical environment surrounding i.e. roads, cliffs, harbour. Expert advice is unified in their assessment of the noise effects as being acceptable without further mitigation being necessary therefore the proposal is considered to be inconsistent with this
Policy 21.3.3 Protect people and communities from noise and glare which could impact upon health, safety and amenity.	

Proposed 2GP

- [177] The objectives and policies of the 2GP must be considered alongside the objectives and policies of the current district plan. The following 2GP objectives and policies were considered to be relevant to this application:
- [178] **Objective 20.2.1 and Policy 20.2.1.1 (Recreation Zone)**, which seek to ensure that the zone provides opportunities for a wide range of recreational, sporting, community and cultural activities by enabling sport, recreation, community and leisure activities, and restaurant and retail ancillary to sport and recreation. The proposal is **consistent** with this objective and this policy as it allows consideration for a site to meet the needs of passive and active recreational users as well as any ancillary retail needs in one location. The directive is to enable a variety of opportunities to participate and the proposal seeks to achieve this.
- [179] **Objective 20.2.2 and Policies 20.2.2.1, 20.2.2.3, 20.2.2.5, and 20.2.2.6 (Recreation Zone)** seeks to ensure that land use supports the efficient and effective operation of the recreation area; maintains a high standard of on-site amenity for users of the recreation area; and maintains or enhances neighbourhood amenity and the amenity of any surrounding residential properties. The applicant is yet to demonstrate how outdoor storage will be managed to limit unreasonable visual amenity effects and the signage aspect of the proposal has not been supported by several Council Officers (Landscape Architect, Urban Design and Transport). Policy 20.2.2.3 could apply to the proposed signage which requires signage not to be oversized or too numerous for the purposes that they will service and specifically limiting commercial signage ancillary to recreation to being enclosed within the site. Policy 20.2.2.5 requires retail ancillary to sport and recreation to operate in a way (including hours of operation) that avoids, or if avoidance is not possible, adequately mitigates, noise or other adverse effects on the amenity of surrounding residential properties. The proposal is considered to be consistent with this policy as hours have been limited to daylight hours and noise effects are considered to have been acceptable without additional mitigation measures being required. Council's Transport Officer has assessed the traffic effects of visitors arriving and leaving the activity by car as being no more than minor with capacity in the carpark such that other recreational users are not penalised by the occupation of three for the majority of the week thereby demonstrating consistency with Policy 20.2.2.6. Overall, the proposal is considered to be **inconsistent in part** with this objective and these policies as the signage aspect of the operation has adverse effects on the transport network and the potentially on the amenity of the reserve.
- [180] **Objective 6.2.1 and Policy 6.2.2.2 (Transportation Section)**, which seek to ensure land use activities are accessible by a range of travel methods by enabling the sharing of parking areas by different land use activities, where adequate accessibility for all users is maintained. The proposal promotes this objective and policy, albeit most of the land use activity is recreational however, the commercial recreation activity is sharing a public facility. The proposal is **consistent** with this objective and policy.
- [181] **Objective 6.2.3 and Policies 6.2.3.3, 6.2.3.4 and 6.2.3.9 (Transportation Section)**, which seek to ensure that land use, development and subdivision activities maintain the safety and efficiency of the transport network for all travel methods.

The proposal has been assessed as largely being consistent with this objective and policies with the exception of the signage aspect of the proposal. Spill

over parking has been avoided by appropriate siting within an area of the harbour with adequate capacity. The proposal is considered **consistent/inconsistent in part** with this objective and the above respective policies due to the signage aspect of the proposal only. A modified signage proposal has not been provided - this aspect of the proposal can be mitigated through conditions of consent therefore, an elevation to contrary status is not required.

- [182] **Objective 6.2.4 and Policies 6.2.4.1, 6.2.4.4, 6.2.4.5 and 6.2.4.7 (Transportation Section)**, which seek to ensure that parking and manoeuvring areas are adequately designed so that they facilitate safe and efficient use of the road network through an avoidance policy on adverse effects on frontage roads in particular. The policies are largely directed towards new access; however the revised use of the existing access necessitates assessment against these provisions as well given the existing breach of accesses per frontage length.

The proposal has been assessed as largely being consistent with this objective and these policies with the exception of the signage aspect of the proposal. Therefore, overall, the proposal is considered **inconsistent** with this objective awaiting a revised signage scheme.

- [183] **Objective 11.2.1 and Policies 11.2.1.3, 11.2.1.5 and 11.2.1.12 (Natural Hazards Section)**, which seek to ensure the risk from natural hazards, including climate change, is minimised, in the short to long term.

The Proposed 2GP planning maps indicate that the property is within the Hazard 3 – Overlay Zone. The risk to the proposed activity is minimal given no above ground structures are proposed, only a concrete pad flush with the ground. The proposal is **consistent** with this objective and these policies.

- [184] **Objective 2.5.2 and Policy 2.5.3.1.b (Strategic Directions)** seek to protect washi tapu particularly if earthworks are proposed in areas where there is a high likelihood of archaeological remains being discovered. The proposal is identified as being within an archaeological alert layer. As only minimal excavation is being opposed to the proposal is considered to be **consistent** in that the consultation with iwi has enable identification of any particular sites of value. While excavation is only minimal and of less than 600mm in depth, an accidental discovery advice note is recommended for inclusion in any decision certificate if the Panel is minded to approve the activity given the potential for items of value to iwi in close proximity of the coastline, a known area of kimono related activity.

Overall Objectives and Policies Assessment

- [185] The key objectives and policies are considered to be those overarching objectives which seek to protect the amenity values and character of residential areas (4.2.1, 4.3.1 in the Operative District Plan) as well as the objective seeking recognition and provision of recreation activities within those areas. As residential areas have historically been occupied by recreation activity (without particular provision for them within separate zones), the objectives relating to provision for recreational activities are considered key to a balanced consideration of the proposal, particularly as the site is an existing recreation area. For this reason, Objective 8.2.6 of the Operative District Plan is considered to be key to any consideration of the proposal. It requires recognition of the positive effects of these activities while ensuring that their adverse effects are avoided, remedied or mitigated. While the proposed activity is commercial it is recreation focused. A retail aspect is being promoted however, the provision of food and drink service has historically been an ancillary/associated activity to recreation although mostly temporary

in nature to support events. Given this, and the lack of specific provision for retail within the objectives and policies, it is not considered to be repugnant to the use of a public reserve. The service element of the proposal instead is considered complementary and contained within a mobile structure that has no permanent feature on the reserve at the close of each day.

- [186] On transportation matters, the key objectives and policies of the Operative District Plan are considered to be 20.2.2 and 20.2.4 which seek to ensure the safety, efficiency and effectiveness of the transportation network. As the activity promotes a similar recreational activity to what is already been undertaken on the reserve, and transportation assessments have concluded there is capacity to cater for the additional parking and traffic generation, the objectives and policies are considered to have been met. There is an inconsistency but it is generally confined to the matter of signage. The proposed signage conflicts with the policy provisions of the Operative Plan for signage but it is anticipated that this conflict can be reduced to an acceptable level by way of conditions of consent if granted.
- [187] Under the 2GP policy framework, there is a general consistency with the recreational objectives which are more specific and reflect the new zoning of the site for this purpose. As the inconsistency with some transportation related objectives can be attributed to the signage aspect of the proposal only, more weight has been given to the recreation objectives and policies in concluding that the activity is consistent with the objectives and policies overall.
- [188] Overall, despite many inconsistencies and contraventions created by the signage aspect of the application, the consistency of the proposal with the amenity and recreational aspirations of the Plan is considered to be of greater weight since the reasons for the inconsistency or contravention are in relation to signage which can be mitigated.
- [189] Having regard to the relevant objectives and policies individually, and considering these in an overall way, the above assessment indicates that the application is **consistent** with those provisions.

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

- [190] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements. The Regional Policy Statements (Operative and Proposed) for Otago are a relevant consideration in accordance with Section 104(1)(b)iii) of the RMA. The Operative Regional Policy Statement was made operative on 1 October 1998. The proposed Regional Policy Statement (notified 23 May 2015) is in the appeals phase. Given their regional focus, the regional policy statements do not have a great bearing on the land use consent elements of the proposed activity which are subject to the District Plan.
- [191] However, the Operative RPS seeks to promote integrated management through integration across individual decisions, to ensure that cumulative effects are prevented or mitigated (page 7 Otago Regional Policy Statement) and to ensure that equitable outcomes are achieved. This is considered relevant to this application given the artificial line being drawn between the activities in and out of the water for legal and procedural reasons.
- [192] Chapter 5: Land in the Operative Regional Policy Statement is considered relevant in that it seeks to promote the sustainable management of infrastructure to meet the present and reasonably foreseeable needs of Otago's communities and Chapter 8 is relevant as it addresses deals with the use, protection and management of the coastal area of Otago. Objective 8.4.1 seeks to promote the sustainable management of Otago's coastal resources in

order to meet the present and reasonably foreseeable needs of Otago's people and communities. Policy 8.5.2 seeks to achieve that objective by giving recognition to lawfully existing uses and their continuation, allow for the maintenance and where practicable enhancement of existing infrastructure and also more importantly (for this application) by allowing for activities requiring a coastal location (subject to avoiding, remedying or mitigating the adverse effects of any activity).

- [193] As the Proposed Otago Regional Policy Statement is still subject to appeal, little weight is given to its provisions; however, the relevant provisions (Council Decisions Version) are outlined below to indicate the how the statement seeks to address the wider regional issues.

- [194] Part B: Chapter 1 is considered to be relevant as it seeks to provide for the integrated management of natural and physical resources and for social and cultural wellbeing and health and safety (Objective 1.1 and Policy 1.1.1) through enabling the use and development of both natural and physical resources if the adverse effects can be managed (Policy 1.1.2) and through recognising and providing for Kai Tahu values.

- [195] Part B: Chapter 2 is considered to be relevant with objective 2.2 and Policies 2.2.1, 2.2.2 and 2.2.3 seeking to specifically recognise and provide for Kai Tahu values, interest and customary resources.

- [196] Part B: Chapter 3 is considered to be relevant in that it seeks to have a have high quality natural resources. Objective 3.1 seeks to recognise, maintain and enhance Otago's natural resources which include recognition of the natural character of the coastal environment which ranges from pristine to modified (Policy 3.1.11) and includes experiential attributes, including the sounds and smell of the sea; and their context or setting.

- [197] Part B: Chapter 4 seeks to have resilient, safe and healthy communities. The proposal is considered to be consistent with policies within this chapter which are directed towards appropriately avoiding and managing increased natural hazard risk and reducing existing natural hazard risk. The natural hazard risks have been identified (Coastal Hazard 3 Overlay Zone) and no additional measures have been deemed necessary to avoid, remedy or mitigate those risks. Policy 4.1.9 requires that any adverse effects on features and systems that provide hazard mitigation be avoided, remedied or mitigated. The proposal is not considered to impact on any such features within the site of 139 Portobello Road or on the adjoining land.

- [198] Part B: Chapter 5 is also relevant to a consideration of the proposed activity as it seeks to ensure people can use and enjoy the natural and built environment with objectives around maintaining and enhancing public access (Objective 5.1, Policy 5.1.1). Policy 5.1.1 includes direction for public health and safety and identified sites of historic heritage or cultural significance to Kai Tahu to be protected. The explanation to this policy directs that the opportunities development creates to improve access to the natural environment should be utilised. The explanation also acknowledges that an improved ability to access the natural environment is highly valued by the community and contributes significantly to the tourism economy. The proposed access may result in a physical impediment to free access by all users across a small part of the reserve, but ultimately the land use activity promotes the enhanced experience of the Harbour through a service that encourages people to play golf into it, bike alongside it, jump in a canoe/kayak into it, or dine/eat with views of it. Overall, it proposal is considered to contribute to the recreational, cultural and economic wellbeing of the community.

- [199] Other objectives and policies in Chapter 5 seek to recognise those historic heritage resources which contribute to the region's character and sense of identity (Objective 5.2, 5.2.1, 5.2.2 and 5.2.3). The proposal does not impact on any historic heritage resources as both the wall and the Maori prisoner memorial are not adversely affected by the proposal (Policy 5.2.1b, h, and i).
- [200] Overall, I consider the proposal is consistent the objectives and policies within both of these Statements.

DECISION MAKING FRAMEWORK

Part 2 Matters

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

Section 104D

- [202] Section 104D of the Act specifies that a resource consent for a non-complying activity must not be granted unless the proposal can meet one of two limbs. The limbs of Section 104D require either that the adverse effects on the environment will be no more than minor, or that the application is for an activity which will not be contrary to the objectives and policies of either the relevant plan or the relevant proposed plan.
- [203] As discussed above in the assessment of effects, it is considered that any adverse effects of the proposal can be adequately mitigated through conditions of consent. Relying on the Officer's assessments of the potential noise and traffic impact of the activity, there are no changes being proposed to the activity itself, or to the hours of operation, with the exception of a reduction in the signage (via condition of consent).
- [204] Overall I consider that the actual and potential effects associated with the proposed development will be able to be mitigated by imposing consent conditions so as to be no more than minor and therefore the first 'gateway' test of Section 104D is met.
- [205] Only one of the two tests outlined by Section 104D need be met in order for Council to be able to assess the application under Section 104(1)(a) of the Act. In order for a proposal to fail the second test of Section 104D, it needs to be contrary to the objectives and policies of both the Dunedin City District Plan and the proposed 2GP (bearing in mind that limited weight should be given to the 2GP at this stage, because all aspects of that proposed plan are potentially subject to challenge). In order to be deemed contrary, an application needs to be repugnant to the intent of the District Plan and abhorrent to the values of the zone in which the activity was to be established. It is noted that in this instance, the proposal is assessed as being consistent with the relevant objectives and policies of the Residential Zone, and the Sustainability, Transportation and Environmental Sections of both the operative and proposed plans, or inconsistent in part only due to signage aspects of the proposal. This aspect of the proposal can be mitigated by requiring the removal of some signs and a reduction in the size of signage by way of conditions. The proposed development is therefore considered to also satisfy the second 'gateway' test outlined by Section 104D.
- [206] In summary, the application passes both the threshold tests in Section 104D of the Act and therefore, in my opinion, it is appropriate for the Committee to undertake a full assessment of the application in accordance with Section

104(1)(a) of the Act. In turn, consideration can therefore be given to the granting of the consent.

Section 104

- [207] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall will not be significant and can be adequately avoided remedied or mitigated provided recommended conditions of consent are adhered to.
- [208] Section 104(1)(ab) requires the Council to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects. No offsetting or compensation measures have been proposed or agreed to by the applicant.
- [209] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be **consistent** with the key objectives and policies relating to both the Dunedin City District Plan and the Proposed 2GP.
- [210] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. In this report it was concluded that the application is consistent with the relevant objectives and policies of both the Operative and the Proposed Regional Policy Statement for Otago.

Other Matters

- [211] Section 104(1)(c) requires the Council to have regard to any other matters considered relevant and reasonably necessary to determine the application.
- [212] Case law indicates that for the Council to grant consent to a non-complying activity, the application needs to be a 'true exception', otherwise an undesirable precedent may be set and the integrity of the District Plan may be undermined.
- [213] In this regard, I do not consider that the proposed activity represents a challenge to the integrity of the Dunedin City District Plan. The existing character of the site is recreational and the activity has low physical impact on the setting. The setting itself is straddled by a major transport route and the activity lends itself towards users arriving via that route (pedestrian, cycle, car). The procedural matters referred to earlier in the report are not considered to raise any matters of precedent. Additionally, given the nature of the activity, as explained earlier in the report, there are many external factors will largely constrain the scale of the operation, as well as conditions of consent that can mitigate any adverse effects to no more than minor.
- [214] Given the existing environment is a recreation reserve used as a base for active recreation, the proposed activity (commercial aside) is already a feature of the wider reserve. Given the low impact of the permanent facilities being proposed (on land), the potential approval would be unlikely to undermine public confidence in the plan's provisions. Dunedin's tourism ventures will sometimes require siting's that are set in the coastal environment and for reduced impact and transportability, will sometimes not involve activities inside buildings. While the site is 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, with the exception of the Harbour Wall. Given the significantly modified nature of the existing reserve (sealed carpark and

buildings adjacent to a busy road and concreted walkway), so long as the adverse effects of increased noise and signage can be mitigated, there would appear to be no significant impediment to recommending approval.

- [215] For the above reasons, I consider that approval of the proposal will not undermine the integrity of the Plan as the activity will produce only localised and minor effects, if any. I therefore do not consider that the Committee needs to be concerned about the potential for an undesirable precedent to be set in this regard.

CONCLUSION

- [216] Having regard to the above assessment, I recommend that the application be granted subject to appropriate conditions.

RECOMMENDATION

Draft Recommended 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 and additional information received on 15 September 2017 and 18 January 2018 (Noise Report), 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 conditions allow).

All other activities: 6.30am to 10pm or sunset in summer (November to April) 7 days a week

6.30am to 8pm in winter (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 must be submitted to the Council for approval prior to commencement of the activity. The Management Plan must include methodology for managing the following aspects of the activity:*

(i) Unruly behaviour at the site by patrons or onlookers of the activity.

(ii) Where the activity will locate in the event of occupation of the carparks within the designated area.

(iii) Queue management for all aspects of the business to ensure that there is no spill over outside of the designated area.

(iv) Safety of recreation users – specifically the use of a spotter whenever any golf activity is operational and specific protocols to be adopted which would necessitate the cessation of activity i.e. wildlife within the vicinity of the tee-off area, unfavourable conditions (high winds, reduced visibility), danger to other recreational users.

4. *The consent holder must ensure noise from activity taking place on the site will not exceed the performance standard set out in Rule 21.5.1 of the District Plan.*
5. *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. *A signage scheme must be submitted to the Council Planning Manager for final approval prior to commencement of any operations on the site. The signage proposal must make the following changes:*
 - (a) Remove the advance warning sign on Portobello Road*
 - (b) Reduce the signage at the entrance to the site to one sign.*
 - (c) Reduce the height of the sign by 300mm.*
 - (d) Locate the sign inside the reserve – not on road reserve.*
 - (e) Provide a small sign alerting users to the toilet facilities on the other side of the reserve and identify the location of the sign.*
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 15 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 painted and marked with text stating either 'staff car parking' or 'reserved' to dissuade the use of designated car parking area by other visitors to the reserve.*
18. *No lighting is permitted on the site.*
19. *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.*
20. *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 any adverse effect on the environment which may arise from the exercise of the consent (such as noise and traffic) and which it 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 the work.
6. A concession (occupation agreement) under the Conservation Act 1987 is required prior to commencing any activity on the site. Please contact Leasing Officer, Maria Sleeman 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. 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.

REASONS FOR RECOMMENDATION

[217] Provided that the above recommended conditions of consent are implemented, I consider that the likely adverse effects of the proposed activity can be adequately mitigated and be no more than minor. The proposal is considered to be consistent with the key relevant objectives and policies of both the Dunedin City District Plan and the Proposed 2GP.

[218] The proposal is considered to be consistent the objectives and policies of the Regional Policy Statement for Otago.

[219] As the proposal is considered likely to give rise to adverse effects that will be no more than minor, and will not be contrary with the objectives and policies of the District Plan, the proposal is considered to meet both 'limbs' of the Section 104D 'gateway test'. Consideration can therefore be given to the granting of consent to the proposal.

[220] The proposal is considered to be a true exception for the following reasons:

The non-compliance is created by the underlying residential zoning which does not accurately reflect either the historical or current use of the site for predominant recreational use. The Proposed 2GP addresses this, however, it is not operative and therefore the matter of non-compliance must be addressed. It should be noted that commercial and retail activities are still subject to resource consent under the 2GP.

[221] The existing character of the site is recreation with active recreation being undertaken on the site. The proposal supports recreational use with a commercial component that does not impact adversely on the enjoyment of the reserve to a more than minor extent. Ancillary food/drink service activities are complementary to the activity proposed but also to the remainder of the reserve and its users, be they members of the public, and or the Clubs that utilise the reserve currently.

[222] Overall, the proposed development has been assessed as not being likely to give rise to adverse effects on those elements of the Residential zone that the Dunedin City District Plan seeks to protect.

Report prepared by:

Report checked by:




Melissa Shipman
Planner

Campbell Thomson
Senior Planner

24 January 2018

24 January 2018

Memorandum

TO: Melissa Shipman, City Planning

FROM: Angus Robertson, Parks and Recreation

DATE: 17 October 2017

SUBJECT: **LUC-2017-408 – OTAGO HARBOUR GOLF CHALLENGE**
139 PORTOBELLO ROAD, VAUXHALL

Hi Melissa,

Thank you for the opportunity to comment on the above application to establish a hole-in-one golf challenge, on Vauxhall Yacht Club Reserve.

Parks and Recreation (PARS) have an interest in this resource consent as PARS are the administering body of this reserve.

It has been noted that the applicant is yet to arrange a reserve lease with the PARS Leasing Officer, a process which requires both approval from Council and a 40 working day notification period. It would be prudent to arrange this as soon as practical.

PARS generally support the proposal, recognising that it will provide recreational opportunities to both visitors and residents, subject to the following conditions:

Conditions

1. There is to be no storage of equipment on the reserve;
2. The platform/tee-off area will be of a temporary nature and not a permanent fixture;
3. Any signs used for advertising purposes will not give a feeling of exclusive occupation or discourage the public use of the reserve in any way.

Please let me know if you require anything else from PARS or have any queries around the above conditions.

Regards,
Angus Robertson
Parks and Recreation Planner
Recreation Planning and Facilities

Melissa Shipman

From: Angus Robertson
Sent: Friday, 3 November 2017 01:35 p.m.
To: Melissa Shipman
Cc: Maria Sleeman; Shirley Stuart; Rachael Eaton; Nick Maguire
Subject: RE: LUC-2017-408 Hole in One Challenge 139 Portobello Road - Request for Memo Response

Hi Melissa,

- 1) PARs would prefer the caravan be removed from the site at the close of each business day. Although the conditions of storage would be detailed through the lease arrangement, this is a requirement that we have with other leases in public spaces. This means that the space will be available for public use when the Hole-in-One challenge is not operating. We had also asked for more info around the storage of kayaks, SUPS and bikes – did you get a response on this?
- 2) We had discussed this with the applicant during pre-application meetings and indicated that we would prefer there to be no concrete pads (both due to its proximity to public picnic tables and in the event that they do not remain operating there). At the very least we would like to see the platform flush with the ground level to enable practical maintenance for our contractors. Again, a clause around the removal of this would be included in the lease document. PARs also consider that the picnic table would be effectively rendered unsuable by the general public with the installation of the platform and the occupation of this space. PARs would like to see the table relocated or a new table installed at the applicants cost to ensure the space remains available for public use. PARs also note that the curb from the carpark to the turf is relatively high and may be prohibitive to all-ability access.
- 3) Transport/UD may have commented on this too, but PARs would prefer something less bright and the entry signs limited to one to ensure the space does not look private. PARs would also prefer that instead of an additional sign giving traffic notice of the upcoming attraction, that a sign is added to the existing DCC sign, rather than a stand-alone sign.

PARs also expect that none of the existing garden will be removed or compromised.

Commercial occupation of reserve land

Reserve land should be primarily for community use so ensuring the safety of the public in this space is paramount. While appropriate commercial activities can enhance the space by adding vibrancy, encouraging a wider use of the reserve and increasing the number of people accessing and using the reserve, this must not compromise people's ability to safely use the space whether they are also customers or not. Of course, where Council-administered land is used for commercial gain it is appropriate that a charge is applied which indirectly contributes to the upkeep of these spaces.

The above comments seek to ensure a balanced approach to this commercial activity on reserve land. Provided recreation space (including picnic tables) and access to the harbour are not compromised, the signs do not denote a private space, and the operator ensures safety measures such as a spotter, PARs are satisfied this activity can be catered for in this public reserve.

Thanks,
 Angus.

From: Melissa Shipman
Sent: Wednesday, 18 October 2017 7:48 a.m.
To: Angus Robertson
Cc: Rachael Eaton; Maria Sleeman
Subject: RE: LUC-2017-408 Hole in One Challenge 139 Portobello Road - Request for Memo Response

Thanks Angus. Just a couple of clarification points on your recommended conditions 1-3:

- 1) In the event that the caravan (which is the office/café base for the activity) is stored on the reserve rather than removing on a daily basis – would that be satisfactory?
- 2) By temporary, are you excluding the establishment of the concrete pads? The application page 3 states 'the teeing ground will have a concrete base and when in use will be matted with three synthetic mats'.
- 3) The signage siting and scale is detailed in the application (with the exception of caravan signage yet to be submitted) – are you satisfied with the siting and scale of signage? Or, is it the final text/wording in the signs that you want to be sure does not 'give a feeling of exclusive occupation or discourage the public use of the reserve in any way'?

Thanks
Melissa Shipman

From: Angus Robertson
Sent: Tuesday, 17 October 2017 3:36 p.m.
To: Melissa Shipman
Cc: Rachael Eaton; Maria Sleeman
Subject: RE: LUC-2017-408 Hole in One Challenge 139 Portobello Road - Request for Memo Response

Hi Melissa,
My comments attached.

Cheers,
Angus.

From: Melissa Shipman
Sent: Wednesday, 11 October 2017 9:35 a.m.
To: Parks, Recreation & Aquatics - Consents
Subject: LUC-2017-408 Hole in One Challenge 139 Portobello Road - Request for Memo Response

Officers, please refer to memo attached – comment due shortly to assess whether any further information is required.

Note: Submissions close on 30 October so I also be checking back with you after that date to see if you would like to revise your memo following receipt of submissions.

Please refer to ECM for submitted material.

Regards,
Melissa Shipman

Melissa Shipman
Planner, City Planning
Dunedin City Council

50 The Octagon, Dunedin; P O Box 5045, Moray Place, Dunedin 9058, New Zealand
 Telephone: 03 474 3448; Fax: 03 474 3451
 Email: melissa.shipman@dcc.govt.nz



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Memorandum

TO: Melissa Shipman, Planner

FROM: Barry Knox, Senior Landscape Architect

DATE: 20th October 2017.

SUBJECT: **LUC-2017-408, 139 PORTOBELLO ROAD. COMMENT FROM LANDSCAPE ARCHITECT**

This memorandum is in response to your request for comment on the above application, which is to establish a "Hole in One" tourist facility, bike hire and a coffee/food van on Department of Conservation reserve land administered by DCC.

The main proposed activity is similar to one which has been established at Lake Taupo for a number of years. This involves a tee-off area on land and a pontoon about 90 metres off-shore, and participants endeavour to hit a golf ball towards the pontoon and land the ball into one of three "holes" located on the pontoon.

Because of its location on the foreshore and within the harbour both DCC and ORC are involved in requirements for resource consents. Overall, for the DCC consents involved the activity is regarded as non-complying. I have been asked to review the visual impact on the coastal marine area, both on-shore effects and the effects of the pontoon within the harbour for ORC.

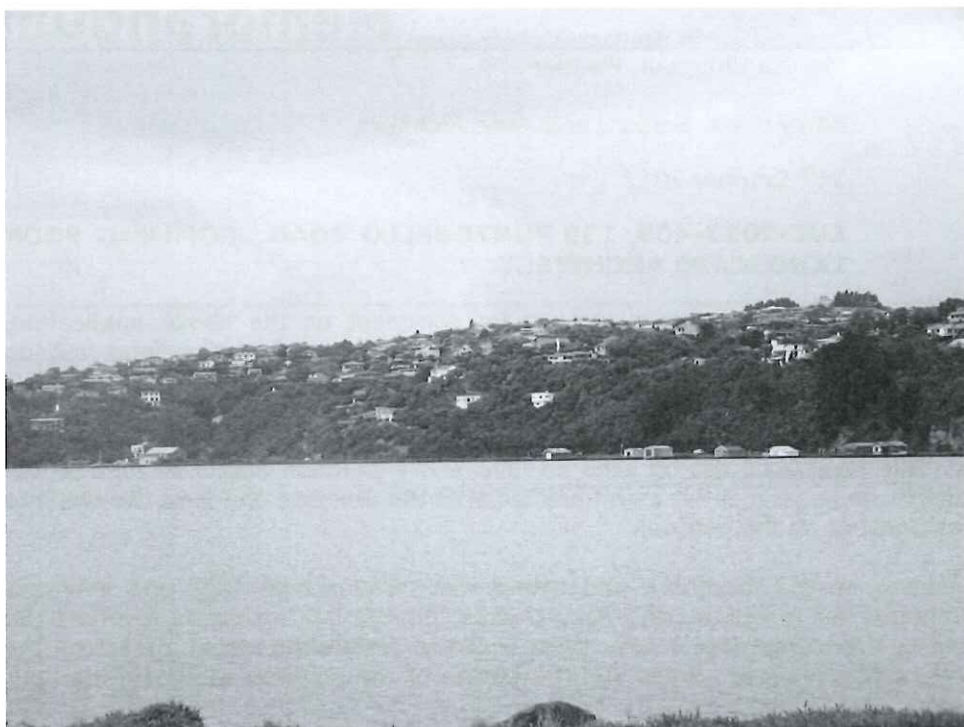
I completed a site visit with Peter Christos on 19th October 2017.

General Comment

I will not necessarily comment on the possible amenity and tourist benefits of this venture, except to say that this is probably a factor which needs to be carefully considered as long as the values and visual character of the harbour location are maintained. In this regard, the activity would by and large be relatively well contained visually in the small cove area here, and the pontoon would not be too incompatible in this location. The only small recommendation I would venture is that perhaps this visibility would be made even less obvious if signage on the pontoon and on the Portobello Road were to be modified from what is proposed.

In this regard I defer to comments made by my Urban Design colleague Peter Christos. In my opinion the signage in relation to Portobello Road, particularly, would be improved in terms of potential visual clutter if there was only one sign, and if this was to be positioned close to the carpark, as indicated in photograph 4 in the appendix. The sign may also be improved if a horizontal format were to be used rather than a vertical one.

Barry Knox,
Landscape Architect

Appendix 1. Photos Taken on 19th October 2017.

Photograph 1. View looking north east from Portsmouth Drive towards the proposed "Hole in One" site. The Vauxhall Boat Club building is to the left; the golf site is right of this on the foreshore. The pontoon would be visible from here, but only marginally so.



Photograph 2. View to the north along Portobello Road. One vertical orientated sign is proposed to the left of the road in front of the flax. The tee-off area is several metres along the flax row, between the sea wall and the flax.



Photograph 3. Area proposed for the tee-off platform.



Photograph 4. Car park area close to where the coffee/food van would be, to the left. Another sign is proposed where Peter Christos is standing.



Memorandum

TO: Melissa Shipman, Planner

FROM: Peter Christos, Urban Design

DATE: 25-Oct-2017

SUBJECT: Land Use Consent - Description
LUC-2017 408-139 Portobello Road Dunedin

Hi Melissa,

Portobello Road is an important edge to the Otago Harbour and as such careful consideration is needed to protect it from inappropriate development. The road is an increasingly important route supporting the city's vision to provide for improved cycling connectivity and eventual east / west harbour cycle route. Portobello Road also serves as a major tourist route and daily trip for peninsular residents.

Existing development on the harbour side of Portobello Road is restricted to the Vauxhall Yacht Club, the MacAndrew Bay Yacht Club and beach/car park and boat sheds. Opportunities to establish new activities along Portobello Road are very limited as the road tightly hugs the harbour edge with few spaces between the road and the shoreline. The Vauxhall Yacht Club is located about 800m from the intersection of the causeway and Marne Street to the south and about 239m to the intersection of Doon Street and Portobello Road (more or less the deepest point of The Cove). The site has a small cluster of houses overlooking it with views being somewhat controlled by exact situation of houses, topography and vegetation.

The site is visible from Portsmouth Drive however the separation distance in excess of 1000m and the proposed activity would have little visual impact from Portsmouth Drive. More critical, are the views approaching the site along Portobello Road.

Zone One: Zone one is proposed as space to accommodate a coffee/food van as well as cycle and kayaks/canoes/paddle boats for hire. Three public car spaces are proposed to be used for this area. Without knowing the details of van size and orientation, trailer/storage rack dimensions etc., it is difficult to assess whether the proposed area would be large enough to accommodate equipment as well as customer movement around the site and how this may impact on adjoining public space.

Tee off zone: The proposed location of the pad is set well back from the road and largely screened by existing planting. The pad itself would be barely visible from passing traffic however such a large pad will impact on the visual amenity of the grassed area for other user of the space and possibly nearby residents. This could be reduced by the use of a suitably coloured concrete or alternative material. The application provides no indication of fencing/barriers around the tee off zone or screening between tee off bays. I would imagine this to be important to protect other participants but also anyone else using adjoining public spaces and not associated with proposed activity. Any additional infrastructure would likely have some impact on the existing amenity values. The tee off zone is proposed to extend to an existing bench/seat which would most likely need to be relocated to ensure it remains safe and useful for public use during the operation of the golf challenge.

Signage: Three signs are proposed along the road edge- two on either side of the southern entrance to the car park and one about 50m to the south and on the end of a narrow planted strip. These signs are proposed to be approximately 2m x .8m and orientated vertically. Signage on the harbour edge needs to be minimal to ensure the high amenity values along the harbour are protected- there is already too much signage along this route. Both the number and size of signs should be reduced, in my view. And existing DCC road sign ('Otago Peninsula') and poles may provide an opportunity to better integrate an alternative single sign.

Other signage is proposed on the north, south and eastern walls of the pontoon itself. The application shows this as simple letter suitable scale, colour and design. I believe this is appropriate to identify the site from the road without overly impacting on the harbour setting. As well as signs, the pontoon would also have three coloured flags to signal target zones. This is appropriate and should have minimal visual effects providing they are no larger than needed to server their purpose and no additional images are applied.

Pontoon: The proposed pontoon is significant at 8m x 12m. The pontoon will be permanently moored about 90m from the shore line in front of the southern car park. It will be visible from some houses overlooking the harbour, along Portobello Road- for about 250m to the south, and also from limited locations for about 450m to the north. A series of existing boat sheds would screen some views of the operation from the south while views from the north are also limited by the shape of the shore line (The Cove) and by the yacht club itsel. While the pontoon will be a new element within the harbour, it is not an entirely unexpected structure close to a shore line and the visual effects of it will be largely contained by the shape of the shoreline, distance from Portsmouth Drive and existing buildings along the harbour edge.

A pole mounted camera and solar panel are also proposed on the pontoon.. I believe anything above the height of the pontoon should be reduced to as few elements as possible. The location of the solar panel should be located as discretely as possible- preferably on the back of the pontoon and not visible from the shoreline. I would suggest that no additional advertising (including corporate logos etc.) should be considered on the pontoon.

Peter Christos
Urban Design
CITY DEVELOPMENT



Memorandum

TO: Melissa Shipman, Planner

FROM: Grant Fisher, Planner/Engineer Transport

DATE: 8 November 2017

SUBJECT: **LUC-2017-408**
139 PORTOBELLO ROAD, DUNEDIN

Application: Consent is sought to establish and operate a tourism activity at the above site, which is a recreation reserve owned, maintained, and operated by the Dunedin City Council. The tourism activity involves a mobile coffee cart, bike and water sport hire, and a "hole in one" golf challenge".

Access: Vehicle access to the site will be via existing entrances to the carpark on the south side of the Vauxhall Yacht Club. The vehicle accesses are located at the north and south ends of this parking area, and generally meet the formation requirements of the District Plan. The applicant intends to operate the vehicle access with entrance via the southern access, and exit via the norther access.

Sight distance for the south vehicle access is approximately 150m to the south, and 110m to the north. Sight distance for the north vehicle access is approximately 100m to the south, and 90m to the north. Transport considers these sight distances to be acceptable, noting that they are in accordance with Austroads Minimum Gap Sight Distance criteria. We also note that road safety in this location appears to be good, with no reported crashes indicating an underlying safety issue with regard to the operation of the vehicle accesses.

Overall, the access provisions are considered to be acceptable for the proposed activity.

Parking: The car park to be used is, as noted above, the existing parking area on the south side of the Vauxhall Yacht Club. The parking area can accommodate in the order of 15 cars, and will be demarcated in accordance with District Plan performance standards in order to ensure its safe and efficient operation.

The applicant submits that the parking area can accommodate buses, but large coaches will need to use the parking area to the north of the Vauxhall Yacht Club. Coach operators will be briefed about the site traffic planning. Overall, however, the applicant anticipates that most visitors will arrive by their own private vehicle, and only a small number might arrive via shuttle/bus.

Transport considers the parking area to be of sufficient capacity to cater for the proposed tourism activity. Consent conditions are recommended, below, regarding the formation and marking of the parking area.

Generated Traffic: The applicant estimates that up to 3 staff will be on site at any one time, and 10 visitors per hour will attend the site during the peak season. Transport considers these traffic generation numbers to have negligible adverse effect on the safety/functionality of the transport network.

Signage: The applicant proposes signage within legal road, offering advanced notice of the site and vehicle access. Transport does not support private signage within legal road as we do not consider it is warranted, and it would set a significant undesirable precedent for private commercial signage within legal road. We consider that vehicle access to the site can operate safely and efficiently without such signage.

Conclusion: Transport considers the proposed tourism activity to have no more than minor adverse effect on the safe and efficient function of the transport network, subject to the following:

Conditions:

- (i) The applicant shall undertake all practicable measures to ensure that the operation of the proposed activity does not affect the safe function of the transport network.
- (ii) Parking shall be provided on the site (i.e. the southern parking area) for at least 15 vehicles. The car parks shall be permanently marked and shall comply with the minimum dimensions stipulated in Appendix 20B of the District Plan.
- (iii) Pursuant to section 128 of the Resource Management Act, the transportation requirements of this activity may be reviewed one year after the commencement of the activity, to ensure any adverse effects on the transportation network are sufficiently managed.

Advice notes:

- (i) No private signage associated with the activity is permitted within legal road.



Grant Fisher
Planner/Engineer
Transport

Melissa Shipman

From: Grant Fisher
Sent: Friday, 19 January 2018 01:20 p.m.
To: Melissa Shipman
Subject: RE: LUC-2017-408 Hole in One 139 Portobello Road - technical frontage rule breach

Hi Melissa,

I can confirm that this non-compliance does not alter my assessment. I have assessed the impact of the proposal on road safety and I'm satisfied that the effects can be managed.

Cheers,

Grant

From: Melissa Shipman
Sent: Friday, 19 January 2018 12:20 p.m.
To: Grant Fisher
Subject: LUC-2017-408 Hole in One 139 Portobello Road - technical frontage rule breach

Hi Grant, your memo doesn't seem to address the technical frontage breach i.e. two crossings on a district road frontage 18-60m (approximately 104.5m by my calculation). The Section 5 part of the legal site description would add the extra frontage length but it is remote from the site 500m to the south so is not included. The property of 153 Portobello Road is also excluded from the frontage calculation.

Existing use rights apply but arguably may be lost by the subject proposal. This is not a typical residential site to apply the standard to either being recreation (despite the zoning).

I'm compiling the hearing report now due on Monday. A quick comment will suffice if it is all okay doesn't change your assessment. Thanks!

Regards,
 Melissa Shipman
 Planner, City Planning
 Dunedin City Council

50 The Octagon, Dunedin; P O Box 5045, Moray Place, Dunedin 9058, New Zealand
 Telephone: 03 474 3448; Fax: 03 474 3451
 Email: melissa.shipman@dcc.govt.nz



**DUNEDIN CITY
COUNCIL**
Kaitiaki o te ōhau o Dunedin



Please consider the environment before printing this e-mail

TO: City Planning

FROM: Consents & Compliance Officer, Water and Waste Group

DATE: 20 October 2017

LUC-2017-408 **'HOLE IN ONE' GOLF CHALLENGE**

SUBJECT: **139 PORTOBELLO ROAD, DUNEDIN**

**COMBINED DRAINAGE & WATER AND WASTE GROUP
COMMENTS**

1. The proposed activity

Land use consent is sought from DCC to establish a commercial activity at 139 Portobello Road. The site is within the Residential 1 zone.

Land use description

The proposal is for a 'hole in one' venture on a 64m² area of the reserve on the southern side of the Vauxhall Yacht Club and includes an 8x 12m pontoon attached to the harbour. A striking zone has been identified more clearly on additional information submitted to the ORC. This activity includes a coffee/food van and a water-sports and bike hire drop off point.

Existing services

The DCC's GIS records a 300mm diameter wastewater trunk main and 300mm diameter wastewater pumping main in Portobello Road.

2. Infrastructure requirements

Standard of installation

All aspects of this development shall be in accordance with the requirements of the Dunedin Code of Subdivision and Development 2010.

Water services

There is no DCC water infrastructure available in the nearby vicinity of this property. It is assumed that water used for the coffee/food van will be brought on site from elsewhere.

Firefighting requirements

All aspects relating to the availability of water for firefighting should be in accordance with SNZ PAS 4509:2008, being the Fire Service Code of Practice for Fire Fighting Water Supplies.

We are unsure how the firefighting needs for this development will be met and request that the applicant discuss this with the New Zealand Fire Service.

Stormwater services

The proposal does not involve changing the imperviousness of the current site and therefore there will be no changes to stormwater flows.

Wastewater services

The applicant has not requested to connect to the wastewater network for discharge from the coffee/food van. If wastewater is to be discharged to the DCC wastewater network, trade waste consent under the *Dunedin City Council Trade Waste Bylaw 2008* is required and may require a grease-trap to be installed.

3. Consent conditions

No consent conditions are suggested for this development.

Consents & Compliance Officer
Water and Waste Group
Dunedin City Council

CC: Senior Education and Compliance Officer