

TO: Hearings Committee

FROM: Jeremy Grey, Planner

DATE: 8 August 2016

SUBJECT: **RESOURCE CONSENT APPLICATION LUC-2016-189
40 BEACH STREET, PORT CHALMERS
PORT OTAGO LIMITED**

INTRODUCTION

- [1] This report has been prepared on the basis of information provided in the application, lodged on 4 May 2016, along with submissions and technical comments from Council representatives. 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.

DESCRIPTION OF THE PROPOSAL

- [2] Land use consent is sought to undertake earthworks on the site at 40 Beach Street, Port Chalmers. The proposed works are required in order to stabilise and existing area of instability on the northern and eastern faces of Flagstaff Hill, which overlooks the Port. In this respect, the works are needed to ensure that Port operations and public safety are safeguarded from future instability.
- [3] The lower slope of the hill is comprised of dolerite, a coarse-grained variety of basalt, which is overlain by Port Chalmers Breccia. The breccia consists of angular fragments of rock, cemented by a finer-grained matrix of calcareous material. Specifically, the proposal involves the cutting of the lower dolerite to form a single 40° slope gradient along the northernmost section of the area to be altered, to align with the existing slope. As the proposed cut progresses around the hill toward the south, the slope gradient will reduce to a minimum of 35°. This component of the works will require the cutting of the easterly extensions of the lower two of four existing benches, located at the northernmost point of the works area.
- [4] In regard to the upper breccia, this is to be benched in order to conform with the lower three existing benches, which will be extended in a more southerly direction, across the lower of the walkway that leads down the hill from the lookout at the top of Constitution Street. The benches themselves will have maximum widths of approximately 4m-5m and will have intervening batter slopes of not more than 6m in height.
- [5] The application states that in order to achieve the alterations described above, a volume of approximately 45,000m³ is required to be excavated from the site. It is also noted that an amount of topsoil is to be imported and deposited on the benches to help facilitate landscape planting proposed. The top soil is to be deposited to a depth of 400 millimetres (mm).

- [6] All material removed from the site is to be transported to a final disposal site or an interim storage site, by either road or rail. It is noted that the applicant has been liaising with the New Zealand Transport Agency (NZTA) regarding the potential use of excavated material in the formation of the St Leonards to Port Chalmers Shared Path Project. However, no confirmation has been given in terms of such a use for excavated material and such, this application does seek to authorise any associated activity. Separate consents will be sought by the application if material is to be used in such a manner.
- [7] As part of the proposal, the application notes that the existing shipping containers that are located along a portion of Beach Street, beneath the main area of existing instability will be removed, improving public access. Further, the applicant proposes a suite of mitigation measures that are detailed in a report undertaken by Opus International Consultants Limited, entitled "Flagstaff Hill Proposed Cut Design North East Slope". This report forms part of the application document and provides detail around the methodology by which the proposal is to be undertaken. As part of the measures to be taken it is understood that, collectively, a detailed Construction Programme along with a Construction Management Plan are to be prepared. The Construction Programme is to confirm construction timing, storage options and excavation of material. The Management Plan will address such matters as sediment management, erosion and dust control, and blasting. However, it should be noted that blasting has yet to be confirmed as being part of the construction methodology. The formulation of both plans is discussed below, under the assessment of environmental effects. Further, it is understood that the works are to be carried out during normal business hours and will take between 3-12 months to complete. Given the volume of excavation proposed, the applicant predicts that up to 4,500 truck movements will be required (2,250 to and from the site) over the duration of the project, in absence of using rail.
- [8] It should also be noted that the application contains noise, geotechnical and landscape assessments from the applicant's independent consultants. A full copy of the application can found in Appendix A of this report.

DESCRIPTION OF SITE AND LOCATION

- [9] As discussed above, the site of the proposed works is encompassed, essentially, by the easterly facing slopes of Flagstaff Hill, Port Chalmers, which is understood to include eastern extensions of both Aurora Terrace and Island Terrace road reserve. Constitution Street, and Aurora Terrace, allowing vehicle access to the top of the hill, where a lookout is located along with the hill's namesake, a "flagstaff" or pole. From this point, a network of walking tracks affording access down to Island Terrace and ultimately, Peninsula Beach Road, which takes in land also owned by the applicant. The latter road links up with Beach Street, which skirts the toe of Flagstaff Hill, allowing access from the centre of Port Chalmers. Reclaimed land is located on the opposite side of Beach Street, which forms part of the applicant's operations area. The closest residential dwellings to the site of the works that are not owned by the applicant are those at 2 Aurora Terrace, 17 Scotia Street and 11 Island Terrace. These sites form the eastern fringe of the Port Chalmers suburban area, which otherwise lies to the west.
- [10] It is noted that, previously, a significant slip occurred in 1999, which resulted in the construction of the existing series of benches as an interim stability measure. Additionally, a wire fence has been constructed within the original carriageway of Beach Street, beyond the kerb and channel. A make-shift footpath has been delineated by using concrete blocks to separate vehicles and pedestrians. As mentioned above, several containers have been located at the foot of the hill, below an area considered to be most at risk from instability.

- [11] The main land parcel that is to contain the works is legally described as Lot 1 DP 26574, held within Computer Freehold Register (CFR) OT18D/5 (1.0878 hectares (ha)). Further, two parcels of the land legally described as Secs 466 and 467 SO 21294 Town of Port Chalmers are also taken in by the works, held within respective CFRs OT10C/180 (2,293 square metres (m²)) and OT10C/181 (1,842m²). All parcels form part of the wider site encompassing 40 Beach Street. Additionally, the works area takes in small portions of road reserve as discussed above. It should also be noted that the Beach Street carriageway does not follow road reserve in the area of the proposed works and sits upon land owned by the applicant.

ACTIVITY STATUS AND REASONS FOR APPLICATION

- [12] Dunedin currently has two district plans: the Operative Dunedin City District Plan (the Operative District Plan), and the Proposed Second Generation Dunedin City District Plan (the Proposed Plan). Until the Proposed Plan 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.
- [13] 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.

Operative Dunedin City District Plan (Operative District Plan)

- [14] The subject site is zoned **Port 1** in the Operative District Plan. Beach Street has not been attributed any operational hierarchy under the Operative District Plan, but does provide for public access to Back Beach and around the Port Chalmers Peninsula. The location of the proposed works is not identified on the Council's Hazard Register as being subject to any known hazards. There are no designations applying to the site. It should also be noted that the flagstaff at the top of Flagstaff Hill is protected under Schedule 25.1 of the Operative District Plan (**B659**) and is registered as a Category II historic place with Heritage New Zealand Pouhere Taonga.
- [15] The earthworks do not comply with either of Rules 17.7.3(ii) and 17.7.4(iii), which specify the scale threshold in respect of the maximum change in ground level (1.5m) and maximum volume to be excavated (100m³). As such, this element of the proposal is assessed as a restricted discretionary activity, pursuant to Rule 17.7.5(ii) of the Operative District Plan.

The Council's discretion under this rule is restricted to:

- (a) Adverse effects on the amenity of neighbouring properties.
- (b) Effects on visual amenity and landscape.
- (c) Effects on any archaeological site and/or any cultural site.
- (d) Effects on the transportation network, caused by the transport of excavated material or fill.
- (e) Effects from the release of sediment beyond site boundaries, including transport of sediment by stormwater systems.
- (f) Cumulative effects relating to any of these matters.

As the earthworks were not granted an earthworks permit prior to 1 July 2010 and do not form part of a project that was granted building consent on or after 1 July 2010, the Council's discretion will also extend to the following matters:

- (g) Design and engineering of retaining structures and earthworks.
- (h) Effects on the stability of land and buildings.
- (i) Effects on the surface flow of water and on flood risk.
- (j) Effects on underground utilities.

In assessing these effects, the Council will have regard to the matters in 17.8.1 to 17.8.6.

- [16] In addition, the earthworks do not comply with Rule 17.7.3(v) of the Operative District Plan (Distance from Water and Waste Infrastructure) in respect of a 150mm foul sewer pipe located at the top of the southernmost portion of the works. This element of the proposal is assessed as a restricted discretionary activity, pursuant to Rule 17.7.5(iv) of the Operative District Plan. The Council's discretion under this rule is restricted to effects on the integrity of water, stormwater and/or foul sewer reticulation.

In assessing these effects, the Council will have regard to the matters in 17.8.8.

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

- [17] The land is zoned **Major Facilities - Port** in the Proposed 2GP. The site is not identified as being subject to any known hazards, however, the site is subject to the Port Noise Control Mapped Area. In respect of the provisions of the Major Facilities section of the Proposed 2GP where earthworks are addressed, all of these are subject to challenge and none are currently operative. Therefore, there have been no relevant alterations to the Proposed Plan since the lodgement of the application on 4 May 2016, which the proposal needs to be assessed against.
- [18] It should be noted that pursuant to section 86D of the Act, the Environment Court ordered that the rules controlling minimum site size within rural zones and the removal of indigenous vegetation have immediate legal effect from the date of notification. None of these provisions are relevant to the current application.
- [19] At the time of writing this report, no other rules of the Proposed 2GP had been given effect or made operative. The relevant rules are subject to submissions and could change as a consequence of the submission process. Accordingly, the Council need not have regard to the rules of the Proposed Plan as part of the assessment of this application.

Planning Status

- [20] Overall, the activity is assessed as a **restricted discretionary** activity.

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

- [21] The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) 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 or might require resource consent.
- [22] The piece of land it is to contain the works is not identified as a HAIL site and, as such, the NES is not considered to apply.

CONSULTATION, NOTIFICATION AND SUBMISSIONS

- [23] As discussed in the application, the applicant undertook consultation with Kai Tahu ki Otago Limited, Kiwi Rail, Chalmers Community Board, Port Environment Committee and Dunedin City Council Transport department. No written approvals were provided in respect of the application.
- [24] The application was publicly notified in the Otago Daily Times on 1 June 2016. Copies of the application were sent to those parties whom the Council considered to have an interest in the proposal. Submissions closed on 30 June 2016.

- [25] Four submissions were received by the close of the submission period, one of which was in opposition, two were in support and one submitter did not indicate their position. These submissions are summarised in the table below, and full copies are attached in Appendix B of this report.

Name of Submitters	Support/ Oppose	Summary of Submission	Wish to be heard?
Naomi Wilson	Did not indicate	- Concerned regarding a disappearing observation point and destabilisation of the area. - Also concerned that proposed plantings on newly formed terraces will not be monitored appropriately. - If consent is granted, the outcomes sought are: - To be notified of any blasting in a timely manner; - For the Dunedin City Council to monitor the maintenance of replacement planting; and for the applicant to be liable for any damage caused to property.	Yes
Port Chalmers Historical Society	Support	Fully supportive of application	No
Robert Murray Owen	Oppose	- Concerned property has been ignored in respect of visual impacts, noise and lack of car parking. - Also concerned regarding heavy traffic movements and dust, compounding and existing problem, unless adequate provision is made. - Considers right to peaceful sleep and quiet enjoyment of mornings and evenings will be impacted. - Pedestrian safety and increased traffic movements need to be considered in any traffic management plan. - Notes an on-going problem involving bark falling from tracks and forming a dust issue outside 22 Beach Street. Concerned about contaminated dust then entering stormwater system or the hotel. Also concerned regarding damaged to recent road and rail crossing upgrades and noise from exhaust brakes. - Interested in an inclusive approach being taken in terms of the works. - If consent is granted, the outcomes sought are: - Controls around dust emissions	Yes

		from trucks in transit; definition of hours (ideally 7.30am to 6pm) with no work on Sundays; restriction of speed to 30kmh; provision of adequate parking so as not to affect existing residents and businesses; include residents and businesses in any road closure negotiations.	
Donald Robert Anderson	Support	• Submitting in relation to unspecified disposal or storage sites. • Considers that 45,000m³ appears excessive and should be re-evaluated – considers effects of disposal greater than those removal. • Considers that the excavated material would be more appropriately used in relation public projects such as the "West Harbour Cycleway" and could be used to extend this to Aramoana. • If consent is granted, the outcome sought is: • To include disposal specifications in regard to the use of material.	

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

- [26] 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.*
- [27] The starting point for the assessment of effects is to consider whether or not the "permitted baseline test" needs to be applied. Section 104(2) of the Act provides the Council with discretion to disregard the effects of an activity on the environment if the District Plan permits an activity with that effect.
- [28] The permitted baseline in this case is limited to a change in ground level of 1.5m and a volume of excavation and fill (combined) of 100m³, subject to compliance with boundary setback and other proximity controls.
- [29] Given the purpose of the works and degree to which they are to exceed the above thresholds, it is my opinion that any application of the permitted baseline, in this instance, does not provide any assistance in assessing the effects of the proposal.

- [30] This section of the report assesses the following environmental effects in terms of the relevant assessment matters prescribed under Rule 17.7.5(ii) of the District Plan as follows:

Operative Dunedin City District Plan

Adverse Effects on the Amenity of Neighbouring Properties

- [31] As discussed above, the three closest residents are located on the western slope of Flagstaff Hill, just below its summit, while 11 Island Terrace lies approximately 55m southwest of the works area, opposite the Port Chalmers Yacht Club. Otherwise, the main part of the Port Chalmers suburban area is situated further to the west, or southwest. As such, any adverse effects on these properties will more likely result from potential noise and dust emissions from the use of heavy machinery. Vibration may also potentially detract from the amenity of surrounding properties.
- [32] In this respect, the application notes that a number of excavation methods may be used to undertake works, depending on rock characteristics and the type and capacity of the plant available. However, it is understood that mechanical breakers will be required, which will need to have access to the site via Constitution Street. In addition, the application notes that some blasting may be necessary.
- [33] Given the potential for such effects to occur on neighbouring properties, the Council's Environmental Health department were forwarded a copy of the application. Environmental Health has provided the following comment:

Construction Noise

The period of construction applied for by the applicant is expected to be of 'Long Term duration'. The New Zealand Standard Acoustics - Construction Noise (NZS 6803:1999) states that "Long term duration" of construction, means construction work at any one location with a duration exceeding 20 weeks. If the applicant is proposing that construction times are not of 'Long term duration' the applicant is advised to contact this department for clarification on the noise limits that apply.

Construction shall be limited to the times set out below and shall comply with the following noise limits for 'Long term duration' as per New Zealand Standard Acoustics - Construction Noise NZS 6803:1999.

<i>Time of Week</i>	<i>Time Period</i>	<i>Leq (dBA)</i>	<i>L max (dBA)</i>
<i>Weekdays</i>	<i>0630-0730</i>	<i>55</i>	<i>75</i>
	<i>0730-1800</i>	<i>70</i>	<i>85</i>
	<i>1800-2000</i>	<i>65</i>	<i>80</i>
	<i>2000-0630</i>	<i>45</i>	<i>75</i>
<i>Saturdays</i>	<i>0630-0730</i>	<i>45</i>	<i>75</i>
	<i>0730-1800</i>	<i>70</i>	<i>85</i>
	<i>1800-2000</i>	<i>45</i>	<i>75</i>
	<i>2000-0630</i>	<i>45</i>	<i>75</i>
<i>Sundays and Public Holidays</i>	<i>0630-0730</i>	<i>45</i>	<i>75</i>
	<i>0730-1800</i>	<i>55</i>	<i>85</i>
	<i>1800-2000</i>	<i>45</i>	<i>75</i>
	<i>2000-0630</i>	<i>45</i>	<i>75</i>

It should be noted that noise limits of (Leq) of 45 - 55 dBA during daytime and night time may mean that no construction work can take place. (NZS 6803:1999)

District Plan Noise Limits and Duties of applicant.

This activity is situated in Port Zone 1 which is bound by District Plan rule 21.5.2 in relation to Port noise management and noise mitigation performance standards. It must be considered that the site of this proposed earthworks is close by to a

Residential zone which carries a noise limit of 50dBA during daytime hours (8am – 6pm). Noise levels reduce further during shoulder periods and night time hours, though earthworks construction is unlikely to occur during these hours as indicated in the application.

As stated within the application, the nearest residential dwellings (not owned by Port Otago) are located at 11 Island Terrace, 2 Aurora Terrace and 17 Scotia Street. Marshall Day's assessment as part of this application predicts that worse case, these dwellings are unlikely to be in direct line of site whilst earthworks are occurring and the earthworks will occur far enough away from the dwellings that the construction noise limits will be complied with (usually less than 65dBA is predicted). Environmental Health is comfortable with this prediction given the proximity of these dwellings and the likely times of day construction will be occurring (day time hours).

The applicant was unsure whether blasting would be required as part of the proposed work. Marshall Day has considered the possibility of blasting occurring and is confident that the separation distance from the blast site to any dwelling would be 100 metres or more in distance. Blasting, like construction itself can cause vibrations however these are generally of short term and limited duration. Given the proximity of dwellings from potential blast sites and the earth moving sites, we agree with Marshall Day's prediction that any adverse effects on the amenity of neighbouring properties, specifically in relation to noise and vibration effects will be less than minor.

The applicant is reminded however that consent for this application does not excuse the applicant of their duty under Section 16 of The Resource Management Act 1991 whereby a noise can still be deemed a noise nuisance of unreasonable nature whether it complies with a District Plan noise limit or not. The applicant is reminded that the Best Practicable Option should continue to be applied to ensure that the noise levels emitted do not create a noise nuisance.

District Plan Rule 21.5.2 – Port Noise Management and Noise Mitigation Performance Standards

Port Otago must ensure the proposed works will be covered by their noise management and mitigation plan with regards to noise modelling, monitoring and handling any complaints received. The Port is reminded to take the best practical option at all times to help mitigate any actual or perceived adverse effects in relation to noise at all times.

- [34] In respect of the comments made by the Environmental Health department, I am prepared to accept that any adverse effects on the amenity of neighbours resulting from noise and vibration, who live closest to the site of the works, will likely be minor. However, my position is contingent on compliance by the applicant with appropriate recommended conditions of consent. One of which is the strict adherence to the construction noise standards discussed above, with which the applicant's acoustic consultant, Marshall Day Acoustics, has assessed can be achieved. I note the Environmental Health concur with this position, but point out that this does not detract from the applicant's responsibilities under section 16 of the Act. Further, a condition is recommended requiring that appropriate notice be given to residents of when blasting is to occur, which is made reference to by Naomi Wilson in her submission. If the Committee are amenable to such a condition, thought would need to be given to the extent of the notice, given the number of dwellings in proximity to the works area.
- [35] Given the limits of the construction noise standards, this means that, essentially, work will be restricted to certain hours. Notwithstanding this, it is considered prudent to recommend a specific condition restricting the hours of operation. In his submission, Robert Owen made reference to controlling these hours and I agree with his view and consider that these hours should also extend to truck movements when removing material from the site. This is particularly so, given that Beach Street and either

George Street or Macandrew Road are the only practicable transport routes to and from the lower part of the site and use of suburban streets to access the upper site area.

- [36] Provided recommended conditions of consent adhered to, I anticipate that any adverse effects on the amenity of neighbouring properties can be adequately mitigated and will be at most, minor. Having said this, while the applicant intends a work period of 3-12 months overall, it is likely that timeframes will become clearer, once work progresses. In this respect, 2-monthly progress reports would provide the applicant an opportunity to maintain communication with local residents and enable timing projections. This would be consistent with the inclusive approach mentioned by Robert Owen in his submission and is recommended as an additional condition, if the Committee are of a mind to grant consent.

Effects on Visual Amenity and Landscape

- [37] Given the prominent location of the site of the works, they have the potential to be visible from a number of locations, but these are limited to areas to the east of the site. As noted by the applicant, this includes a number of Careys Bay residences and more distant locations along Aramoana Road, along with parts of Otago Peninsula, such as Harwood and Harington Point Road. Viewing distance from Careys Bay will be in the order of 1 kilometre (km), while the site will be visible across a distance of 3km from Harwood. Consequently, the applicant engaged landscape architect, Mike Moore, to formulate a Landscape Development and Management Plan to address visual and landscape effects. The plan provides a detailed landscape concept in regard to revegetating the proposed benches and identifies appropriate species to use, depending on the portion of each bench being planted. It also assesses the likely adverse effects on visual amenity and landscape.
- [38] In order to review the assessment made by Mr Moore, the application was forwarded to Council's Landscape Architect for comment. These comments are as follows:

General Comment

The earthworks proposed in this application are of a significant scale, and I consider the adverse effects of such work on landscape character and visual amenity would be potentially significant, particularly at the early stages. In this regard I agree with the comments made by Mike Moore, who notes in his report,

"The adverse natural landscape character and visual effects on the headland must be considered within the context of the surrounding port – which is a highly modified environment. This context reduces their significance in my opinion. Considering the history of modification, the port setting and the mitigation planting proposed, I assess the adverse natural landscape character and visual effects as significant initially, reducing to moderate in the medium term (5-15 years –as the bench plantings establish and grow, and as natural softening of the lower slopes occurs), and reducing to minor in the long term."

Technically the initial adverse effects on natural character and amenity are assessed in the application landscape report as significant, reducing to moderate in five to fifteen years, and minor in the long term.

There are a number of factors which assist with reducing the potential significance of these adverse effects. In terms of its requirement, it appears to be a necessary corollary to earlier emergency work, and my understanding is that proposed new earthworks will provide a greater assurance that Flagstaff Hill will be more stable as a result. Another factor is the Port Chalmers industrial setting which by its nature reduces the significance of effects on surrounding natural character and acts as a visual counterpoint. With regard to visibility, this is a prominent and reasonably central focal point of Otago Harbour which can be seen from key locations on the peninsula, and from north-east of Port Chalmers.

Overall it is likely that this work, if it proceeds, would have significant initial adverse effects on local natural character and visual amenity, and be visible from key viewpoints. However, it also appears to be work that is required for security and safety for the Port working environment. If mitigation work is carried out as detailed in the application these effects would be ameliorated in time, and become no more than minor.

Recommended Condition

Should consent be approved, I recommend that all the recommended site restoration measures and proposed planting forwarded in the Mike Moore report attached to the application should be fully implemented.

This would be likely to be proceeded with if consent is granted in any case, but in my opinion greater certainty would follow from such a consent condition. The following (or similar) condition could be attached:

All planting and site development recommendations outlined or detailed in the "Landscape Development and Management Plan, 10 December 2015", included with the application document, shall be implemented and managed in a timely manner.

- [39] I accept the advice provided by the Council's Landscape Architect and agree with both his, and Mr Moore's assessments. There is no doubt that in the initial years following the works, the lower slope of the works areas and upper benches will be conspicuous from a number of different viewpoints. This will remain the case until proposed landscape planting begins to take effect in respect of the benches. As Mr Moore has pointed out, the steeper nature of the lower slope means that this cannot be planted in the same manner and will instead be left to be colonised "naturally". While this will achieve a vegetated cover over time, my concern is that weed species such as gorse could potentially colonise the slope just as readily. As such, while I acknowledge that the applicant's Landscape Development and Management Plan includes a condition regarding weed control, if of a mind to grant consent, the Committee might consider imposing weed control as a specific condition.
- [40] Otherwise I agree with the Landscape Architects in that given the adjoining operation of the existing port activities, visual amenity values are already markedly detracted from. As such, the works area would be viewed in this context and would reduce the significance of any visual effects, as noted above. Further, I acknowledge that, in time, proposed landscape planting on benches will likely serve to mitigate adverse effects, so as to be deemed no more than minor. Reliance on natural revegetation of the lower slope provides less certainty in respect of effects mitigation. However, its lower elevation could be considered a mitigating factor.
- [41] On the basis of the discussion above, I am satisfied that in time, a satisfactory outcome will be achieved and that in the interim, some mitigation will be afforded given the adjoining industrial context of the port operation. I would also agree that any visual effect needs to be weighed against matters of pedestrian and vehicle safety. If the Committee is of a mind to grant consent, I recommend the condition put forward by the Council's Landscape Architect be incorporated into the proposed Construction Management Plan.

Effects on any Archaeological and/or Cultural Sites

- [42] Notwithstanding the presence of the protected flagstaff, there is no specific indication that the area of the works itself has any archaeological and cultural significance. However, as anticipated by the applicant, it is considered prudent to recommend an accidental discovery protocol condition in this instance, given the large volume of excavation required.

Effects on the Transportation Network

- [43] The Council's Transport department Planning Officer was forwarded a copy of the application for assessment and they have commented as follows:

Effects relating to the safe and efficient operation of the transport network as a result of the proposed works primarily relate to traffic management. The applicant proposes an overall Construction Management Plan, which is to include a Traffic Management Plan (TMP) in order to deal with these effects. Transport considers this to be an acceptable way to mitigate the transport effects that will arise as a result of the proposed earthworks. The following conditions/advice is recommended:

- (i) The full extent of proposed works, especially those within legal road, shall be submitted to Transport prior to works commencing.*
- (ii) The TMP shall be submitted to, and approved by, Transport prior to works commencing. The TMP shall comply with the requirements of the NZTA Code of Practice for Temporary Traffic Management.*
- (iii) The required TMP shall include, but not be limited to, the following provisions:*
 - a. All rock/earthworks material taken away from the site shall be taken away via Beach St direct to George Street/State Highway 88.*
 - b. Road closures shall be kept to a minimum duration as is practicable. Longer road closures are at the discretion of the DCC Traffic Management Coordinator, and may require further public notification.*
 - c. Details of any catch fences that may be required to ensure the operational safety of the transport network.*
- (iv) Any excavation work proposed within legal road shall be undertaken in accordance with the National Code of Practice for Utility Operators' Access to Transport Corridors, and will require an authorised corridor access request prior to these works commencing.*
- (v) Any altered stormwater or captured groundwater must not cause a nuisance, in general must drain to an approved outlet, which may require building consent. Openings to allow drainage to kerb and channel within road will require a Corridor Access Request as detailed above.*
- (vi) Following completion of the works, the full road width shall be available for road users, including the footpath on the hill side of the road.*

Further to the above, Transport recommends a TMP pre-application meeting be undertaken between the Site Traffic Management Supervisor (STMS) for the works, and Council's Traffic Management Coordinator, in order to determine appropriate methodology for the TMP and extent of the site working space. It should be noted that Transport would reserve the right to require additional traffic management in the future based on actual effects once work has commenced.

Subject to the above requirements/recommendations, Transport considers that the transport effects arising as a result of the proposed earthworks can be sufficiently managed.

- [44] I accept the advice provided by the Planning Officer and consider his recommendations appropriate to include as either conditions or advice notes, if the Committee are of a mind to grant consent. In addition to these recommendations, the applicant proposes a number of mitigation measures, including compliance with NZTA Code of Practice for Temporary Traffic Management and formulation of a Traffic Management Plan. Further, the application notes that no haulage of excavated material will be undertaken on local streets such as Scotia and Constitution Streets and Aurora Terrace. However, it is noted that light vehicle movements associated with construction works can be expected. I also anticipate that earthmoving equipment will also need to be delivered and removed from the site via these streets. As such, notwithstanding the nature of any vehicle movements, I consider that appropriate controls on timing and notice to residents of when to expect larger vehicle movements will serve to adequately mitigate any associated adverse effects.

- [45] Therefore, in combination with the recommendations provided by the Transport department, I consider that any associated effects will not be significant if consent is granted, subject to compliance with conditions.

Effects from the Release of Sediment Beyond Site Boundaries, including Transport of Sediment by Stormwater Systems.

- [46] The Council's Water and Waste Business Services Unit (WWBSU) has assessed the application in respect of sedimentation matters and have provided the following comment:

Existing Services

A review of the Council's GIS records shows two 100mm water pipes (Aurora Tce and Island Tce), 150mm diameter and 100mm wastewater pipes and 150mm diameter wastewater pipe and a 100mm diameter stormwater pipe in the general vicinity of the proposed earthworks.

Earthworks comments

An Erosion and Sediment Control Plan shall be submitted to the Asset Planning Engineer, Water and Waste Services for approval before the earthworks begin. The proposed plan shall be in place before and during the earth works until completion.

A Stormwater Management Plan shall be submitted to the Asset Planning Engineer, Water and Waste Services for approval prior to the earthworks commencing. This is to ensure storm water run-off from the subject site is managed effectively before during and upon completion of the earthworks. The applicant shall ensure any properties downstream will not be affected at any time throughout the earth moving period.

Consent Conditions

- 1. An Erosion and Sediment Control Plan shall be submitted to the Asset Planning Engineer, Water and Waste Services for approval prior to the earthworks commencing.*
- 2. A Stormwater Management Plan shall be submitted to the Asset Planning Engineer, Water and Waste Services for approval prior to the earthworks commencing. This is to ensure storm water run-off from the subject site is managed effectively before during and upon completion of the earthworks.*
- 3. The applicant shall ensure any properties downstream will not be affected at any time throughout the earth moving period.*

Advice Notes

• **Erosion and Sediment Control**

The following documents are recommended as best practice guidelines for managing erosion and sediment-laden run-off during the demolition and building process:

- a. Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.*
- b. Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).*

- [47] I accept the advice provided by the WWBSU. If the Committee is of a mind to grant consent, I recommend that the conditions suggested be incorporated into the proposed Construction Management Plan. These recommendations are consistent with the mitigation measures proposed by the applicant and involves the inclusion of an Erosion and Sediment Control Plan within the Construction Management Plan proposed. The Erosion and Sediment Control will include measures aimed at preventing or minimising erosion and sedimentation, as described by the applicant. It is noted that a minimum, these measures will include minimisation of bare areas,

earthworks methodology, run-off and dust controls and stabilisation, presumably of worked areas.

- [48] On the basis of the comments received by the WWBSU and the proposed controls put forward by the applicant, I agree that any associated adverse effects can be appropriately avoided, remedied or mitigated and will not be significant.

Cumulative Effects Relating to Any of These Matters

- [49] Given the degree of earthworks required to achieve the outcome proposed and associated intensity of the activity, it is important that all practicable measures are implemented to at least mitigate adverse effects. As discussed above, I consider that the mitigation proposed will appropriately address any adverse effects. In regard to visual effects, proposed landscape planting and revegetation will take some, but will eventually result in a desirable outcome, provided conditions are adhered to. It is on this basis that I consider that any effects from this proposal are not expected to add to the existing effects to an extent that cumulative effects will be significant. Future applications for activity in the area, beyond that permitted 'as-of-right' by the District Plan, will be assessed as and when they arise and the potential for cumulative effects considered again at that time.

Design and Engineering of Retaining Structures and Earthworks

- [50] The application was forwarded to Council's consultant Geotechnical Engineer, MWH, for assessment. The Engineer has acknowledged that appropriate professional advice has been sought by the applicant, but has pointed out that there is the general potential instabilities of concern associated with the temporary works, but considers these can be actively managed. He also acknowledges that proposal is designed to remediate existing instabilities on this and adjacent properties and considers that there is no reason to decline the application on the grounds of known hazards. The Engineer has made recommendations in respect of temporary stability and appropriate third party liability insurance, which identifies nearby structures prior to undertaking any excavation that might affect others' land.
- [51] The Engineer also notes that blasting may be undertaken in the event that the rock cannot readily be ripped by large machinery. If this is the case, he recommends that defects monitoring be done for any nearby structures prior to undertaking this activity, to ensure proper apportioning of timeframe for cracking or similar. He has also commented that while the project is significant, it will be appropriately supervised, but considers it appropriate that local property owners be kept informed of the nature of the works as they progress.
- [52] I accept the advice provided by the Engineer and generally consider his recommendations appropriate. These have been included as either recommended conditions or advice notes.
- [53] Otherwise, it is noted that the Engineer is comfortable with the proposal. Further, the application notes that the earthworks have been designed by an appropriately qualified engineer and applicant has offered a condition requiring the certification of the work chartered professional engineer. As such, a condition is recommended to this effect. Subject compliance with recommended conditions, I anticipate associated adverse effects will be adequately mitigated or avoided.

Effects on the Stability of Land and Buildings

- [54] As noted in the application, the proposed works are intended to improve the stability of the area in order to safeguard against future slope failure. Additionally, it is understood that the works have been designed to ensure the stability of adjoining sites, including that which contains the existing flagstaff structure. In regard to the stability of buildings, all dwellings are located well away from the area of the works.

Notwithstanding this, the Council's Engineer has recommended that defects monitoring of nearby structures be carried out, prior to commencing the works, if blasting is to be undertaken, as discussed in his comments. I agree with this approach, however, no blasting should be undertaken if there is the potential for damage to occur to any private dwelling. Additionally, as an adjoining landowner (2 Island Terrace), the Council's City Property Department has commented. City Property has noted that they do not have enough information to determine the effect on their land and seek clarification from applicant. These comments are included in Appendix C of this report, along with other departmental comments.

Effects on the Surface Flow of Water and on Flood Risk

- [55] No significant adverse effects are anticipated to occur on surface water flows as a result of the works and will not likely occur, provided adequate drainage and sedimentation controls are implemented and are maintained appropriately. The earthworks are not likely to exacerbate flood risks.

Effects on Underground Utilities and Water and Waste Infrastructure

- [56] An assessment of Council's records indicates that there are no Council water supply or stormwater services specifically located within the area of the works. However, there is a 150mm foul sewer pipe running for a length of 65m down a straight length of walking track located at the top of the southernmost portion of the slope to be altered. While there are no retaining walls proposed in respect of the work, earthworks are to be carried out across the location of the sewer pipe. In this regard, the WWBSU has advised that they understand the works are to remain clear of this sewer. However, I am not convinced that this is case and suggest that the Committee seek confirmation from the applicant as to how the works will relate to the sewer pipe. Until this is determined, it is difficult to assess the extent of any associated adverse effects.

Proposed Second Generation District Plan

- [57] At time of writing this report, there were 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.

Conclusion of Assessment of Environmental Effects

- [58] On balance, I consider that any adverse effects arising from the proposal will be no more than minor, provided effective mitigation can be achieved, especially in respect of visual amenity, albeit in the longer term, and in regard to the intensity of the activity. All facets of the proposal, including vehicle movements, must be restricted to appropriate times of the day and week to satisfactorily mitigated any associated adverse effects. Further, a programme of regular communication with local residents and the Council must be maintained throughout the course of the works, to ensure that those most affected can remain informed.

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

- [59] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the Operative District Plan and the 2GP were taken into account in assessing the proposal, as follows.

Operative Dunedin City District Plan

The proposal is considered to be consistent with the following objectives and policies:

- **Objective 4.2.1 and Policy 4.3.1 (Sustainability Section)** that seek to enhance and maintain the amenity values of the Dunedin area.

- **Objective 11.2.3 and Policies 11.3.1, 11.3.2 and 11.3.4 (Port Section)**, which seek to avoid, remedy or mitigate the adverse effects of port activities on areas beyond those used for port activities, while providing for the use of land and facilities to enable the port to serve the city and the region.
- **Objective 17.2.3 and Policy 17.3.9 (Earthworks Section)** that seek to control the location and scale of earthworks and to ensure that earthworks are undertaken in a manner that is safe and in a manner that minimises adverse effects on the environment.
- **Objective 20.2.1 And Policy 20.3.1 (Transportation Section)** that seek to avoid, remedy or mitigate adverse effects on the environment arising from the use of the transportation network.

Proposed 2GP

The objectives and policies of the 2GP must be considered alongside the objectives and policies of the current district plan. The proposal is considered to be consistent with the following 2GP objectives and policies:

- **Objective 6.2.3 and Policies 6.2.3.3 and 6.2.3.4 (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.
- **Objective 30.2.2 and Policies 30.2.2.1 and 30.2.2.4 (Major Facilities Zones - Port)**, which seek to ensure that land use, development and subdivision activities necessary for the port to operate effectively are enabled, while avoiding or mitigating adverse effects on amenity, and maintaining people's health and safety.
- **Objective 30.2.3 and Policies 30.2.3.1 to 30.2.3.3 (Major Facilities Zones - Port)**, which seek to ensure that earthworks necessary for permitted or approved land use and development are enabled, while avoiding, or adequately mitigating, any adverse effects on: a. visual amenity and character; b. the stability of land, buildings, and structures; and c. surrounding properties.

Summary

- [60] Once the proposed landscaping is properly established, it is considered that amenity values will at least be maintained if not, enhanced. This is particularly so given that the shallower slope will encourage revegetation more readily. However, weed species will need to be controlled. In respect of Port activities, the proposal will more likely have positive effects, given that the stability of the hillside will be improved, reducing the risk to Port activities below as well as safeguarding the public. Further, the Council's Transport department is satisfied that any adverse effects on the transportation network can be appropriately managed.
- [61] Provided all proposed mitigation measures are implemented and maintained, it is considered that the proposed earthworks will ensure that adverse effects will be no more than minor. As such, I agree that the proposal is considered to be consistent with the objectives and policies of both the Operative District Plan and the Proposed 2GP.

ASSESSMENT OF REGIONAL POLICY STATEMENT (SECTION 104(1)(b)(iii))

- [62] The Regional Policy Statement for Otago was made operative in October 1998. However, it should be noted that the proposed Regional Policy Statement for Otago has been notified and submissions have been received. Given their regional focus the Regional Policy Statement and proposed Regional Policy Statement do not have a great bearing on the current application. Notwithstanding this, provided recommended conditions of consent, if granted, are adhered to, the proposal is

expected to be consistent with the relevant provisions of statements, particularly those relating to discharges to air and water.

RESOURCE MANAGEMENT (NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH) REGULATIONS 2011 (SECTION 104(b)(ii))

- [63] In accordance with Section 104(1)(b)(i) of the Resource Management Act 1991, the provisions of the National Environmental Standard were taken into account when assessing the application. The proposal is considered to be consistent with the policy objective of the National Environmental Standard as a review of the site history, in regard to the relevant piece of land, indicates no previous activities which feature on the HAIL list.

DECISION MAKING FRAMEWORK

Part 2 Matters

- [64] When considering an application for resource consent, any assessment of the proposal to be made is subject to consideration of the matters outlined in Part 2 of the Act. This includes the ability of the proposal to meet the purpose of the Act, which is to promote sustainable management of natural and physical resources. Other resource management issues require consideration when exercising functions under the Act. The relevant sections are:
- 5(2)(a) *"sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations"*;
 - 5(2)(c) *"avoiding, remedying or mitigating any adverse effects of activities on the environment"*;
 - 7(c) *"The maintenance and enhancement of amenity values"*; and
 - 7(f) *"Maintenance and enhancement of the quality of the environment"*.
- [65] With regard to Section 5(2)(a), it is considered that the proposal will allow for the safe operation of the Port, while also improving the safety of the public, particularly when using Beach Street for access either as a pedestrian or a motorist.
- [66] With regard to Section 5(2)(c), 7(c) and 7(f), it is considered that, on balance, any adverse effects on the environment relating to the proposal will likely be no more than minor, provided appropriate mitigation is implemented. As discussed, adverse effects on amenity values will likely be significant initially, but will eventually reach a satisfactory degree of amelioration, subject to the implementation of appropriate mitigation measures.
- [67] Overall, I consider the proposal to be generally consistent with those matters outlined in Part 2 of the Act.

Section 104 of the Act

- [68] Section 104(1)(a) states that the Council shall 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 adverse effects of the proposal will likely be more than minor, but only with implementation of appropriate mitigation measures.
- [69] Section 104(1)(b)(iv) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application is consistent with the relevant objectives and policies of both the Operative District Plan and Proposed 2GP.
- [70] Section 104(1)(b)(iii) requires the Council to have regard to any relevant regional policy statement, regional plan or National Environmental Standard. The proposal is consistent with the relevant objectives and policies of the Regional Policy Statement

for Otago and the Proposed Regional Policy Statement for Otago. The proposal is also consistent with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Section 104C of the Act

[71] The application has been assessed in accordance with Section 104C of the Act, which states the following:

- (1) *When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—*
 - (a) *a discretion is restricted in national environmental standards or other regulations;*
 - (b) *it has restricted the exercise of its discretion in its plan or proposed plan.*
- (2) *The consent authority may grant or refuse the application.*
- (3) *However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which—*
 - (a) *a discretion is restricted in national environmental standards or other regulations;*
 - (b) *it has restricted the exercise of its discretion in its plan or proposed plan.*

RECOMMENDATION

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

Conditions

1. *The proposed activity shall be undertaken in general accordance with the site plan, elevations and relevant information, including the Project Specification contained in the report by the report by Opus International Consultants Limited, entitled "Flagstaff Hill Proposed Cut Design North East Slope" dated 1 January 2010, provided with resource consent application LUC-2016-189, received by the Council on 4 May 2016.*
2. *The consent holder shall provide notice to the Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz of the start date of the works. This notice shall be provided at least five (5) working days before the works are to commence.*
3. *The consent holder shall prepare a Construction Management Plan, which shall include, but not be limited too, measures required to manage sediment, erosion, dust from both the site and trucks and blasting. The Construction Management Plan shall include the proposed Landscape Development and Management Plan and Construction Programme, the latter of which shall confirm construction timing and details of storage and disposal of excavated material. A copy of the Construction Management Plan shall be provided to Resource Consent Monitoring team by email to rcmonitoring@dcc.govt.nz, one month prior to works commencing.*
4. *Further to Condition 3 above, the Construction Management Plan shall also incorporate a an Erosion and Sediment Control Plan and Stormwater Management Plan, to ensure storm water run-off from the subject site is managed effectively before during and upon completion of the earthworks.*

5. *The consent holder shall prepare a Traffic Management Plan (TMP), which shall be submitted to, and approved by, the Transport department, prior to works commencing. The TMP shall include, but not be limited to, the following:*
 - a. *Confirmation that TMP shall comply with the requirements of the NZTA Code of Practice for Temporary Traffic Management.*
 - b. *All rock/earthworks material taken away from the site shall be taken away via Beach St direct to George Street/State Highway 88.*
 - c. *Road closures shall be kept to a minimum duration as is practicable. Longer road closures are at the discretion of the DCC Traffic Management Coordinator, and may require further public notification.*
 - d. *Details of any catch fences that may be required to ensure the operational safety of the transport network.*
 - e. *Confirm that any excavation work proposed within legal road shall be undertaken in accordance with the National Code of Practice for Utility Operators' Access to Transport Corridors, and will require an authorised corridor access request prior to these works commencing.*
 - f. *Provide details of the full extent of proposed works, especially those within legal road.*
6. *The proposed earthworks shall be designed, specified and have its construction supervised by a suitably qualified person.*
7. *A suitably qualified person shall be engaged to determine any temporary shoring requirements at the site during earthworks construction and the consent holder shall install any temporary shoring recommended.*
8. *Following completion of the works, certification shall be provided by a suitably qualified engineer that the worked areas are suitably stable and that additional instability has not been created that could affect the subject site or any adjacent land. The certification shall be submitted to Resource Consents Manager within one month of the works being completed.*
9. *In the event that blasting is required, defects monitoring shall be done for any nearby structures prior to undertaking this activity, to ensure proper apportioning of timeframes for cracking or similar.*
10. *The earthworks shall be undertaken with the principles of industry best practice applied at all stages of site development including site stability, stormwater management, traffic management, along with dust and noise controls at the sites.*
11. *In respect of any on-site stockpiling, all practicable measures shall be used to mitigate any effects in respect of visual impacts or sediment generation.*
12. *All measures (including dampening of loose soil where possible) shall be maintained to ensure that dust, resulting from the earthworks, does not cause a nuisance.*
13. *Neighbouring property owners should be advised of the proposed works at least seven days prior to the works commencing.*
14. *In the event that blasting is required, notice of when blasting is to occur shall be given to the owners and occupiers of surrounding residential sites. This notice shall be provided at least seven days prior to undertaking the blasting.*

15. All construction noise shall comply with the following noise limits as per New Zealand Standard NZS 6803:1999:

Time of Week	Time Period	Leq (dBA)	L max (dBA)
Weekdays	0630-0730	55	75
	0730-1800	70	85
	1800-2000	65	80
	2000-0630	45	75
Saturdays	0630-0730	45	75
	0730-1800	70	85
	1800-2000	45	75
	2000-0630	45	75
Sundays and Public Holidays	0630-0730	45	75
	0730-1800	55	85
	1800-2000	45	75
	2000-0630	45	75

16. 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 shall without delay:
- (i) notify the Consent Authority, Tangata whenua and Heritage New Zealand Pouhere Taonga and in the case of skeletal remains, the New Zealand Police.
 - (ii) stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who shall determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.

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

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

- (b) discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder shall without delay:
- (i) stop work within the immediate vicinity of the discovery or disturbance; and
 - (ii) advise the Consent Authority, Heritage New Zealand Pouhere Taonga, and in the case of Maori features or materials, the Tangata whenua, and if required, shall make an application for an Archaeological Authority pursuant to the Historic Places Act 1993; and
 - (iii) arrange for a suitably qualified archaeologist to undertake a survey of the site.

Site work shall recommence following consultation with the Consent Authority.

17. The consent holder shall send by email to rcmonitoring@dcc.govt.nz, a progress update at the end of each two month period following commencement of the works. The update shall detail the extent of the work already undertaken and give a projection on the earthworks will be complete.

18. *The consent holder shall:*

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

Advice Notes:

1. It is recommended that appropriate third party liability insurances are in place which identify nearby structures prior to undertaking any excavation that might affect others' land.
2. The Transport department that recommends a TMP pre-application meeting be undertaken between the Site Traffic Management Supervisor (STMS) for the works, and Council's Traffic Management Coordinator, in order to determine appropriate methodology for the TMP and extent of the site working space. It should be noted that Transport would reserve the right to require additional traffic management in the future based on actual effects once work has commenced.
3. Any altered stormwater or captured groundwater must not cause a nuisance, in general must drain to an approved outlet, which may require building consent. Openings to allow drainage to kerb and channel within road will require a Corridor Access Request as detailed above.
4. Following completion of the works, the full road width shall be available for road users, including the footpath on the hill side of the road.
5. The following documentation is recommended as best practice guidelines for managing erosion and sediment -laden run-off and for the design and construction of erosion and sediment control measures for small sites:
 - ARC Technical Publication No. 90 Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region, March 1999.
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guide for Small Sites."
 - Environment Canterbury, 2007 "Erosion and Sediment Control Guideline 2007" Report No. R06/23.
 - Dunedin City Council "Silt and Sediment Control for Smaller Sites" (information brochure).
6. Any disposal of excavated material that is not to a facility approved to receive such material may require additional land use consent.
7. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
8. 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.
9. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.

10. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.

REASONS FOR RECOMMENDATION

Overall, the proposal is deemed to be consistent with the key objectives and policies of both the Operative District Plan and Proposed 2GP. Further it assessed that the proposal is consistent with the relevant provisions of the Otago Regional Policy Statement and Part 2 of the Act. In addition, it is assessed that, subject to the implementation of and maintenance of appropriate mitigation measures, any resulting adverse effects will be minor. In regard to visual amenity values, it is acknowledged that such an outcome is a longer term situation, however, in the interim, any adverse effects will be tempered by the adjoining Port activities. Further, it is important to note that the proposed works are considered necessary in order to improve the overall stability of the subject portion of Flagstaff Hill. By improving stability, this will reduce the risk posed to both the public and the Port activities that are carried out on the land to the east of Flagstaff Hill.

Report prepared by:

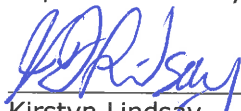


 Jeremy Grey
Planner

9 Aug 2016

 Date

Report checked by:



 Kirstyn Lindsay
Senior Planner

9 Aug 2016

 Date