

Before the Independent Hearing Panel
Appointed by the Dunedin City Council

Under the Resource Management Act 1991 (**RMA**)

In the matter of an application by **Dunedin City Council** and the **Department of Conservation** for consent to realign the Tunnel Beach Walkway and construct and operate a carpark at Tunnel Beach, Dunedin

Dunedin City Council and **Department of Conservation**

Applicants

Statement of evidence of James Taylor

20 April 2022

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**anderson
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Qualifications and experience

- 1 My name is **James Douglas Taylor**.
- 2 I hold the qualification of a Bachelor of Planning with first class honours from the University of Auckland. I am a Full Member of the New Zealand Planning Institute. I have practised in the field of town planning/resource management planning since 2004, primarily working for planning consultants and construction contractors in Auckland, Brisbane and Dunedin. Currently I am a Senior Planner (Senior Associate) in the Dunedin office of Beca Ltd.
- 3 I have prepared resource consent applications and provided evidence in respect of other infrastructure projects in Dunedin City including Waka Kotahi's 'State Highway 88 Shared Path: Ravensbourne to Port Chalmers' and the 'Otago Harbour Golf Challenge'. I have also prepared consent applications for infrastructure supporting car parks including Auckland Transports 160 space Penrose Station Park and Ride car park and the 170 car park spaces and 23 bus park spaces formed as part of the Manukau Bus Train Interchange Project. I have been part of project teams that have prepared numerous applications for and provided planning advice to Crown and Local Government entities.
- 4 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of evidence

- 5 My evidence will address the following matters:
 - (a) The proposal
 - (b) The statutory framework
 - (c) Actual and potential effects
 - (d) Relevant provisions of statutory documents
 - (e) Part 2 of the Act and other matters
 - (f) The s42A Report
 - (g) Response to Submissions; and
 - (h) Conclusion

- 6 My evidence has regard to the preceding expert evidence from Messers Brendon Shanks, Hayden Trumper and Wade Robertson. It also has regard to the evidence of Mr Van Der Hurk.
- 7 I have read the Section 42A report of Ms Kirstyn Lindsay and generally agree with the conclusions and recommendation, except for some minor changes to the conditions and the applicability of s4(3) of the Act.

Executive summary

- 8 In my opinion, the potential adverse effects of the proposal have been appropriately mitigated through careful design and proposed operation and are no more than minor.
- 9 The submitters have raised matters that relate to genuine effects on the environment that warrant careful attention. However, when measured against the statutory framework and expert opinion the relevant effects that have been raised for assessment must, in my opinion, be determined as no more than minor.
- 10 The coast is a very important place to New Zealanders. It is not surprising that there is a significant body of policy in our statutory framework supporting access to the coast which ultimately is what this proposal is about.
- 11 In my opinion, this proposal is consistent with Part 2 of the Act, the New Zealand Coastal Policy Statement and both the Operative and Proposed Regional Policy Statement and is not contrary to the Objectives and Policies of the 2GP.
- 12 Ultimately, I am of the opinion that consent can be granted subject to conditions.

The Proposal

- 13 The proposal has been outlined in the application, the Section 42A report and the previous evidence. I therefore do not propose to repeat the proposal in detail, but I note the following.
 - (a) At its core the purpose of the project is twofold:
 - (i) To improve the safety of Tunnel Beach Road and reduce the impacts generated from cars parking within the road on adjoining residents/property by establishing a comprehensively designed carpark within 30 Tunnel Beach Road; and

- (ii) To realign the Tunnel Beach Walkway, providing improved Walkway grades and facilities to support the Department of Conservation perform its functions under the Conservation Act 1987.
- (b) The carpark aspect of the application is proposed to be operated by Dunedin City Council and comprises:
 - (i) 58 standard car parks;
 - (ii) 4 oversized car parks;
 - (iii) 2 accessible car parks;
 - (iv) A drop off point for buses;
 - (v) A parking bay for motorbikes, bicycles and e-Bikes;
 - (vi) A two-stall toilet/ablution block (and associated water storage and septic tanks); and
 - (vii) Associated amenities including seating, rubbish bins, information boards and DOC signage.
- (c) For clarity I confirm that the vendor/coffee cart activity has been removed from the proposal.
- (d) Hours of operation for the car park are proposed to be as follows:
 - (i) September- March 8am – 9pm
 - (ii) April - August 9am – 5pm
- (e) A condition limiting the site to 3 buses per hour (6 independent bus movements) is proposed.
- (f) As outlined in the evidence of Mr Trumper, the capacity of the car park has not been designed to accommodate the maximum number of cars that can be expected in Tunnel Beach Road during peak periods. However, its capacity of 64 spaces together with accommodation for bus drop off and turn around has been sized so as to make a meaningful reduction to the documented traffic safety and amenity impacts that currently occur in Tunnel Beach Road during both the peak demand, and all other periods.

- (g) In developing the proposed carpark layout, Dunedin City Council held a community meeting at Corstophine Community Centre on 13 August 2020 to seek community feedback where three layout options were proposed. I attended this meeting and so did each of the submitters.
- (h) At this community meeting the proposed car park layout option that included encroachment into an access easement was noted by the submitters as preferred, as this facilitated a more compact layout. Additionally, other car park management and protection of existing access comments were provided to DCC and DOC. The proposal and resulting consent application was prepared utilising this community feedback, such that the application:
 - (i) Adopts the car park layout noted as preferred at the community meeting;
 - (ii) includes specific turning circle drawings showing how access is maintained to adjoining properties;
 - (iii) includes a gated entrance/exit to lock the car park overnight; and
 - (iv) requires the functioning of the car park to be governed by an Operational Management Plan.
- (i) In terms of the design of the carpark, its level has been cut into the site supported by planted batters and small retaining structures along its northern, western and eastern boundaries.. This will have the result of partially screening the car park and reducing its visual and acoustic effects in respect of the adjoining properties. Sections revealing the car parks level in the site are included in the application material, however the application does not project the sections beyond the area of the car park itself. Accordingly, I supplement the application material with a series of sections in **Appendix 1** which provide representative line of sight from 0.5m above both the existing and proposed car park surface and 2.3m above a number of positions on the adjoining properties to the West and East of the site. This information has been utilised by Mr Shanks in his assessment of the proposal.
- (j) In order to further blend the carpark into the existing landscape a comprehensive landscaping design comprising 2747m² of new planting is proposed to be established. The landscaping has been designed to further screen the carpark from the adjoining properties.

- (k) Additionally, a 1.5m acoustic fence is now proposed along the boundary of 31 Tunnel Beach Road.
- (l) The Walkway upgrade component of the proposal will be managed by the Department of Conservation and involves:
 - (i) re-alignment of the walking track to obtain a more suitable grade (<10 degrees) for the two identified visitor groups;
 - (ii) establishment of new viewpoints;
 - (iii) installation of seating;
 - (iv) installation wayfinding and typical Department of Conservation naming signage;
 - (v) installation of interpretation panels designed in partnership with Mana Whenua; and
 - (vi) provision of improved access to the coastal zone and viewshafts to multiple prominent features of cultural significance.
- (m) The Walkway is proposed to be realigned so that it is positioned no closer to external boundaries than its current alignment, and no closer to the dwelling on the adjoining site than the existing Walkway Alignment.
- (n) The viewpoint locations are proposed to be in positions that are not visible from adjoining residential dwellings.
- (o) The proposed interpretation panels along the Walkway, designed with Mana Whenua, are intended to provide for the expression of cultural values and the associated enhancement of the mana of these values and provides further recognition for what is a place of significance to Mana Whenua.

Applicability of sections 4 and 9 of the Resource Management Act 1991

14 Section 4 of the *Resource Management Act 1991* (the Act) states that:

(1) This Act binds the Crown, except as provided in this section...

(3) Section 9(3) does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that

Act (other than land held for administrative purposes) that—

(a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and

(b) does not have a significant adverse effect beyond the boundary of the area of land.

15 Section 9(3) of the RMA states that:

No person may use land in a manner that contravenes a district rule unless the use—

is expressly allowed by a resource consent; or...

16 Appendix 1 of the Otago Conservation Management Strategy (OCMS) prepared under the Conservation Act 1987 provides a table titled "*Work or activities of the Department of Conservation that may meet the requirements of section 4(3) of the Resource Management Act 1991 for exemption from land use consents in Otago*". The table lists a range of areas of work/activities including:

(a) "*Tracks, roads and car parking areas for visitor purposes*" which specifically include:

(i) *Activity Scope 2: Service standard upgrades of existing tracks and roads through partial or complete realignment to take advantage of better grades and terrain features or to incorporate elements of natural or historic landscape; and*

(ii) *Activity Scope 3: Improvements to any existing track as considered necessary in order to mitigate any environmental impact, health and safety concern or visitor risk or to provide improved access for any management purpose.*

17 Under the subheading "Tracks, roads and car-parking areas for visitor purposes", "Tunnel Beach and the coast South of Dunedin" is listed as a location.

18 Therefore, the proposal (both the carpark upgrade and track upgrade) is consistent with the OCMS, and specifically is consistent with the OCMS statements regarding work activities that meets the requirements of s4(3)(a) of the Act.

- 19 As outlined in paragraphs 23-27 below, the effects assessment concludes that the potential effects resulting from the proposal are not significant in terms of section 4(3)(b) of the Act.
- 20 Therefore, in my opinion, section 4(3) is applicable to those aspects of the proposal that are proposed to be delivered and operated by the Crown because the works;
- (a) are proposed to be completed on land managed by the Reserves Act which is included in Schedule 1 of the Conservation Act; and
 - (b) are specifically listed in, and therefore in my opinion consistent with, the OCMS; and
 - (c) will not result in significant effects beyond the boundary for the reasons stated below in paragraphs 23-27.
- 21 Notwithstanding this, DCC will deliver and operate the car park component independent of the Crown. Therefore, section 4(3) does not apply to the carpark proposal as it is an activity of DCC and not the Crown.
- 22 On this basis, my opinion is that section 9(3) of the Act only applies to the carpark component of the proposed activity and does not apply to the proposed realignment, upgrading or legal operation of the Walkway which is authorised by the Conservation Act 1987.

Summary of the Actual and Potential Effects of the Walkway Modifications in Terms of section 4(3)(b)

- 23 It is considered that the proposed walkway modifications will not have a significant effect beyond the boundary of the area in terms of section (4)(3)(b).

Effects on Landscape Character.

- 24 In his evidence Mr Robertson confirms that the proposed Walkway will integrate into the existing, and preserved character of the landscape and not result in any significant adverse effects on the landscape character.

Visual Effects

- 25 Apart from the area immediately connected to the carpark, the track realignment will be completed in areas that are not visible to adjoining sensitive activities (such as residential dwellings) due to the steep topography of the site. Of particular note is that the new viewing platforms are screened by topography from line of sight to and from adjoining

dwellings. Accordingly, Mr Robinson concluded there are no significant adverse visual effects resulting from the Walkway upgrades on any surrounding property.

Noise Effects

- 26 The realignment of the track will result in an alignment that is no closer to the nearest dwelling at 40 Tunnel Beach Road. Additionally, walking facilities are excluded from the noise limits under the 2GP (Rule 9.3.6 - 7g).
- 27 Within the Rural Residential Zone the noise limits are 55 dB LAeq (15 min) between 7am-7pm and 50 dB LAeq (15 min) after 7pm. Under the 2GP, the noise level is to be measured at notional boundary of noise sensitive activities in the Rural Residential Zone. The only relevant noise sensitive activity defined the 2GP for this environment is residential activities. Therefore, the limit after 7pm is 50 dB LAeq (15 min) at the closest residential dwelling (40 Tunnel Beach Road). In his evidence Mr Shanks has concluded that the noise generated from groups of people using the track will be compliant with the 2GP standard.
- 28 Therefore, even if the noise from walkway facilities wasn't exempt from compliance with the noise standards of the 2GP, the noise effects generated by users of the track would be within the levels required by the by the 2GP for other Rural Residential activities. In this context, and relying on the assessment of Mr Shanks, my opinion is that noise effects are not significant.

Statutory Framework applicable to the Proposed Car Park

- 29 I agree with Ms Lindsay's assessment in the s42A report that none of the relevant 2GP provisions applicable to the carpark component of the activity are under appeal, therefore the 2GP rules may be treated as operative pursuant to section 86F of the RMA.
- 30 I note that when I prepared the application's Assessment of Environmental Effects I had indicated that the activity was 'Community and Leisure – Large Scale'. Following the addition of the Walkway into the proposal I had not reconsidered the overall activity itself. Having considered the inclusion of the Walkway it is my opinion the Walkway does not sit squarely into any of the definitions in the Community Activities Category nest, including Community and Leisure-Large Scale. This is primarily because 'Community and Leisure' activities are described as activities that make use of an existing building and 'Sport and Recreation' is described as organised indoor and outdoor sport and recreation activity that also includes outdoor walking facilities.

- 31 Notwithstanding this, I am of the opinion that 'Sport and Recreation' is the closest definition applicable as the activity involves the use of land for a recreation activity.
- 32 The carpark site is located within the Rural Residential 1 Zone. Therefore, my assessment has proceeded on the basis that activities subject to consent are 'Sport and Recreation' (Rule 17.3.3.19), and 'Earthworks – Large Scale' (Rule 8A.7).
- 33 Ms Lindsay has determined that aside from the Walkway and the food vendor/concession components of the proposal which has now been removed, the application is for a Discretionary Activity in terms of Sections 104B of the Act and I concur with this assessment.
- 34 The resource consent applications are subject to section 104(1) of the Act which states the consent authority must, subject to Part 2 of the Act, have regard to, among other matters:
- (a) Actual and potential effects
 - (b) Relevant provisions of New Zealand Coastal Policy Statement, regional policy statements and plans
 - (c) Any other matter considered relevant and reasonably necessary to determine the application
- 35 I address each of these three aspects below.

Summary of Actual and Potential Effects of the Proposed Car Park

- 36 I do not intend to provide a complete assessment of environmental effects here as I have already completed this in the application material where I concluded that the effects were no more than minor. I also note that I agree with Ms Lindsay's assessment of effects in the s42A report, who also concludes the adverse effects are no more than minor.
- 37 However, I highlight what I consider to be the most prominent of the potential effects, being:
- (a) Traffic Effects;
 - (b) Visual Amenity and Landscape Character Effects;
 - (c) Acoustic Effects;
 - (d) Construction Effects; and

(e) Operational Effects.

- 38 Mr Trumper concludes that the impacts on the adjoining private accessways resulting from the establishment of a new car park entrance to not be significant and that manoeuvrability will be improved by incorporating a turnaround within the new car park. Mr Trumper also concludes that the car park layout and circulation are designed so as to avoid additional safety concerns and that the scale of the car park will improve safety on Tunnel Beach Road. I rely on this assessment.
- 39 Mr Robertson has concluded that while the carpark represents a notable change in the appearance of the local rural-residential landscape and that local residents may have a higher level of sensitivity to this change, overall visual effects on both residential properties and road users will be low moderate. Mr Robertson concludes that the potential visual adverse effects on rural-residential character and amenity resulting from the proposed carpark will be low-moderate and effects on natural character will be low. I also rely on this assessment.
- 40 Mr Shanks has concluded that noise generated from the both the car park and the walkway will comply with the applicable daytime and evening noise limits in Dunedin City Council Second Generation District Plan (2GP). Therefore, potential noise effects are within an envelope of what may reasonably be expected within a Rural-Residential environment and are therefore assessed as no more than minor.
- 41 In her s42A report Ms Lindsay has agreed that potential construction related effects can be addressed with Construction Management Plan documentation to address, sediment run off, construction noise, dust and access during construction. The HNZ accidental discovery protocol is also proposed to be included as a condition as recommended by Aukaha. In my opinion, there are no special circumstances with respect to this site that would warrant an alternative construction management approach. This approach will effectively manage the anticipated temporary construction related effects.
- 42 Potential effects resulting from the operation of the car park are proposed to be further avoided and mitigated by limiting hours of operation of the carpark to between 8am – 9pm from September to March and 9am – 5pm between April – August. Additionally, buses are proposed to be limited to a maximum of 3 buses per hour. These measures will appropriately manage potential effects associated with night-time and bus noise and so that they are no more than minor.

Relevant Provisions of Statutory Documents to the Proposed Car Park

- 43 I agree with Ms Lindsay's objectives and policies assessment contained within the s42A Report. However, I highlight what I consider to be the most important aspects and provide an assessment of these below.

New Zealand Coastal Policy Statement (NZCPS)

- 44 As discussed in Mr Robertson's evidence, the carpark itself is set within a modified rural residential landscape outside of the 2GP High Natural Coastal Character Overlay. However, despite its physical location away from the coast, its function facilitates people's access to and enjoyment of the coastal environment. This function is directly relevant to many of the Objectives and Policies of the NZCPS.
- 45 Objective 3 and Policy 2 address the principles of the Treaty of Waitangi. The carpark will improve the quality and safety of access to the Otago coastline / *Te Tai-o-Ārai-te-uru of Te Waipounamu* for both Mana Whenua and the general public. Otago's Coastal Marine Area (CMA) is one of the Ngai Tahu Claims Settlement Act Statutory Acknowledgments. Therefore, improved quality and safety of access to the CMA is consistent with recognition and support of the relationship between Mana Whenua and this place.
- 46 Additionally, the proposal includes Mana Whenua design of panels to provide an opportunity for cultural expression as part of the project.
- 47 Objective 4 and Policies 6, 18 and 19 seek to maintain and enhance the public open space qualities, access and recreation opportunities of the coastal environment. The proposal is to better manage car parking and associated access to the coastal walking track.
- 48 Overall, I am satisfied the proposal is consistent with the provisions of the NZCPS.

Otago Regional Policy Statement 2019 (RPS) – Partially Operative

- 49 Objective 1.1 of the RPS seeks the economic, cultural and social wellbeing of the community. Policy 1.1. 'Social and cultural wellbeing and health and safety' specifically seeks to provide for this by "*taking into account the diverse needs of Otago's people and communities*" and "*Promoting good quality and accessible infrastructure and public services.*"
- 50 In my opinion, one of the objectives of this proposal is to improve the safety of Tunnel Beach Road, and has taken into consideration the communities need for improvement in the management of Tunnel Beach Walkway

parking. The proposed new carpark includes mobility spaces and is therefore an accessible piece of public infrastructure.

- 51 Objective 5.1 of the RPS is that *“Public access to areas of value to the community is maintained or enhanced”*. In my opinion, the large number of people using the Walkway is evidence that Tunnel Beach is an area of value to the community and the carpark will enhance public access to this feature. Therefore, in my opinion, the proposal is in direct alignment with Objective 5.1 of the RPS.

Proposed Regional Policy Statement 2021 (PRPS)

- 52 The PRPS has two relevant objectives and two relevant policies relating to:

- (a) the provision of and decision-making regarding infrastructure (Objective EIT-INF-O4 and Policy EIT-INF-P14); and
- (b) maintaining and enhancing public access to the coast (Objective CE-O2 and Policy CE-P8).

- 53 Overall, I consider the proposal is consistent with these provisions and in particular the following is noted:

- (a) The proposed car park reduces existing health and safety risks to the community by removing the existing formed car parks and reducing the need for cars to overspill along Tunnel Beach Road.
- (b) The alternative of not installing an off-road car park was considered however, rejected due to the safety of the current parking in the road; and
- (c) The proposal facilitates an enhanced access to a coastal walkway.

Dunedin City Council 2nd Generation Plan (2GP)

- 54 In respect of the 2GP, the relevant objectives and policies of relevance include Objective 2.3.3 and Policy 2.3.3.1 concerning ‘Facilities and Spaces that Support Social and Cultural Well-being’ and Chapter 17 – Rural Residential Zones.

- 55 Strategic Direction 2.3 seeks a Dunedin that is Economically and Socially Prosperous. Objective 2.3.3 encourages Dunedin have a range of recreational facilities that provide for high levels of physical, social, and cultural well-being across the community. In this respect, safer and managed car parking for a popular Dunedin Walkway is consistent with these provisions.

- 56 The Objectives and Policies of 3.2.1 seek that public amenities contribute to the streetscape and community wellbeing while also avoiding effects where possible, or mitigating them where avoidance is not possible. The design of the car park has mitigated potential effects due to its position and location on the site and provision of landscaping.
- 57 Objective 6.6.2 requires that activities are accessible by a range of transport modes. In my opinion the proposal is consistent with this direction as it provides for mobility parking, cycle facilities and safer bus access.
- 58 Objectives and Policies 6.2.3 seek to maintain the safety and efficiency of the transport network. As outlined in Mr Trumper's evidence the proposed carpark will remove the existing traffic safety issues from Tunnel Beach Road. Therefore, I assess that the proposal is consistent with these objectives and policies.
- 59 The Objectives and Policies of 9.2.2 seek that development will retain or enhance people's health and safety. As outlined by Mr Shanks, the noise generated will meet both the 2GP and the WHO standards. It is also proposed to close the car park at night so potential effects from light spill will be avoided. Therefore, I am of the opinion that the proposal is consistent with these objectives and policies.
- 60 The Objectives and Policies of 17.2.1 provide for a limited range of activities compatible with Rural-Residential Activity where effects of those are adequately managed. As outlined in paragraphs 36-42 above, I am of the opinion that the actual and potential effects of the car park have been adequately mitigated.
- 61 The Objectives and Policies of 17.2.2 relate to minimising conflict between activities in the Rural-Residential Zone by ensuring:
- (a) the potential for reverse sensitivity is minimised; and
 - (b) a good level of amenity on surrounding rural residential properties, residential zoned properties and public spaces.
- 62 As outlined previously the design of carpark has been cut into the site to lower the level of vehicles when viewed from the north, east and west. This is proposed to be supported by a landscaped perimeter which has been designed to avoid effects on the visual and acoustic amenity of receiving rural residential properties. I am therefore of the opinion that the proposed design of the car park and the associated landscaping will minimise conflict between the proposed car park and the adjoining rural-residential activities.

- 63 Objective 17.2.3 relates to the character and amenity of the Rural-Residential Zone. In this respect, the proposal will provide a significant improvement to the character and amenity of the Rural-Residential Zone in that it will reduce the scale of unmanaged parking in Tunnel Beach Road if/when the new capacity is exceeded. The underlying zoning of Tunnel Beach Road is also Rural Residential and the road is highly visible from adjoining rural residential properties. Removing the car parking from the Rural -Residential zoned road reserve will result in a reduction of vehicles and resulting obstructions enabling better visual connection with the adjoining natural features and low-density open space which defines the character of the Rural-Residential Zone. The new car park itself has been designed to sit into the landscape and is surrounded by a comprehensively designed landscaping which will screen the car park and support the soft natural character of the Rural Residential Zone. Overall, when considering the existing parking situation, it is my opinion moving the car parking into the proposed location represents a significant improvement to the character and amenity of the immediate Rural-Residential Zone.

Part 2 of the Act and Other Matters relevant to the Proposed Car Park

Part 2 of the Act

- 64 I have out of caution considered Part 2, even if it is not strictly required. In terms of Section 5 of the Act, the proposal will have positive benefits by reducing health and safety concerns in Tunnel Beach Road and by facilitating improved access to the coast for Dunedin communities while avoiding and mitigating any adverse effects.
- 65 In respect of Section 6 matters, the proposal will better manage car parking necessary to facilitate public access to Tunnel Beach (Section 6(d)). It also provides an opportunity for Mana Whenua to influence design in what is a culturally important landscape (Section 6(e)).
- 66 In terms of Section 7 matters, the proposal will remove a very poor car parking situation from Tunnel Beach Road, thereby enhancing the amenity values of the Tunnel Beach Road and its adjoining properties (Section 7(c)). The proposed level of the car park and surrounding landscape will also be maintained by the provision of appropriate landscaping.
- 67 In terms of Section 8, the proposal supports well managed access to a culturally important landscape and provides an opportunity for Mana Whenua to influence design of the proposed building on site.

- 68 Section 1.5 of the OCMS outlines national and regional conservation objectives be delivered by management of conservation resources within Otago over the next 10 years. This includes upgrading facilities such as the Tunnel Beach Walkway where there is demand for facilities and the upgrade will not compromise the conservation values of the place. The numbers of users of the Walkway clearly demonstrate demand. Therefore, the car park is supportive and complimentary of the OCMS objective to provide facilities to support recreation activities at Tunnel Beach.

Response to issues in section 42A report

- 69 In the s42A report Ms Lindsay recognises that a submitter has challenged the applicability of s4(3) of the Act to the Walkway aspects of the proposal and has therefore completed the report on the basis that s4(3) does not apply. On this basis, her assessment of the proposal is that it is a Non-Complying Activity due to walkway structures being proposed within the Outstanding Natural Features and High Natural Coastal Character Overlay Zones. Notwithstanding my opinion regarding the applicability of s4(3), I otherwise agree with Ms Lindsay's assessment of the Walkway.
- 70 In particular, in my opinion, Ms Lindsay has correctly applied the 104D 'gateway' test in that
- (a) I agree that the potential effects from both the Car Park and the Walkway, especially with respect to both the natural character and landscape of the place and the effects to the amenity of adjoining property, are minor; and
 - (b) I agree with Ms Lindsay's assessment of the relevant objectives and policies of both the 2GP and Operative Plan and that therefore, that the proposal is not contrary to these.
- 71 The s42A Report recommends the applicant consider installation of a noise barrier between 31 Tunnel Beach Road and the carpark. Mr Shanks has considered this recommendation and agrees that a barrier is appropriate on this property boundary. Accordingly, the proposal has been amended to include a 1.5m boundary fence barrier in the location noted in his evidence.
- 72 I agree that the conditions proposed will provide certainty regarding the management of potential effects and support the application of these to the consent as far as they apply to the car park, with two exceptions.

- 73 The first exception is the proposed hours of operation condition. I agree that hours of operation need to be limited, however I am of the opinion that the proposed summer hours should also apply to March to better align with daylight saving hours. Therefore, I propose that the hours of operation are limited as follows:
- (a) September- March 8am – 9pm; and
 - (b) April - August 9am – 5pm
- 74 The second exception is in response to the submitters concern regarding scale, I suggest an additional condition limiting bus pick-ups or drop-offs to 3 per hour; being 6 movements in total as this is what Mr Shanks noise assessment has assumed to be the peak noise generating scenario.
- 75 With respect to conditions 17-24 proposed in relation to managing effects associated with the Walkway, I note that these conditions generally reflect how DOC has proposed to complete the work and would therefore be appropriate with the exception of condition 19. Condition 19 prevents the use of stockpiles within the ONF overlay. In order to construct the walkway, I am advised by DOC officers that small stockpiles will be required for short durations as material is brought down to the Walkway construction site.
- 76 Appendix A3.1.20.2 of the 2GP states that the values to be protected in the Tunnel Beach ONF are:
- (a) *Natural science values:*
 - (i) *Tunnel Beach sandstone cliffs are listed in the Inventory of important geological sites and landforms in the Otago Region. This is a fine example of sandstone cliffs. This is a highly legible landscape expressive of its geological formation and erosive marine processes.*
 - (ii) *Rare salt tolerant herb vegetation at Tunnel Beach.*
 - (b) *Cultural/historic values:*
 - (i) *The tunnel at Tunnel Beach was cut by John Cargill (son of Captain William Cargill) for access to the beach for his family.*
 - (ii) *Values of significance to Manawhenua. See Appendix A4.46.*
 - (c) *Aesthetic/amenity values:*

- (i) *Naturalness is high - modified to an extent by exotic shrub species on the slopes above the cliffs.*
- (ii) *Minimal influence of buildings, structures or earthworks which create high wild and scenic values. These are enhanced by the dramatic coastal landforms.*

77 In my opinion, temporary construction effects resulting from temporary and low-level stockpiles will not affect the listed Natural Science or Cultural/historic values of the Tunnel Beach ONF as the stockpiles are removed from the listed cliffs and herb field and the stockpiles themselves are temporary and do not involve excavation in a manner that could uncover any item of cultural or historic value. Additionally, in my opinion, the potential effects on the aesthetic and amenity values of the place resulting from a 2m high temporary stockpile left for no longer than 30 days will have no more than minor effects due to:

- (a) the scale of the place, which will dwarf a 2m stockpile;
- (b) the temporary nature of the effect, being no more than 30 days; and
- (c) the very limited visibility of a stockpile from any public place other than the Pacific Ocean.

78 Therefore, in the event the Commissioner proceeds on the basis that s9(3) of the Act applies to the Walkway, I propose that condition 19 relating to management of construction related effects on the ONF be deleted. I note that the ONF and the HNCC overlay boundaries are the same, by deleting condition 19, potential effects on the ONF layer would still be managed by condition 20 which limits stockpiles to 2m and requires that they must not be left on site for longer than 30 days.

Response to matters raised in submissions

79 I provide a response to matters raised in the submission by Michael Varsanyi and Anya Durling, 40 Tunnel Beach Road.

80 The submission states that the proposal will increase numbers of people using the track and the associated effects of this have not been assessed. In his evidence, Mr Trumper confirms that due to the parking overspill potential along Tunnel Beach Road, the existing road parking is not throttling demand for the Tunnel Beach Walkway. I agree with this, especially as track users would have already driven some distance from town to reach Tunnel Beach, and are expecting to walk anyway. This supports Mr Trumper's conclusion that parking is not a limiting factor.

Therefore, the proposal has been prepared on this basis that there will not be a significant increase in overall demand for the Tunnel Beach Walkway, as this is historically independent of car parking management.

- 81 However, I do agree with the submitter insofar as the Walkway realignment and provision of two mobility spaces will cater for a portion of the population previously excluded from the Walkway. The lengthening of the Walkway is also expected to result in a larger portion of walkers not proceeding all the way to Tunnel Beach, and therefore resulting in a shorter trip for a larger portion of the track users. As outlined in Mr Trumpers evidence, this will result in maximum potential vehicle movements during peak/full occupancy periods to between 128 movements per hour. Accordingly, Mr Shanks has updated his analysis to align with higher numbers of vehicle movements during periods of full car park occupancy. I note that even with this increased vehicle movement assumption, Mr Shanks concludes that noise predicted from the car park will remain within 2GP standards.
- 82 Under the heading Natural Character and Rural Amenity Mr Varsanyi and Ms Durling describe aspects of their area that they value including its quietness, separation from traffic, and urban related noise, concluding that the proposal is out of scale with aspects of natural character which they value.
- 83 I would highlight that the Objectives and Policies of the Rural Residential Zone provide for residential activities, lifestyle blocks and hobby farms while providing for the maintenance of the character and amenity of the zone which includes natural features, semi-rural development with lower density of buildings than urban areas and land for conservation and grazing etc. As outlined in my assessment above, my opinion is that, the proposal incorporates sufficient mitigation of potential effects so that it is consistent with the intent of the character and amenity of the Rural-Residential Zone.
- 84 Further, the Objectives and Policies of the Rural-Residential Zone do not provide for “quietness”. In terms of the framework of the 2GP, the most noise restricted parts of the city are the urban residential zones. “Quietness”, as described by the submitter is not provided for, nor should be expected within a Rural-Residential zone under the District Plan. This analysis is supported by the separation requirements and boundary setbacks for residential dwellings in the Rural-Residential Zone which acknowledge the potential higher noise environment of a Rural Residential Zone and the importance of separating noise sensitive activities.
- 85 The submitter indicates that the proposal will present additional traffic effects. I presume this is referring to additional noise and traffic safety

effects. In that regard I rely on the responses to this submission prepared by Mr Shanks and Mr Trumper.

- 86 The submitter notes risk to livestock and rural amenity from noise levels otherwise permitted within the Rural-Residential Zone. I also rely on Mr Shanks response with respect to this point.
- 87 The submitter seeks amendment to the track alignment and additional fencing within the Tunnel Beach Reserve. The submission also notes that the alignment brings the Walkway closer to their residence. My observation is that the Walkway realignment does not bring the Walkway any closer to the submitters dwelling than the existing track.
- 88 However, as outlined above, my opinion is that s9(3) of the Act does not apply to the Walkway component of the proposal. However, in the event the Commissioner looks to include the Walkway, I agree with Ms Lindsay's Assessment that on account of the topography and proposed alignment, effects resulting from the walkway realignment on the adjoining property are no more than minor. I note that the Walkway realignment does not bring the Walkway any closer to the submitters dwelling than the existing track.
- 89 The submitter raises concerns with limiting scale and hours of operation. With respect to hours of operation, the applicant has agreed to limit the hours of operation to between 8am and 9pm, September to March and to between 9am and 5pm between April and August. The applicant has also agreed to remove the vendor/concession activity from this proposal.
- 90 In terms of scale, the effects assessment has been made in relation to the car park when it is fully occupied. As outlined in Mr Shanks assessment, the aspect of the proposal that drives noise generation are the bus movements. In his calculations and assessment, Mr Shanks has assumed no more than 3 bus movements into and out of the site in an hour. Therefore, in order to ensure this assumption remains valid, a condition of consent limiting peak bus drop offs and pick-ups to 3 per hour is appropriate and I recommend this as a condition accordingly.
- 91 Ms Tower's submission relevant to the carpark, requests that the access to 50 Tunnel Beach Road is not adversely affected by the proposal. Mt Trumper in his evidence has confirmed that the proposal will not worsen existing access to 50 Tunnel Beach Road.

Conclusion

- 92 In my opinion, the potential adverse effects of the proposal have been appropriately mitigated through careful design and proposed operation and are no more than minor.
- 93 In my opinion, this proposal is consistent with Part 2 of the Act, the New Zealand Coastal Policy Statement and both the Operative and Proposed Regional Policy Statement and is not contrary to the Objectives and Policies of the 2GP.
- 94 Accordingly in my view, resource consent can be granted subject to the imposition of appropriate conditions.

A handwritten signature in black ink, appearing to read 'James Douglas Taylor', with a stylized, cursive script.

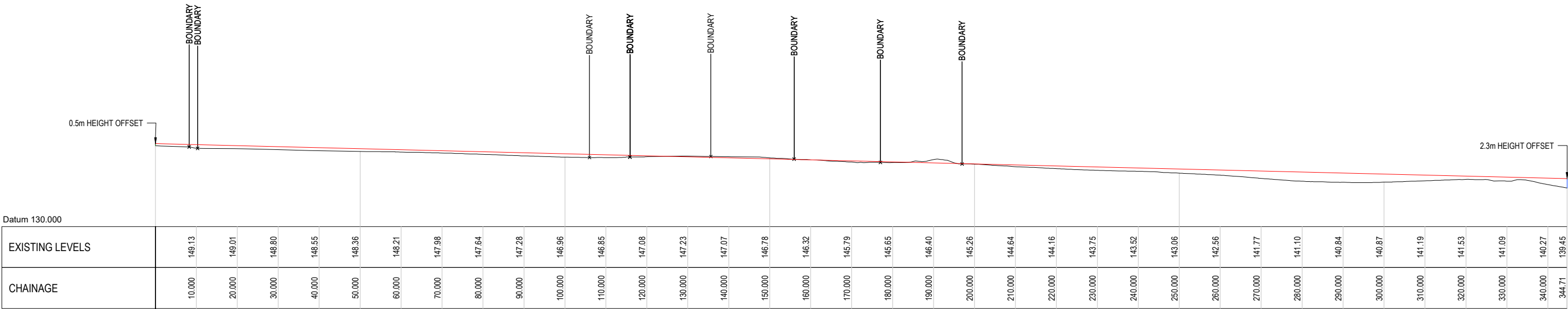
James Douglas Taylor

20 April 2020

Appendix 1 – Carpark Sections



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										Reduced Scale (A3) 1:2000		Drawn		A. STONE																PLAN		Drawing No. -		Rev. +							
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No.										Revision										By		Ctk		Appd		Date		* Refer to Revision 1 for Original Signature													



No.	Revision	By	Chk	Appd	Date

Original Scale (A1)	Design		Approved For Construction*
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Reduced Scale (A3)	Design Verifier		Date
1:1000	Dwg Check		
	* Refer to Revision 1 for Original Signature		

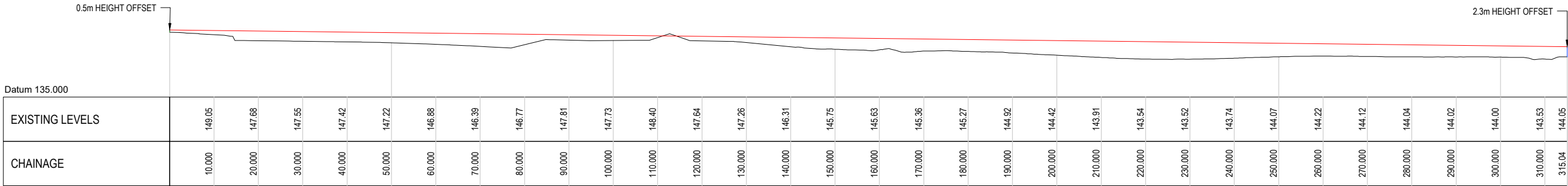
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Client:

Project:

Title:
SECTION 1

Discipline
Drawing No.
Rev.
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No.	Revision	By	Chk	Appd	Date

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Reduced Scale (A3)	Design Verifier		Date
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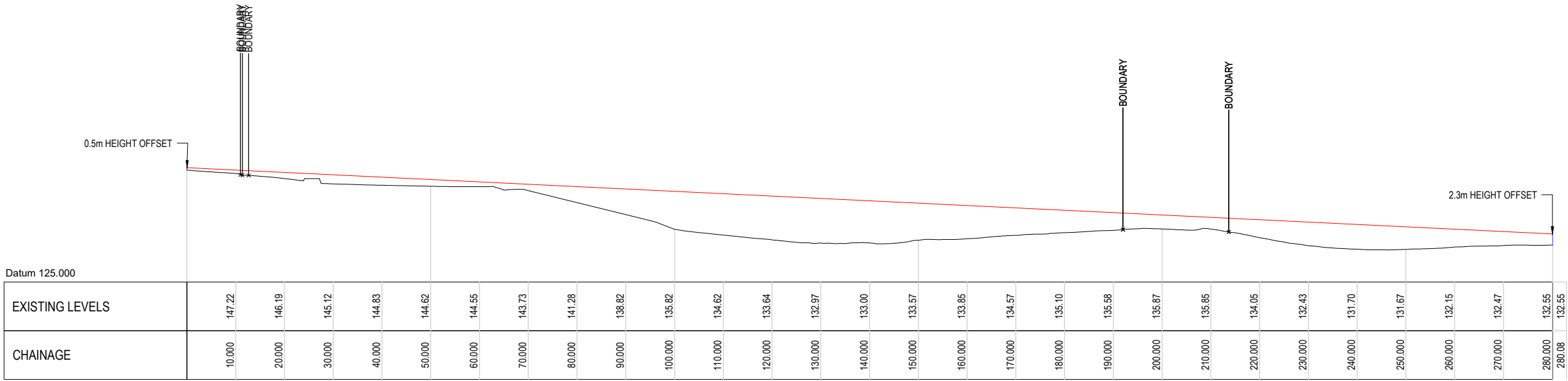
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SECTION 2

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	Design Check:	
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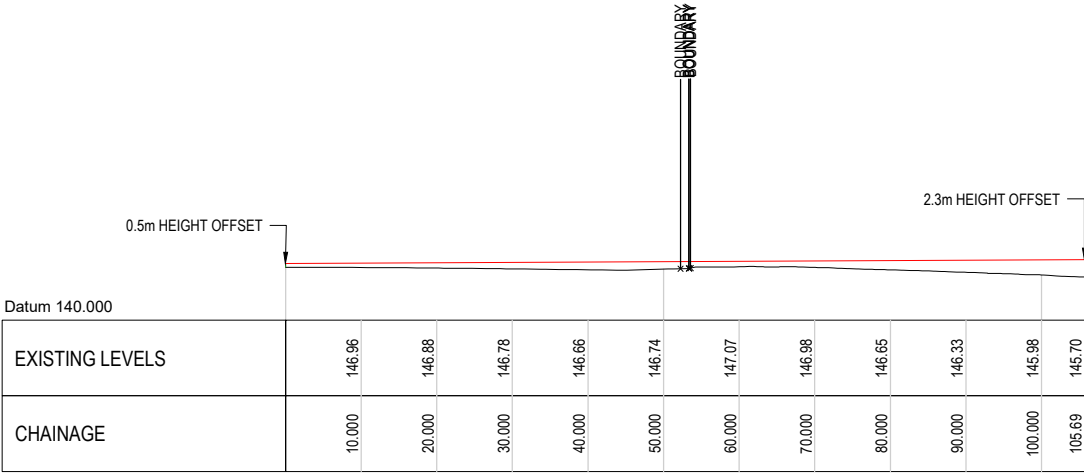
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Title: SECTION 3

Discipline	
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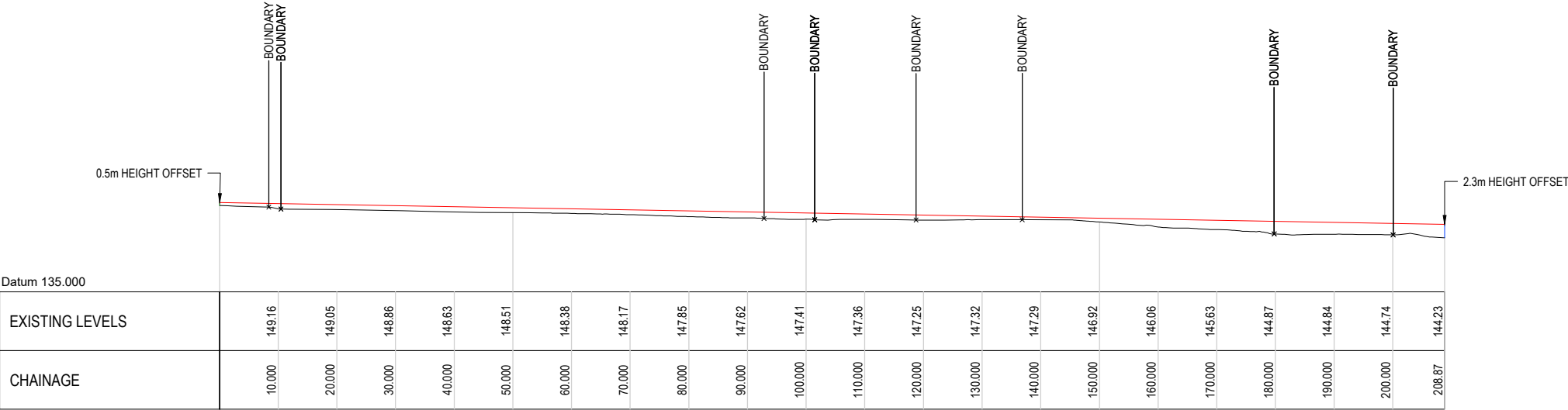
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Client:

Project:

Title:
SECTION 4

Discipline
Drawing No.
Rev.
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No.	Revision	By	Chk	Appd	Date

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Reduced Scale (A3)	Design Verifier		Date
1:1000	Dwg Check		
	* Refer to Revision 1 for Original Signature		

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Client:

Project:

Title:
SECTION 5

Discipline
Drawing No.
Rev.
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