

# **BEFORE DUNEDIN CITY COUNCIL**

**IN THE MATTER** of the Resource  
Management Act 1991  
(**the RMA**)

**AND**

**IN THE MATTER** an application for land  
use resource consent  
at 30 & 32 Tunnel  
Beach Road, Green  
Island, Dunedin.

---

## **DECISION OF COMMISSIONER APPOINTED BY DUNEDIN CITY COUNCIL**

---

**22 August 2022**

**Commissioner:**  
Ros Day-Cleavin

## DECISION

1. Having carefully considered all the relevant reports and documentation supplied with the application and the s42A report, and the further information provided, I have resolved to **grant consent** to the application for land use resource consent to establish a new public car park along with associated amenities and landscaping, at 30 Tunnel Beach Road **with conditions** as set out in Section 13 of the Decision Report. A Decision Report, including reasons for the Decision, follows.

A handwritten signature in black ink, appearing to read 'Ros Day-Cleavin', with a stylized, cursive script.

Dated this 22nd day of August 2022

Ros Day-Cleavin Commissioner

# **1 INTRODUCTION**

## **Background**

- [1] The Dunedin City Council (DCC) originally sought consent to establish a new public car park at 30 Tunnel Beach Road. The proposed car park included a general car park, oversized vehicle parking, a bus/coach drop off area, motorbike and cycle parking, ablution facilities, a (food) vendor trading area and associated amenities, landscaping, and earthworks.
- [2] The original application was limited notified to all adjacent neighbours and one submission was received in opposition to the application. The submission raised concerns regarding the omission of the Department of Conservation walking track from the application.
- [3] The DCC subsequently submitted a revised application which includes a proposed modification to the Tunnel Beach Walkway beyond the car park and introduced the Department of Conservation (DOC) as a joint applicant. The proposed carpark and facility layout remained generally unchanged in the revised application.
- [4] The s42A Report dated 6 April 2022 prepared by the DCC's Reporting Officer Kirstyn Lindsay recommended that resource consent for the application be granted, subject to conditions (except for the food vendor element of the proposal). She concluded that any adverse effects arising from the proposed activity would be no more than minor, and that the proposal is consistent with the key objectives and policies of both the Operative District Plan and the Proposed 2GP.
- [5] The Hearing was adjourned on 5 May 2022. I issued Minute 1 on 10 May 2022 relating to landscape matters, the acoustic impact of the proposal to realign the walking track and the process to make a determination on Section 4(3) of the RMA.
- [6] I undertook a site visit on Friday 5 May 2022, accompanied by Phil Marshall in his capacity as Committee Advisor. The site visit included a visit to the submitters' (Michael Varsanyi and Anya Durling) property at 40 Tunnel Beach Road.

- [7] The DCC's Reporting Officer reviewed the written responses generated by Minute 1, and the proposed conditions of consent were refined through multiple memoranda in July 2022 culminating in final draft conditions dated 20 July 2022.

## **2 THE APPLICATIONS**

- [8] The activities which are the subject of this application were described in detail in the Application and the staff s42A Report. As such, I do not repeat that information here and I adopt the descriptions provided within those documents.

## **3 AFFECTED PARTIES**

- [9] The revised resource consent application was lodged with the DCC on 1 December 2022.
- [10] One affected person form was submitted with the revised joint application from Russell Glen Millar and Linda Lee Millar of 35 Tunnel Beach Road. I note any effects on this party are to be disregarded.
- [11] For clarity I note that the written approvals provided by the Department of Conservation, and Gary John Pettigrew and Megan Alison Pettigrew of 31 Tunnel Beach Road are to be disregarded.
- [12] The revised joint application was notified on a limited basis on 21 January 2022. Two submissions were received, one opposed, and one neutral.

## **4. THE HEARING AND PROCEDURES**

### **The Hearing**

- [13] A hearing was held in the Edinburgh Room at the Dunedin City Council on 5 May 2022. I was appointed by the DCC to Chair the hearing and make a decision on the application.
- [14] The following staff were in attendance at the hearing:
- *Phil Marshall*, Senior Advisor to the Commissioner
  - *Kirstyn Lindsay*, Reporting Officer - Consultant Planner
  - *Alastair Logan*, Legal Counsel for the Dunedin City Council
  - *Chantal Whitby*, Landscape Architect

- *Jennifer Lapham*, Governance Support Officer

[15] Appearances for the Applicant were by:

- *Michael Garbett*, Legal Counsel for the Applicant - DCC
- *Sam Eccles*, Legal Counsel for the Applicant - DOC
- *James Taylor*, Consultant Planner
- *Brendon Shanks*, Acoustic Consultant
- *Hayden Trumper*, Transportation Engineer
- *Shay van der Hurk*, Senior Ranger, Department of Conservation
- *Scott McLean*, DCC Group Manager, Parks & Recreation

[16] I note two witnesses for the applicant were unable to attend the hearing to present their evidence – Wade Robertson (Landscape Architect) and Annie Wallace (Operations Manager, Department of Conservation).

[17] Submitters to appear were:

- *Bridget Irving*, Legal Counsel for Michael Varsanyi & Anya Durling
- *Anya Durling*, 40 Tunnel Beach

[18] Submitter Emma Towers did not appear at the Hearing.

### **Procedural Matters**

[19] A key matter to arise at the hearing was the applicability of Sections 4 & 9 of the RMA 1991. Legal Counsel Bridget Irving asserted on behalf of submitters Michael Varsanyi and Anya Durling that if I were to decide that Section (4)(3) applies to the proposed walkway modifications, that the scope of this authorisation would be limited to the works and activities carried out by the Crown and would not extend to the subsequent use of the track by the general public.

[20] It was agreed by all parties that the Hearing be adjourned to (1) enable me to determine whether I have all the necessary information to make an interim decision on the applicability of Section 4(3) of the RMA on those aspects of the proposal relating to the modification and use of the walking track, (2) request a response to a set of questions from the two witnesses who were unable to attend the hearing, (3) ask Wade Robertson to review his landscape evidence in relation to proposed walking track visibility from the submitters' property at 40 Tunnel Beach Road and (4) ask Brendon Shanks about the

proximity of the proposed realigned walking track and associated noise impacts.

- [21] The hearing was adjourned on 5 May 2022.
- [22] Minute 1 dated 10 May 2022 set out a further information request under Section 41C (3) of the RMA. The Applicant's response to Minute 1 was received on 23 May 2022. The DCC Reporting Officer's response (incorporating a review by the DCC's Landscape Architect) to Minute 1 was received on 7 June 2022.
- [23] On 3 June 2022 a Joint Memorandum of Counsel was received seeking a 3-week suspension in the timetable as directed in Minute 1 to enable further discussions between the submitters and applicants. I approved this request as set out in Minute 2 issued on 7 June 2022.
- [24] On 27 June 2022 a Joint Memorandum of Counsel was received seeking a further one-week extension to the timetable. I approved this request as set out in Minute 3 issued on 28 June 2022.
- [25] On 4 July 2022 a Joint Memorandum of Counsel was received advising that the parties had reached an agreement by way of a side agreement, meaning that the question regarding the application of section 4(3) was no longer contested. On this basis, it was advised that the parties no longer considered it necessary for me to determine this matter in an interim decision. It was requested that the hearing remain adjourned until Monday 11 June 2022 at which time the parties would provide further advice and suggestions on procedural steps. I approved this request as set out in Minute 4 issued on 6 July 2022.
- [26] On 11 July 2022 a Joint Memorandum of Counsel was received confirming that the applicants and submitters had reached an agreement regarding conditions for the carpark and a proposed timetable for the remaining hearing procedures. I approved this request as set out in Minute 5 issued on 14 July 2022.
- [27] On 15 July 2022 a Joint Memorandum of Counsel was received for the Applicants and Submitters advising that an agreement on the proposed conditions of consent had been reached. Additionally, the Memorandum noted that the submitters no longer opposed the position of the Applicants

that s4(3) of the RMA applied to the work of the Department of Conservation to establish and operate the track within the land owned by the Crown, meaning resource consent is not required for the track component of the project. A revised set of draft conditions, associated plan and explanatory details were provided.

- [28] On 20 July 2022 the DCC Reporting Officer provided a response to the draft conditions circulated by the applicant on 15 July 2022. This response included a review by the DCC Landscape Architect Chantal Whitby.
- [29] On 28 July a Memorandum of Counsel in reply for the Dunedin City Council was received in response to the DCC Reporting review of draft conditions. A final version of proposed conditions was provided.
- [30] On 29 July 2022 I advised in Minute 6 that following the receipt of the Applicant's Right of Reply, I was satisfied that I had sufficient information to close the public part of the hearing.

## **5. SECTION 4 OF THE RESOURCE MANAGEMENT ACT 1991**

- [31] Section 4 of the RMA 1991 states in part (only the relevant clauses are shown) that:

|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>4</b> | <b>Act to bind the Crown</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| (1)      | This Act binds the Crown, except as provided in this section.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| (2)      | This Act does not apply to any work or activity of the Crown which—<br>(a) is a use of land within the meaning of <a href="#">section 9</a> ; and<br>(b) the Minister of Defence certifies is necessary for reasons of national security.                                                                                                                                                                                                                                                                                                                                                                                                                                |
| (3)      | <a href="#">Section 9(3)</a> does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the <a href="#">Conservation Act 1987</a> or any other Act specified in <a href="#">Schedule 1</a> of that Act (other than land held for administrative purposes) that—<br>(a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the <a href="#">Conservation Act 1987</a> or any other Act specified in <a href="#">Schedule 1</a> of that Act; and<br>(b) does not have a significant adverse effect beyond the boundary of the area of land. |

- [32] Section 9 of the RMA 1991 states that in part (only the relevant clauses are shown) that:

**9 Restrictions on use of land**

- (1) No person may use land in a manner that contravenes a national environmental standard unless the use—
  - (a) is expressly allowed by a resource consent; or
  - (b) is allowed by [section 10](#); or
  - (c) is an activity allowed by [section 10A](#); or
  - (d) is an activity allowed by [section 20A](#).
- (2) No person may use land in a manner that contravenes a regional rule unless the use—
  - (a) is expressly allowed by a resource consent; or
  - (b) is an activity allowed by [section 20A](#).
- (3) No person may use land in a manner that contravenes a district rule unless the use—
  - (a) is expressly allowed by a resource consent; or
  - (b) is allowed by [section 10](#); or
  - (c) is an activity allowed by [section 10A](#).

- [33] At the hearing, both the applicants and the DCC's Reporting Officer were consistent in their view that The Otago Conservation Management Strategy is of direct relevance to the proposed activities with regard to *"Tracks, roads and car-parking areas for visitor purposes"*, where *"Tunnel Beach and the coast South of Dunedin"* is listed as a location.
- [34] The applicants asserted that the proposal (both the car park upgrade and track upgrade) is consistent with the OCMS, and specifically consistent with the OCMS statements regarding work activities that meet the requirements of Sec 4(3)(a) of the Act.
- [35] The application states that Section 4(3) of the RMA 1991 does not apply to the carpark proposal as it is an activity of the DCC and not the Crown.
- [36] Conversely, given the upgrade to the track is to be undertaken by DOC (the Crown), Section 4(3) is applicable to the track component of the project and therefore Section (9)(3) does not apply.
- [37] Council's Reporting Officer agreed in principle with the applicant's interpretation that Section (4)3 is applicable to the track component of the proposal and Section (9)(3) does not apply to the walking track component of the application as undertaken by DOC.
- [38] A Joint Memorandum of Counsel confirmed that the submitters no longer opposed the position of the Applicants that Section 4(3) of the RMA applied to the work of DOC to establish and operate the track within the land owned by the Crown, meaning resource consent is not required for the track component of the project.

[39] Having considered all expert evidence and legal opinion provided to me at the hearing, and further information received, I find that Section (4)(3) does apply to the work of DOC to establish and operate the track within the land owned by the Crown. I find that the proposed walkway modifications will not have a significant effect beyond the boundary of the area in terms of Section (4)(3)(b) of the RMA 1991.

[40] The remainder of the decision therefore focuses on the statutory framework applicable to the Proposed Car Park only.

## **6. ACTIVITY STATUS**

[41] The Section 42A report establishes that 30 Tunnel Beach Road (containing the carpark area and part of the existing walking track route) is in the Rural Residential 1 Zone of the 2GP.

[42] There is also an Archaeological Alert Layer, High Natural Coastal Character (HNCC) and Outstanding Natural Feature (ONF) classification applying to the southern half of 30 Tunnel Beach Road and all of 32 Tunnel Beach Road. The northern section where the car park is to be constructed is not located within the landscape overlays.

[43] Both the applicant and DCC's Reporting Officer agreed that the relevant 2GP rules for this site may be treated as operative and the 2006 District Plan rules as generally inoperative in accordance with Section 86F of the Act.

[44] The proposed earthworks associated with the carpark formation are assessed as a restricted discretionary activity pursuant to Rule 8A.7.

[45] Both the applicant and the DCC's Reporting Officer agreed that the proposed car park falls within the definition of a Sport and Recreation activity and as such can be assessed as being a discretionary activity pursuant to Rule 17.3.3.19 and Rule 17.11.2.1 in accordance with the operative provisions of the 2GP.

[46] Overall, I find the application is a **discretionary** activity.

## **7. STATUTORY REQUIREMENTS**

- [47] The application is assessed as a **discretionary** activity. In determining this application, I am therefore required to give regard to sections 104 and 104B of the Act.
- [48] Section 104B of the RMA allows a consent authority to grant or refuse an application and where it grants an application, to impose conditions.
- [49] Section 104(1) of the RMA outlines the matters that must be regarded when arriving at a decision. The following sections address these matters.

## **7. EFFECTS ON THE ENVIRONMENT (s104(1)(a))**

### **Permitted Baseline**

- [50] I accept the DCC's Reporting Officer's view that the permitted baseline is of little relevance to this application as pointed out in Paragraph 75 of the Section 42A report.

### **Effects on Landscape Values and Natural Character**

- [51] The submitter, Anya Durling, through her lawyer and her own spoken and written evidence at the hearing, raised the issue of the all-day attraction of the Tunnel Beach Walkway and the impact this would have on her property. In particular, she noted the strong probability of significantly more people and buses using the new carpark than the current road end facility at the south-east end of Tunnel Beach Road. Issues raised were:
- a. The proposed new track with a new alignment and easier grade will attract people who previously would not have attempted the walk. Consequently, there is likely to be noise from these visitor groups on a regular basis whereas the present situation means visitors tend to pass along the track, either descending or ascending, without stopping.
  - b. Increased visitor numbers are likely once cruise ships return to Port Chalmers. Because of the lack of bus parking facilities in Tunnel Beach Road at present, large groups of visitors are only ever present on an occasional basis. In contrast, the new carpark appears to be able to

cater for up to three buses at a time which will generate groups of visitors all using the carpark and track and viewpoints at once.

- c. The quietness of the area is important to as the submitters spend a lot of time outside their home either enjoying the seascape or working with her horses in the paddocks.
- d. The submitters support the applicant's proposal to improve carparking and provide toilets but objects to the scale of the project, not just in physical terms but also the order of magnitude increase in visitor numbers. This scale of activity is not consistent with the amenity expected in a Rural Residential area.

[52] ~~Turning to the landscape evidence provided at the hearing, the applicant's~~ consultant landscape architect (Wade Robertson, who provided a written brief of evidence but was unable to attend the hearing) considered the natural character of the site will be maintained. In considering the outcomes identified in the Landscape and Visual Assessment dated 6 November 2020 and the further response by Wade Robertson to Minute 1 dated 19 May 2022 and incorporating comment on the realigned walking track, it is clear to me that the impacts on natural character, landscape character (including rural amenity) and visual attributes would be no more than minor should the consent be granted.

[53] I note that the DCC's Reporting Officer adopted the assessment of the landscape architect without dispute.

[54] Proposed conditions of consent in relation to landscape matters have been refined and agreed between the parties including the submitters Anya Durling and Michael Varsanyi.

### **Effects on Rural Residential Amenity**

[55] As mentioned above the submitters indicated their concern at the impact of increased visitor numbers on their rural amenity.

[56] While the submitters sought a reduction in carparking spaces the DCC's Reporting Officer did not support the limitation. In the Reporting Officer's view, the current traffic congestion and the overflow parking issue that currently exists, needs the 25 carparks for a resolution to these issues. If

the proposed parking is not provided a continuation of the adverse amenity effects within the wider area would be likely.

- [57] In terms of the submission point regarding not providing for bus parking on site, I accept the Reporting Officer's view in paragraph 98 of the s42A Report that the provision of bus parking has the potential to reduce private motor vehicle movements to and from the site overall, and therefore, may have a correlating effect on traffic reduction.
- [58] In her pre-circulated evidence, the submitters explained that their home is about 200m from the proposed bus stop with a direct line between both and expressed concern that no suitable noise mitigation had been proposed.
- [59] Turning to the noise evidence provided at the hearing, and the further evidence provided to Minute 1, the consultant Acoustic Consultant Brendon Shanks considered that the noise from the proposed carpark would comply with the relevant noise limits in the 2GP, and overall that the noise effects would be acceptable and would not noticeably reduce the amenity of the rural residential noise environment.
- [60] I note that the DCC's Reporting Officer adopted the assessment of the Acoustic Consultant without dispute.
- [61] Proposed conditions of consent in relation to noise matters have been refined and agreed between the parties including the submitters Anya Durling and Michael Varsanyi including provision for a 45m length of 1.5m high impermeable fence to be installed along the boundary with 31 Tunnel Beach Road.

## **Summary**

- [62] The Reporting Officer's s42A Report provided a comprehensive effects assessment and concluded that the likely adverse effects of the proposed development will be minor overall and can be adequately avoided remedied or mitigated provided recommended conditions of consent were adhered to.
- [63] Proposed conditions of consent have been refined and agreed between the parties including the submitters Anya Durling and Michael Varsanyi.
- [64] I accept the legal submission made by Counsel for the Applicant in the Memorandum of Counsel In Reply for Dunedin City Council dated 28 July

2022 that the proposed conditions are appropriate, provide all parties certainty, and enable the car park to operate in a manner that manages effects.

## **7 NATIONAL POLICY STATEMENTS (s104(1)(b)(iii))**

[65] There are no National Policy Statements of relevance to this proposal.

## **8 REGIONAL POLICY STATEMENTS AND PLANS (s104(1)(b)(v))**

[66] DCC's Reporting Officer assessed the proposal against the Partially Operative Regional Policy Statement for Otago. Her view was that the proposal is consistent with all relevant provisions of the PORPS. I agree with her assessment in this regard.

## **9. OBJECTIVES AND POLICIES OF DISTRICT PLANS (s104(1)(b)(vi))**

[67] DCC's Reporting Officer provides a comprehensive analysis of the relevant objectives and policies of the proposed 2GP. She concluded that the application would be consistent with the key objectives and policies relating to both the Dunedin City District Plan and the Proposed 2GP. I agree with her assessment in this regard.

## **10. OTHER MATTERS (s104(1)(C)(vi))**

[68] There remain no other matters that I must have to regard to when determining the application.

## **11 DECISION MAKING FRAMEWORK**

[69] I consider it is not necessary to assess the proposal in terms of Part 2 of the RMA, as the relevant objectives and policies are very recent, and I have found the proposal is consistent with those. I note this is consistent with the view reached by Council's Reporting Officer in her s42A report.

- [70] In terms of Section 104(1)(a) I have found that the proposal will have less than minor adverse effects on the environment.
- [71] In terms of Section 104(1)(b) I have found the proposal is, overall, consistent with the relevant provisions of the Partially Operative RPS, the Dunedin City District Plan and proposed RPSs.
- [72] In terms of Section 104(1)(c) I have found that that there are no other matters considered relevant and necessary for me to determine the application.

## **12 CONCLUSION**

- [73] For all of the reasons outlined above I consider the proposal meets all the statutory requirements for consideration of a discretionary activity, and accordingly grant consent subject to the conditions outlined below.

## **13 CONDITIONS**

**Consent Type:** Land Use Consent

**Consent Number:** LUC-2020-631

**Purpose:** The establishment of a car park and associated public facilities.

**Location of Activity:** 30 Tunnel Beach Road, Dunedin.

**Legal Description:** Part Lot 1 DP 314013 and Pt Sec 145-146, 163 Green Island Bush Survey District and Part Section 56 -58 Ocean Beach Survey District (held in Record of Title 271321).

**Lapse Date:** 22 August 2027, unless the consent has been given effect to before this date.

**Conditions:**

1. The proposed activity must be undertaken in general accordance with the approved plans:

- 3336298-CA-010 C
- 3336298-CA-011 C
- 3336298-CA-012 C
- 3336298-CA-015 C
- 3336298-CA-016 C
- 3336298-CA-017 C
- 3336298-CA-020 C
- 3336298-CA-021 C
- 3336298-CA-022 C
- 3336298-CA-030 C
- 3336298-CA-031 C
- 3336298-CA-032 C
- 3336298-CA-040 C
- 3336298-CA-041 C
- 3336298-CA-050 C
- 3336298-SE-011 A
- 3336298-AL-010 C
- 3336298-AL-011 C
- 3336298-AL-012 C
- 3336298-AL-013 C
- 3336298-AL-041 C
- 3336298-AL-050 C

and the information provided with the resource consent application received by the Council on 1 December 2021, except where modified by the following conditions.

**Conditions to be met prior to any site works or construction commencing.**

2. The consent holder must provide notice to the Resource Consent Monitoring team by email to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz) of the start date of the works. This notice must be provided at least five (5) working days before the works are to commence.

3. A Construction Management Plan that documents dust, erosion and sediment control measures to be implemented must be submitted to the Resource Consent Manager for certification to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz). No works may commence until this plan has been approved.
4. All Temporary Traffic Management Plans and Corridor access Requests must be approved.
5. The consent holder:
  - a) Is responsible for all contracted operations relating to the exercise of this consent; and
  - b) Must 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 all associated erosion and sediment control plans and methodology; and
  - c) Must ensure compliance with land use consent conditions. Conditions to be met at commencement of, or during, site works or construction

#### **Carpark Earthworks**

6. All works must be undertaken in accordance with the certified Construction Management Plan.
7. The earthworks and construction work must be under the control of a nominated and suitably qualified person (civil/environmental engineer or technician).
8. If fill is to be reused on the site it must be deposited in accordance with best practice and keyed into any slopes.
9. Any change in ground levels must not cause a ponding or drainage nuisance to neighbouring properties.
10. Any fill material introduced to the site must comprise clean fill only.
11. All loading and unloading of trucks with excavation or fill material must be carried out within the subject site.
12. Surplus of unsuitable material must be disposed of away from the site to a Council approved destination.
13. Should the consent holder cease, abandon, or stop work on site for a period longer than 6 weeks, the consent holder must first take adequate preventative and remedial measures to control sediment discharge/run-off and dust emissions, and must thereafter maintain these measures for so long as necessary to prevent sediment discharge or dust emission from the site. All such measures must be of a type and to a standard which are to the satisfaction of the Resource Consent Manager.

14. If at the completion of the earthworks operations, any public road, footpath, landscaped areas or service structures that have been affected/damaged by contractor(s), consent holder, developer, person involved with earthworks or building works, and/or vehicles and machineries used in relation to earthworks and construction works, must be reinstated to the satisfaction of Council at the expense of the consent holder.

15. If the consent holder:

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

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

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

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

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

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

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

iii) arrange for a suitably qualified archaeologist to undertake a survey of the site. Site work may recommence following consultation with the Consent Authority.

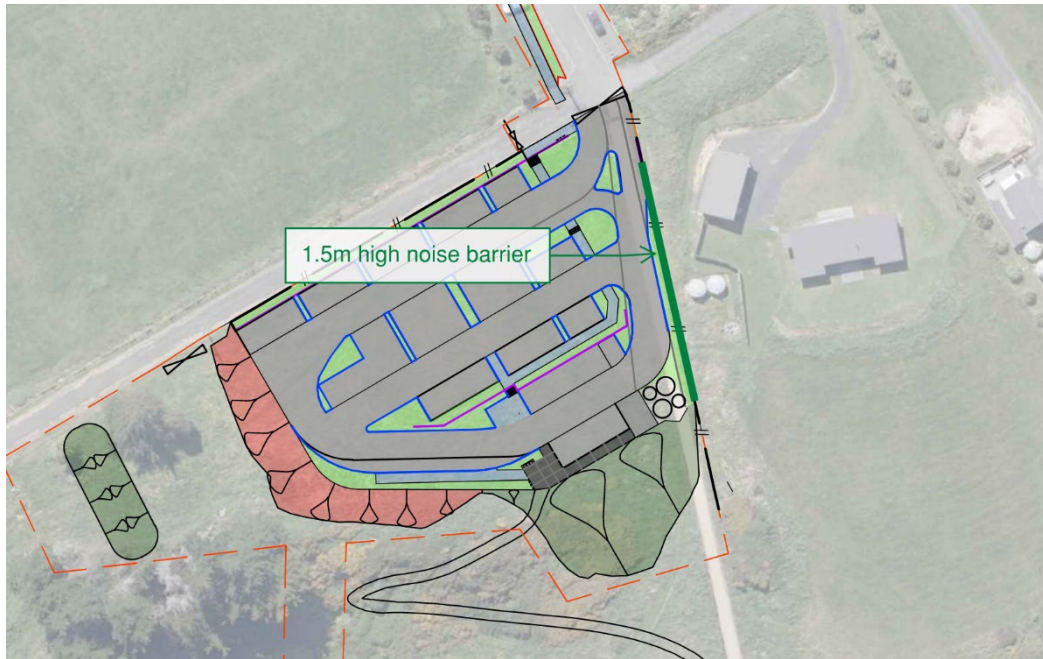
### **Traffic and Operation**

16. Prior to the operation of the carpark:

a) The existing parking in Tunnel Beach Road must be removed and replaced with a 2m wide landscaped area in front of a 2m wide footpath,

b) 'no parking' lines must be installed on the carriageway.

c) a 45m length of 1.5m high impermeable fence must be installed along the boundary with 31 Tunnel Beach Road in accordance with the diagram in Appendix 1.



**Appendix 1 Diagram.**

- d) The Tunnel Beach Car Park Operational Plan must be finalised and submitted to the Resource Consent Manager for certification to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz). The Car Park Operational Plan must include operational details to manage and mitigate adverse effects arising from the operation of the Tunnel Beach Car Park and ensure compliance with this resource consent. It must include at least the following:
  - i. Details of rubbish bins and frequency of their maintenance;
  - ii. Maintenance frequency of on-site ablution facilities;
  - iii. Monitoring process for water supply;
  - iv. Monitoring and maintenance procedures, including emptying, of site ablution facilities;
  - v. General maintenance requirements of car park area, including ongoing maintenance of the landscape planting;
  - vi. Process for managing the opening and closing of the carpark including contact details of those responsible for this.
17. The Tunnel Beach Car Park Operational Plan must be reviewed by the consent holder 12 months from the commencement of operation of the car park and then reviewed every 3 years thereafter. As part of the review the consent holder must provide an opportunity for the owners of 40 Tunnel Beach Road to provide feedback on the operation of the carpark and where feedback is provided consider what changes may be required to address any concerns. The feedback process must be documented and any amendments to the Tunnel Beach Car Park Operational Plan to address the feedback from the owner of 40 Tunnel Beach Road must be clearly outlined as part of the review document. The outcome of the review must be reported to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz) and any proposed amendments certified as being appropriate to ensure compliance with the conditions of this consent.

## Landscaping

18. Prior to the operation of the carpark:

- a) The landscaping set out in the landscaping plans identified in Condition 1 must be completed in accordance with the document '*Tunnel Beach Carpark Landscape Specification*' Rev 1 dated 6 July 2022, except that Re-vegetation mix must replace *Muehlenbeckia astonii* with *Hebe elliptica*.
- b) the screening bund to the west of the car park constructed.

## On-going conditions

19. The operation of the carpark must comply with the certified Tunnel Beach Car Park Operational Plan

20. The consent holder must keep a record of all bus movements to and from the site and the timing of these movements. These records must be presented to a warranted Council Officer within 76 hours of a request. Signage must be erected which advises that only buses which hold concessions are permitted to use the carpark. Bus movements must be limited to:

- a) Concessions holders only; and
- b) no more than 3 arrival and 3 departure movements per hour; and
- c) no more than 14 passenger drop off movements and 14 passenger pickup movements per week and
- d) Operate only between the hours of 8:30am and 5:30pm when the car park is open.

21. The Hours of Operation are everyday between the following hours:

- a) April-August 9am – 5pm
- b) September-March 8am- 9pm

Outside the above hours, gates to the carpark must be locked. Car park hours must be identified on carpark signage.

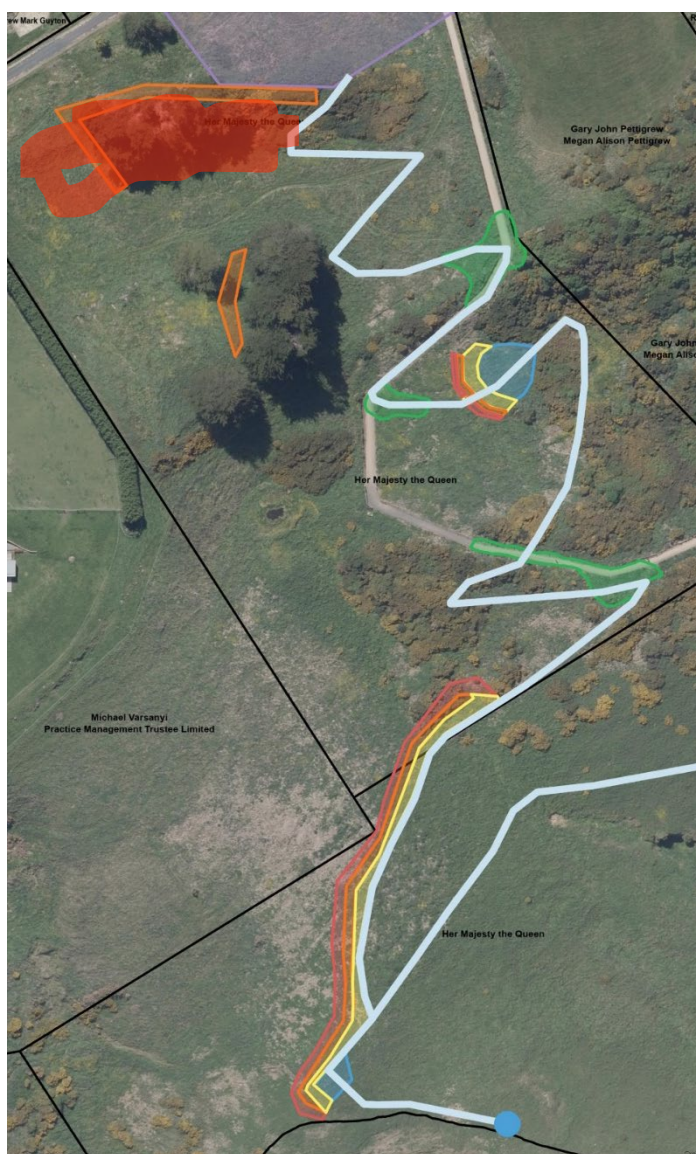
22. The landscaping must be maintained for a Maintenance Period of 5 years in accordance with the document '*Tunnel Beach Carpark Landscape Maintenance Period Specification*' Rev 1 dated 6 July 2022 '

23. An annual report must be prepared by a suitably qualified person which confirms the performance of the landscaping against the landscape specification. The annual report must be sent to [rcmonitoring@dcc.govt.nz](mailto:rcmonitoring@dcc.govt.nz) on the anniversary of the commencement of operation of the car park until the completion of the Maintenance Period.

24. The Maintenance Period must be extended if the plant survival rate is less than 90% until Final Completion is achieved in accordance with the document '*Tunnel Beach Carpark Landscape Maintenance Period Specification*' Rev 1 dated 6 July 2022.

25. All Landscaping including the bund to the west of the car park must be maintained in perpetuity. Any plants that die or become diseased must be replaced within the next growing season in accordance with the document '*Tunnel Beach Carpark Landscape Maintenance Period Specification*' Rev 1 dated 6 July 2022, clause C5001.7.

26. The toilet block may include art panels developed through engagement with Mana Whenua.
27. No retail or mobile traders are permitted to operate within the carpark area. Signage must be installed to this effect.
28. No freedom camping is permitted within the car park.
29. The existing macrocarpas marked in the diagram at Appendix 2 must be retained until they present a health and safety hazard as certified by an arborist. Upon removal of these macrocarpas, the area identified in red in the image below must be planted with Ngaio plants within the next growing season. The Ngaio Plants must be maintained for no less than 5 years in accordance with the maintenance methods set out in the document *Tunnel Beach Carpark Landscape Maintenance Period Specification* Rev 1 dated 6 July 2022.





Appendix 2 Retained Macrocarpa diagram.

30. Any damage caused to the right of way during construction of the carpark and track laydown area must be repaired prior to the operation of the carpark. Any other damage caused by the operation and maintenance of the carpark and track laydown area must be repaired as soon as practicable.

**Advice Notes:**

Earthworks

1. Neighbouring property owners should be advised of the proposed works at least seven days prior to the works commencing.
2. All measures (including dampening) should be undertaken to ensure that dust, resulting from the proposed earthworks, does not escape the property boundary.
3. Where there is a risk that sediment may enter a watercourse at any stage during the earthworks, it is advised that the Otago Regional Council be consulted before works commence, to determine if the discharge of sediment will enter any watercourse and what level of treatment and/or discharge permit, if any, may be required.

4. Stormwater is not permitted to create a nuisance to neighbouring properties.

#### Noise

5. All noise must comply with the relevant provisions of the 2GP.
6. All construction noise must comply with the following noise limits as per New Zealand Standard NZS 6803:1999

#### General

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. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
9. 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.
10. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
11. This is a resource consent. Please contact the Council's Building Services Department, about the building consent requirements for the work.
12. The limitation on buses using this carpark does not apply to commuter buses that may seek to use the carpark in the future as a Passenger Transportation Hub. This consent does not authorise the use of the carpark for this purpose and further resource consent and a concession from the Department of Conservation would be required. The Department of Conservation has entered into a Deed of Agreement between Anya Durling and Michael Varsanyi the owners of 40 Tunnel Beach Road at the time this permit was granted requiring the Department to consult with them in the event that any concession was sought for bus operators to use the carpark.