

ORC NOTIFICATION RECOMMENDATION REPORT

ID Ref: A1731576
Application No: RM22.550
Prepared for: Staff Consents Panel
Prepared by: Shay McDonald – Senior Consents Planner
Date: 10 August 2023

Subject: Coastal Permit Application RM22.550 by Onumai Enterprises to alter and extend a structure and to occupy the common marine and coastal area with a wharf, floating pontoon, and multi-purpose building, Taieri Mouth

1. Purpose

To report and make recommendations under sections 95A-G of the Resource Management Act 1991 (the Act) on the notification decision for the above application.

2. Background Information

Applicant: Onumai Enterprises Limited

Applicant's Agent: Allan Cubitt of Cubitt Consulting Limited

Site address or location: Common Marine and Coastal Area adjacent to 21 Marine Parade, Taieri Mouth.

Legal Description of the site: Common Marine and Coastal Area

Map reference (NZTM2000): E1382750 N4896314

Consents Sought:

- Coastal Permit RM22.550.01 to alter and extend existing structures
- Coastal Permit RM22.550.02 to occupy the common marine and coastal area with a wharf, floating pontoon, and multipurpose building

Purpose: Residential, recreational, commercial, and emergency use activities

Current consents: Coastal Permit 2006.321

Section 124 timeframes:

- This is an application for a new activity and so section 124 does not apply.

2.1 Key issues/risks

The key issues/risks with the application are:

- The functional need for the activities to be located within the coastal marine area
- This is the first application for residential activity within the Otago Coastal Marine Area/Te Tai o Arai Te Uru.

At this stage there are no principal issues in contention that need to be raised.

2.2 Summary

I recommend the application is processed on a publicly notified basis. This is because:

- Special circumstances warranting public notification apply.

3. Description of Activity

4.1 Summary of Proposal

Onumai Enterprises Limited (**the Applicant**) currently holds Coastal Permit 2006.321 which authorises the occupation of the coastal marine area (**CMA**) with a wharf and sheds, for the purpose of using the wharf for mooring and loading/unloading a commercial vessel, and the sheds for storage of fishing and boating equipment. This permit authorises the occupation until 1 December 2040 at Taieri Mouth.

The Applicant has applied for resource consents to alter and extend the existing structures and to occupy the common marine and coastal area (**CMCA**) with those structures for the purpose of residential, recreational, commercial, and emergency use.

The key differences between the currently consented activities and the proposed activities are:

- The size and character of the buildings upon the wharf; and
- The proposed uses of the buildings and the wharf.

4.2 Key Details of the Proposal

The Applicant has provided a description of the activity within the application. The description in the application is adopted for this report. The key features of proposal are outlined below.

- The structures currently authorised by Coastal Permit 2006.321 are in a state of poor-repair.
- The Applicant proposes to upgrade the current wharf and convert the storage sheds into a larger multipurpose building. The proposed uses of the wharf and building include:
 - Residential accommodation for the Applicant and their family
 - Short-term rented accommodation in the style of Airbnb or similar
 - As an all-tide base for recreational, sporting, and school-based activities and events requiring access to the CMA, including access for disabled persons
 - Access for Fisheries Officers to undertake inspections of fishing vessels
 - Civil defence and emergency response for marine incidents
- The current storage sheds occupy an area of 68 square metres (**m²**). The proposed multipurpose building will occupy an area of approximately 82 m².
- The proposed multipurpose building will cover the majority of the wharf area that is currently vacant between the storage units. At 5.9 metres (**m**) above ground level, the proposed building will be higher than the existing storage units which are approximately 3 m above ground level.
- The multipurpose building will extend approximately 1.7 m further landward than the current sheds. The building will extend out of the CMA onto land adjacent to Marine Drive.
- Access to the building will be from the the landward side adjacent to Marine Drive. This land is administered by Land Information New Zealand (**LINZ**).

- A wheelchair access ramp is proposed on the northwest side of the building.
- The existing fishing crane with winch will be retained to aid with unloading vessels and to assist with access to the CMA by disabled persons.
- A floating pontoon will be attached to the wharf. This pontoon is already in place, although it does not appear to be authorised by the current coastal permit 2006.321.
- The Applicant proposes that the multipurpose building will have an open-plan living and dining space with an attached kitchen. Off this central core will be a master bedroom, a bunkroom, and a self-contained bathroom.
- The building will be self-contained with respect to water use; grey and black water will be collected in storage tanks on the landward side of the building, and will be emptied as necessary. Rain will be collected in a tank for on-site use.
- The Applicant proposes to upgrade the power supply to the building from the current overhead line to an underground line. Earthworks within 10 m of the CMA may require resource consent. This has not been applied for.
- Works to construct the replacement building will be completed in one stage and are expected to take approximately four weeks. No machinery will be required and no construction from the water will occur. Therefore, no resource consent for temporary occupation of the CMA for works is required.
- The Applicant states that they have received advice from a builder that new or replacement piles are unlikely to be required; therefore, they have not applied for a coastal permit to disturb the CMA. The Applicant will consult a geotechnical engineer to determine foundation requirements prior to commencing construction. If additional or replacement piles are required, a separate application will be lodged for the disturbance to the CMA.

The current and proposed floor plan is shown in Figure 1. Photographs of the current wharf and sheds, and perspectives of the proposed structure, from both the CMA and from Marine Parade are shown in Figures 2-6.

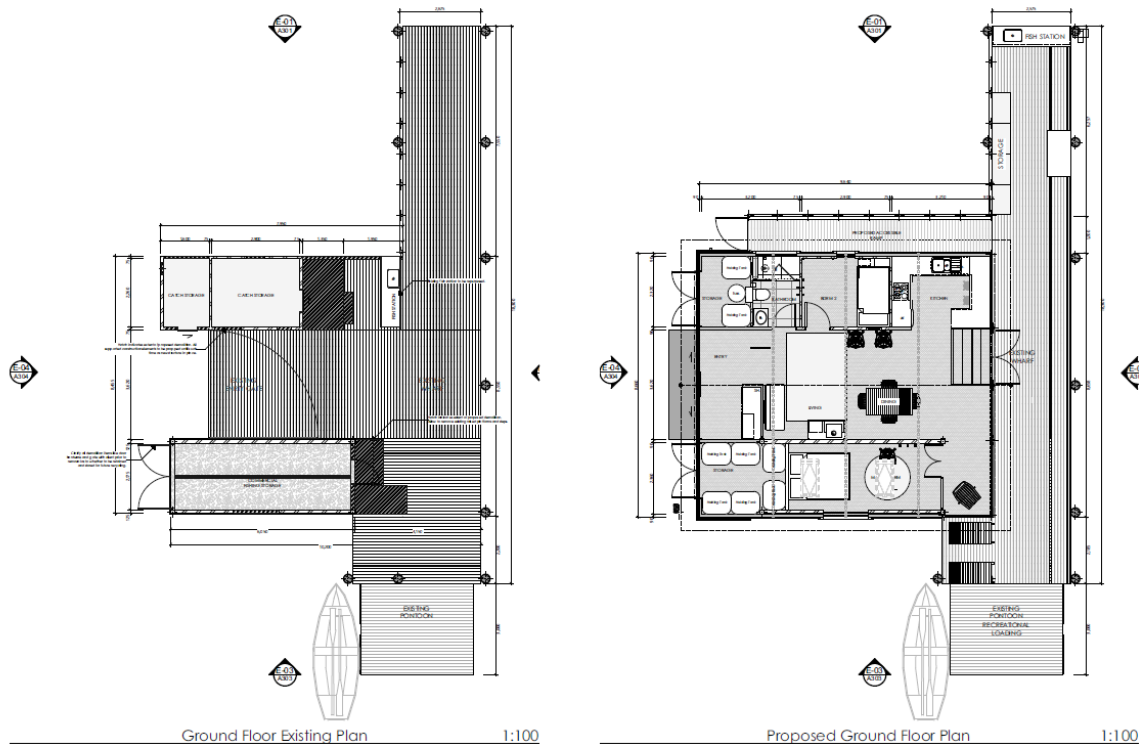


Figure 1 Current (left) and proposed (right) ground floor plan. Marine Parade is to the left of the page; CMA to the right. Source: RM22.550 s92 response.



Figure 2 Photograph of current structures from Marine Parade. Source: Site visit photograph 30 November 2022.



Figure 3 Perspective of proposed structure from Marine Parade. Source: RM22.550 s92 response.



Figure 4 Photograph of current structures from the CMA. Source: RM22.550 application.



Figure 5 Perspective of proposed structure from the CMA. Source: RM22.550 s92 response.



Figure 6 Perspective of proposed structure from the CMA at night. Source: RM22.550 s92 response.

The Applicant has provided the following documentation with the application:

- Resource consent application and supporting information report signed by the Applicant's consultant and 31 October 2031.
- Response to s92 Request for Further Information dated 16 February 2023
- Response to s92 Request for Further Information dated 05 April 2023
- Response to s92 Request for Further Information dated 21 July 2023

3.1 Compliance with Current Consent

Coastal Permit 2006.321 was transferred to the Applicant on 14 January 2022. Compliance with consent conditions prior to this date is not relevant to this application.

It is not known at what stage the floating pontoon was placed and attached to the wharf. However, it is not authorised by the current permit.

4. Description of the Environment

The site and the surrounding environment are adequately described within the application and this description is not duplicated here. The description in the application is adopted for this report. The key features of the site and surrounding environment are outlined below.

4.1 Location – Wider Context

- The site is located within the coastal marine area on the true right bank of the Taieri River at Taieri Mouth.
- The land parcel immediately adjoining the site is administered by LINZ.
- The adjacent Marine Parade Road Reserve is administered by Clutha District Council (CDC).



Figure 7 Location of the site (yellow circle) within coastal development area 5 within the CMA. Source: Otago Maps.

- The site is located within Coastal Development Area 5 (**CDA5**) as identified in Schedule 2 of the Regional Plan: Coast for Otago (**RPC**). Coastal development areas are characterised as having a mixture of structures, facilities, and associated infrastructure required by the recreational and commercial activities occurring in those areas.

- Specific values supported by CDA5 are fishing facilities and recreational facilities. Schedule 2 of the RPC states that when considering applications for activities within or adjacent to coastal development areas, the values identified within those areas will be recognised and regard will be given to the need to provide for those values, as appropriate.
- Residential dwellings are located on both sides of the river, with the majority of the Taieri Mouth settlement lying to the south of the river. Dwellings to the north of the river will have a view of the site and proposed structures.
- The site is not located within an area identified as being of high or outstanding natural character. However, the wider Taieri Mouth area has landscape features of biophysical and cultural or historic significance. These include the nearby Moturata Island, regionally significant wetland areas, as well as mahika kai sites.
- The Otago Coastal Marine Area/Te Tai o Arai Te Uru is subject to a statutory acknowledgement.

4.2 Location – Immediate Context

- The existing wharf and shed structures are located within a cluster of wharves and fishing sheds which extend approximately 200 m along the riverbank downstream of the road bridge and adjacent to Marine Parade.
- The wharves are generally constructed from timber, and the associated buildings are generally no more than 45 m² in area and 4 m in height. Other structures include mooring piles, slipways, containers, and miscellaneous fishing equipment. It is common to see recreational, commercial, or multi-purpose vessels moored at these wharves.
- As a group, this waterfront boatshed row is physically separated from other local dwellings and structures within Taieri Mouth, and is distinct with regard to appearance, character, and role. Although dilapidated in nature, the existing structures are representative of the recreational and fishing values provided for by CDA5.
- The existing wharves and associated structures have no heritage or landscape statutory recognition.

4.3 Nearby Activities

The receiving environment includes the environment as it may be modified by permitted activities and the implementation of resource consents that have been granted and are likely to be implemented.

Within 200 m of the site, the following activities are authorised by resource consents.

Table 1: Current consents within 200 m of the site

Resource Consent	Purpose	Expiry
Coastal Permit 2006.018	Occupy CMA with swing mooring	01 January 2041
Coastal Permit 2005.729	Occupy CMA with a wharf for mooring, loading, and unloading a commercial vessel	01 December 2040
Coastal Permit 16.021.01	Occupy CMA with swing mooring	20 April 2051

Coastal Permit 2005.728	Occupy CMA with a wharf for mooring, loading, and unloading a commercial vessel and for operating a commercial takeaway cafe and fresh fish outlet	01 December 2040
Coastal Permit 2006.062	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of fishing equipment	01 May 2036
Coastal Permit 2005.763	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of boating equipment	01 January 2041
Coastal Permit 2006.320	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of fishing equipment	01 December 2040
Coastal Permit 2001.204B	Occupy the foreshore of the CMA with a wharf	01 May 2036
Coastal Permit 2006.382	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of fishing equipment	22 April 2023
Coastal Permit 2003.751	Occupy the CMA with a boatshed and wharf for the purpose of using boatshed and wharf	01 November 2038
Coastal Permit 2006.045	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of fishing equipment	01 February 2041

Activities that may be occurring under permitted activity rules include the occupation of the CMA by structures that are permitted by rules in Chapter 8 of the RPC, as well as activities involving occupation of the CMCA that are provided for by permitted activity rules within Chapter 7 of the RPC.

4.4 Site Visit

I visited the site and the surrounding areas, including various viewing points, on 30 November 2022. Also in attendance were the Applicant and Principal Landscape Planner Rachael Annan of 4Sight Consulting, who was engaged by Council to provide a technical audit of the application material.

5. Status of the Applications

5.1 Regional Plan: Coast for Otago (RPC)

Maintenance, extension, alteration, replacement or reconstruction of a structure

Chapter 8 of the Regional Plan: Coast for Otago (RPC) provides for the maintenance, extension, alteration, replacement, or reconstruction of structures within the CMA.

I consider that the proposal constitutes an alteration and extension of an existing structure because the wharf will be retained, and elements of the storage shed and coolstore sheds will be retained and incorporated within the new multipurpose building.

RPC rules 8.5.2.1 to 8.5.2.4 set out permitted activity criteria for the maintenance, extension, alteration, replacement, or reconstruction of existing lines or structures fixed in, or, under, or over any foreshore. The Applicant's proposal is not provided for by rules 8.5.2.1 to 8.5.2.4 because the structure is not a navigational aid, is not used for telecommunication or radiocommunication operations or rail structures, is located within a coastal development area, and is not related to the Fryatt or Birch Street wharves.

Therefore, discretionary activity rule 8.5.2.5 applies, which states:

“Except as provided for by Rules 8.5.2.1 to 8.5.2.4, any extension, alteration, replacement or reconstruction of an existing line or structure that is fixed in, on, under, or over any foreshore is a discretionary activity.”

Consequently, the proposal to alter and extend the current wharf and associated buildings is a **discretionary activity**.

Occupation of the CMA

Chapter 7 of the RPC provides for the occupation of the CMA by structures, being the wharf, the pontoon, and the multipurpose building, and for activities.

Occupation of the CMA is permitted by or provided for by rules 7.5.1.1 – 7.5.1.4. The Applicant cannot meet rule 7.5.1.1 because the restriction of public access resulting from the occupation of the CMCA by the structure will be for more than three days per year. Rule 7.5.1.2 is not applicable because the use or activity was not authorised by a deemed coastal permit on 30 September 1991. Rule 7.5.1.3 does not apply because the occupation will not result in exclusion of the public over the areas specified in this rule. Rule 7.4.1.4 does not apply because the structure is not permitted by the relevant chapter 8 rules.

Discretionary activity rule 7.5.1.5 states:

“Except as provided for by rules 7.5.1.1, 7.5.1.2, 7.5.1.3, or 7.5.1.4 any activity involving occupation of land of the Crown within the coastal marine area is a discretionary activity.”

This wording of this rule specifically refers to *activities* and also specifically references rules relating to *structures*. This application seeks to authorise the occupation of the CMCA by

structures, namely the wharf, the pontoon, and the multipurpose building for residential, recreational, commercial use, and emergency use.

The proposed occupation of the CMA is a **discretionary activity**.

I note for the sake of thoroughness, that should the Applicant choose to undertake or host any event or activity requiring occupation of the CMCA outside the perimeter of the specific structures described in this application, that occupation will need to comply with permitted activity rules or will require an additional resource consent for occupation.

5.2 Consents Not Applied For Erection or Placement of a Structure

A floating pontoon is currently attached to the wharf, and it is proposed that this pontoon will remain in place. The pontoon is not fixed to the foreshore or seabed but is placed over the foreshore or seabed.

Chapter 8 of the RPC provides for the erection or placement of specific structures within the CMA.

Rules 8.5.1.1 to 8.5.1.8, and 8.5.1.10 describe permitted activity rules for specific structures in specific locations. None of these rules provide for the floating pontoon at this location.

Therefore, discretionary activity rule 8.5.1.9 applies, which states that:

Except as provided for by Rules 8.5.1.1 to 8.5.1.6, 8.5.1.8 and 8.5.1.10, any activity involving the erection or placement of a structure or structures in, on, under, or over any foreshore or seabed is a discretionary activity.

Consequently, the placement of the floating pontoon as an attachment to the wharf would be a **discretionary activity**. The Applicant has not applied for retrospective consent for the placement of the floating pontoon. The Applicant has, however, applied to occupy the CMCA with the pontoon assessed in section 5.1.

5.3 Permitted Activities

The Applicant states that the removal of unwanted or unsuitable parts of the current wharf and associated buildings, if removal is in fact required, will comply with all aspects of RPC permitted activity rule 8.5.3.1.

The Applicant states that any discharge of stormwater from impervious surfaces of the structure will comply with RPC permitted activity rule 10.5.3.1.

5.4 Consents Not Required

The Applicant does not propose to discharge any wastewater to the CMA; therefore, no consent is required for this activity.

5.5 Reasons section 127 does not apply

The Applicant has not sought a s127 variation to Coastal Permit 2006.321. I agree that a s127 variation would not be appropriate in this instance. This is because of the significant increase in physical size of the building upon the wharf, and because the proposed use of the building is of a fundamentally different nature.

5.6 Overall Activity Status

Overall, the application will be assessed as a **discretionary activity**. Council may grant or decline this application and, if granted, may impose conditions under Section 108 of the Act.

6. Assessment of Effects

The Permitted Baseline

The Consent Authority may disregard an adverse effect if a rule in a plan or national environmental standard permits an activity with that effect. In this case, the RPC does not provide for the proposed occupation of the CMCA as a permitted activity, nor is there any relevant environmental standard that permits such an activity. There is also no rule within the RPC that provides for the alteration or extension of the proposed structures within this location as a permitted activity.

The permitted baseline is therefore not applicable in this case.

Although not specifically related to the permitted baseline assessment, it is noted here that Coastal Permit 2006.321 authorises the occupation of the CMA by the Applicant's existing wharf and sheds and their commercial use until 1 December 2040. The Applicant suggests that for this reason it is appropriate to consider the existing structures as part of the legal environment, and that the effects of the proposal should be measured against the existing wharf and structures, rather than as a new structure.

When considering effects related to bulk and outline of the structures, I agree that it is appropriate to compare the effects of the proposed structure against the structures that currently exist. This is because the existing and proposed structures will occupy the same location within the CMCA, and there will be no change to the overall structure footprint.

When considering effects related to the use and character of the proposed structure, however, I do not agree with the Applicant's opinion about the existing environment. This is because the use and character of the proposed structure will be of a fundamentally different nature to that of the existing structures. Therefore, it is more appropriate to consider the effects on the receiving environment of the use and character of the proposed structure as a new activity.

The Receiving Environment

The receiving environment is the environment beyond the subject site upon which a proposed activity may have effects. The receiving environment includes the current and reasonably foreseeable future state of the environment as it may be modified by permitted activities and by the implementation of resource consents that have been granted at the time the application is being considered. It does not include the environment as it might be modified by the implementation of future resource consents yet to be granted, nor does it include unlawful activities, even if these are already occurring.

In this case, the receiving environment is the Taieri Mouth CMA, its values, and existing coastal permits as described in Section 4 of this report. Built form within the CMA consists of an approximately 200 m stretch of wharves and fishing industry sheds in generally dilapidated condition. The receiving environment also includes the residential dwellings within the wider Taieri Mouth area which have a partial or unobstructed view of the site.

It is against this environment that the effects of the proposed activities will be assessed.

6.1 Effects of the Structures on Landscape Values, Natural Character, and Visual Amenity

Structures within the CMA can have adverse effects on landscape values, natural character, and visual amenity.

In a response to a request made under s92(1) for further information the Applicant provided a Natural Character and Landscape Effects Assessment Report (**Moore, 2023**) from Landscape

Architect Mike Moore. Mr Moore states that this assessment follows the concepts and principles outlined in the New Zealand Institute of Landscape Architects (**NZILA**) Landscape Assessment Guidelines. On behalf of Council, Principal Landscape Planner Rachael Annan of 4Sight Consulting (**4Sight**) provided a technical audit of Mr Moore's report. Relevant findings of each are discussed below.

Natural Character and Landscape Effects Assessment Report, prepared by Mike Moore Landscape

Landscape character is derived from the distinct and recognisable pattern of elements that occur consistently in a particular landscape. It reflects particular combinations of geology, landform, soils, vegetation, land use, and features of human settlement. It creates the unique sense of place defining different areas of the landscape. Landscape effects are an adverse or positive outcome for a landscape value as a consequence of changes to a landscape's physical attributes.

In his assessment, Mr Moore notes that the proposal will introduce a larger structure to the port area, which will have a notably different character and purpose to the existing sheds and will be a structure of visual interest. However, he notes that, to an extent, this changing character is already occurring with the changing character of the boats moored, and that the change to scale, form, and character are within the range typical of boatsheds generally. Mr Moore then concludes that given there is no baseline requiring protection of the existing fishing port character, that the effects on landscape values will be neutral or positive.

Natural Character

Natural character is the term used to describe the degree of naturalness in an area, and includes the natural elements, patterns, processes and experiential qualities attributes of an environment.

In his assessment Mr Moore states that natural character assessment includes consideration of both biophysical and human experiential attributes. Natural character effects describe the impact of the proposed activity on the biophysical integrity and natural processes of the areas affected, as well as sensory/experiential effects on perceptions of natural character.

The site is not within an area of high or outstanding natural character.

Given that the proposal does not involve the disturbance to the wharf piles or seabed, Mr Moore concludes that biophysical effects of the proposal will be minimal, and he does not consider these further in his assessment. Rather, his assessment focuses on experiential natural character.

Mr Moore notes that the proposal involves the changing form on the wharf from two small structures to one larger one, involving an approximately four-fold increase in bulk. In that there will be a greater scale and impact of built form Mr Moore considers that the nature of the effect of the proposed structure will be adverse, but very low in degree, because the area is already highly modified and not highly sensitive to a change of this nature. Mr Moore considers that the change in character from a fishing industry-related structure to a recreational/accommodation structure will have no impact on natural character.

Visual Amenity

Visual amenity effects are influenced by a number of factors including the nature of the proposal, the landscape absorption capability and the character of the site and the surrounding area. Visual amenity effects are also dependent on distance between the viewer and the proposal, the complexity of the intervening landscape and the nature of the view. A change in view does not, of itself, constitute an adverse visual effect. Landscape is dynamic and is constantly changing over time so any change in view must be assessed within the context of the landscape in which such change occurs.

Mr Moore’s report sets out an assessment of the visual effects of the proposed wharf and associated building from the west, north, east, and south of the site. Representative viewpoints are provided to justify the conclusions drawn as to the level of visual effects.

From the west (Marine Parade) the building will appear larger in scale and different in character. Of note are the gabled form and black/dark grey colour in a context where buildings are currently lean-to or flat-roofed and lighter in colour. However, Mr Moore states that the largely blank road-facing wall will retain boat shed character. A similar visual impact is noted from the northern and eastern aspects; however, Mr Moore suggests that the township in view beyond the structure and the presence of boats will assist in integrating the proposed structure into the existing context. Viewpoints are shown in Figures 8-10.



Figure 8 View of site from the west. Source: Moore, 2023.



Figure 9 View of site from the north. Source: Moore, 2023.



Figure 10 View of site from the east. Source: Moore, 2023.

From the south, the proposed shed will be seen in the context of the existing row of wharves and boat sheds. From closer viewpoints the residential character and larger scale will contrast with the other structures. From more distant viewpoints, Mr Moore states that the dark colour scheme will be effective in minimising visual prominence. The viewpoints from the south are shown in Figures 11 and 12.



Figure 11 Near view of site from south. Source: Moore, 2023.



Figure 12 Far view of the site from the south. Source: Moore, 2023.

Mr Moore concludes his assessment as to effects on visual amenity as follows:

“...The proposed development will integrate readily into this setting and, in my assessment, will improve visual amenity as it will have a form and scale that is typical of boatsheds around New Zealand, result in less ‘clutter’ (one building rather than two), and will be recessively coloured. It is not my assessment that the amount of glazing and obvious usage of the building for accommodation will have adverse amenity effects. I consider that the structure will be an element of visual interest in the landscape that reflects the changing use of the Taieri Mouth Coastal Development Area.”

Technical audit of s92 response: Memorandum prepared by Rachael Annan of 4Sight Consulting

In her memorandum, Ms Annan notes that she considers that Mr Moore’s assessment draws some overly generalised conclusions regarding existing landscape character and contains conflicting statements regarding the character and amenity of the existing boat shed row. Ms Annan goes on to explain her concerns about the way in which these matters inform the conclusions reached by Mr Moore.

Ms Annan concluded her memorandum as follows:

“...My key concern is regarding the inference that the level of waterfront glazing set out by the proposal is appropriate on the basis of it being ‘common to see boat sheds with various levels of accommodation / residential use provided for all around New Zealand’ (p.12). I note that two steps taken in drawing this conclusion are that:

- 1) the residential boatshed use of other locations is considered to make this development approach appropriate, and*
- 2) the solidly glazed frontage of the scale the proposal affords is then implied to be appropriate in this location.*

I note that while a [sic] entirely glazed waterfront façade may achieve a very positive outlook for boatshed occupants, it is the reciprocal visibility and visual effects of this design feature which are of concern.

Overall I disagree that the application as proposed would be successfully integrated within the setting’s landscape character. The foremost concern is the extent of proposed glazing on the water facing façade (and the high contrast of the black aluminium joinery, amplifying the built form and scale).

This is not to say new boatshed development or renovation is not appropriate in this location. However, I do not consider the combination of the proposal’s scale and it’s [sic] ‘amount of glazing and obvious usage of the building for accommodation’ (p.12) demonstrates the very low level off effects arrived at by the application’s landscape assessment. Consideration should therefore also be given to the precedent nature of the application...”

In summary, Ms Annan's primary concern is the visual effects for the fixed/permanent outlook of residents across the Taieri River. In her opinion, these visual amenity effects (derived from the shift in landscape character set out by the application as proposed) will be minor.

Subsequent to the memorandum, Ms Annan proposed three mitigation measures that, in her opinion, would reduce the level of adverse effects on visual amenity to a 'less than minor' degree:

- An effective reduction of the area of glazing (i.e., retain some glazing to a portion of the frontage width below the rafters' line) with the use of louvers or barn sliding doors across the frontage (this will also improve privacy for occupants)
- Greater use of eave overhang to provide depth and shadow to this façade
- Reducing the high contrast aluminium joinery to the waterfront facade to a more recessive grey or similar

The Applicant subsequently provided revised plans for the building which included the introduction of slats to reduce the impact of the glazing (Figures 5 and 6, section 4.2 of this report).

Ms Annan reviewed these revised plans and noted that the proposed changes did not go far enough to reduce the open glazed residential aspect overlooking the water. Ms Annan then clarified her recommended mitigation measures into the following statement:

"I recommend that a proportion of the width of the glass façade is made solid (suggested 1/3 to 2/3 of the width). These might be sliding doors as per the road facing west elevation, or an alternative technique at the architect's discretion to pare back the residential character. Sliding doors would allow flexibility of where outlook or privacy are achieved. When the boatshed is not in use, this aspect could be more shut off and read more clearly as a boatshed."

On 21 July 2023 the Applicant confirmed that they would not propose further structural changes to the water-facing glass façade.

Conclusion as to adverse effects of the proposed structures on landscape values, natural character, and visual amenity

The Applicant has designed the multipurpose building such that it will be suitable for the proposed uses, being personal residential accommodation, rented accommodation, as a base for recreational, sporting, and school-based activities, and as a base for Civil Defence or Fisheries Officers as required. From several viewpoints, the structure as proposed will have a distinct residential character and represent a significant increase in bulk and scale in comparison to the existing row of boatsheds. This will be particularly evident at night, given the potential 'glowing box' appearance afforded by indoor lighting spill. Residents across the river will have a direct and legible view of the existing row of boatsheds and thus could be subject to effects on visual amenity.

I agree with Ms Annan that it is not appropriate to draw conclusions as to the level of effect on visual amenity based on the form, scale, and glazing of the proposed structure being typical of boatsheds elsewhere in New Zealand, as was implied in Mr Moore's assessment. Rather, the impact of the proposal on visual amenity should be assessed with consideration to the perception of landscape character in the immediate Taieri Mouth setting.

Given that the Applicant has not adopted the recommended mitigation measures to integrate the proposal in this setting, I conclude that the adverse effects of the proposal relating to landscape, natural character, and visual amenity are minor.

6.2 Effects on Landscape Values, Natural Character, and Visual Amenity Relating to the Use of the Structures

What has not been assessed in Section 6.1 above are the potential impacts of the proposed uses of the structures.

The Applicant has stated that the temporary occupation of the building by guests and event organisers will have some impact on amenity values due to the presence of people on the wharf and its environs, both during the day and during the evening. The Applicant further states that accommodation guests will generate activity normally associated with a domestic dwelling and this can involve noise and traffic generation. At night the building will be lit. The Applicant states that:

“...this activity will be minimal in comparison to the type of activity normally associated with commercial wharves and will be in keeping with the residences in the surrounding environment...”

The Applicant concludes that any adverse effects on amenity values from construction activities and temporary occupation of the building will be less than minor.

I agree that adverse effects on landscape values, natural character, and visual amenity as a result of the construction works will be less than minor, due to the very short-term duration, the proposed working hours, and the adherence to noise limits as specified in New Zealand Standard Acoustics - Construction Noise NZS 6803:1999.

I do not agree with the Applicant's conclusion as to the level of effect on amenity values as a result of the proposed uses of the structure, particularly with respect to the proposed residential use. Amenity values encompass the full spectrum of sensory factors that contribute to perception and appreciation of an area's character, pleasantness, aesthetic coherence, and identity. Amenity is critical to the 'sense of place' that people associate with an area. As a group, the waterfront boatshed row is physically separated from other local dwellings and structures within Taieri Mouth, and is distinct with regard to appearance, character, and role. Although dilapidated in nature, the existing structures are representative of the recreational and fishing values provided for by CDA5, and do not have a residential character to any extent.

The Applicant has proposed that ongoing noise related to use of the structure will be addressed by adherence to noise limits as specified in Coastal Permit 2006.321, being 55 dBA between 7 am to 10 pm Monday to Sunday and 45 dBA between 10 pm – 7 am Monday – Sunday. While this is a reasonable mitigation measure for ensuring a minimum level of amenity, another important factor to consider is the nature of the noise, and the way in which it combines with other factors to contribute to a change in the perceived character of the area. Noise associated with residential activity, when combined with lighting effects, particularly the potential 'glowing box' appearance afforded by the indoor lighting spill at night, as well as movements and activities typically associated with residential or domestic use of a dwelling, will contribute to a change in perception of the area's character and identity. I consider that this change is adverse because it is not in keeping with the values provided for in this coastal development area.

The extent of this change is somewhat difficult to quantify. In considering the 'level' of the effect I note that the adverse effects on visual amenity relating to the structure itself were considered to be minor, primarily based on the glazed waterfront façade preventing the structure successfully integrating into the landscape character. Lighting effects in this case are directly related to the structural design, so I consider that effects on amenity relating to lighting will also be minor. When considering the impact of other sensory factors such as noise and movements I have taken into account the potential duration and frequency of these factors. I note that the

Applicant has not proposed a maximum number of days for which the multipurpose building would be used for residential activities. Based on this, I must assume that the building may be occupied for activities of a residential nature for 365 days per year. I consider that the adverse change to the area's character and identity will be noticeable, and therefore I do not consider that it can be less than minor. However, given the footprint of the structure will not be increasing, the building will comprise only two bedroom areas which will restrict the number of persons using the structure for residential use, and the proposed adherence to relevant noise limits, I do not consider that these effects will be more than minor.

The Applicant also proposes to use the multipurpose building as a base for sporting and recreational events, as well as use for civil and emergency defence activities. Adverse effects relating to these activities can be considered to the extent that the events occur within the footprint of the structures. The Applicant has not provided specific information about the number or scale of events that may be held nor proposed any conditions to this effect. It is expected that sporting and recreational events using the Taieri River will primarily occur in the daytime. Recreational values are provided for in CDA5; therefore, recreational events could reasonably be expected to occur in this area from any safe structure that could provide access to the CMA. Noise will be contained within relevant limits.

I note that any adverse effects relating to events or activities that are not sought to be authorised by this consent, for example events that draw large crowds, are not within the scope of this application and therefore cannot be assessed here. Additionally, any event that requires occupation of the CMCA outside the footprint of the structure, will need to adhere to permitted activity rules within the RPC or an additional resource consent would be required. Effects of such events are therefore largely outside the scope of this application.

Considering only those adverse effects relating to the use of the structure, including any effects that occur on the landward side that are directly associated with the use of the structure such as noise from people coming to use the structure, and discounting adverse effects from activities that would require additional authorisation by a resource consent, adverse effects relating to the use for recreational and sporting events are likely to be less than minor.

The proposed use of the structures for emergency and civil defence uses are not expected to have any significant adverse effects. This is because these activities already occur in this location as required in response to emergency events and will not occur more frequently as a result of the proposed changes to the structure. The proposed multipurpose building may be used by emergency responders, although this would be difficult if the building was occupied for residential use at the time. It is more likely that the wharf itself will be used as a point of access to the CMA.

Overall, I consider that most weight should be placed on the adverse effects stemming from the proposed residential use, which may include rented residential activity such as Air BnB, as no limits have been proposed by the Applicant. This is because the interior design of the structure is primarily for residential use, with bedroom, bathroom, living/dining, and kitchen facilities, whereas a building that was primarily to be used for hosting events would likely have an interior more focussed on storage areas or meeting/event management areas. Additionally, residential activity could feasibly occur on any day of the year, whereas events are more likely to be one-off activities scheduled during suitable times of year. For the reasons set out above, I consider that adverse effects relating to the proposed uses of the structure will be minor.

6.3 Effects on Public Access

Neither the Crown nor any other person may own the CMCA, and public access to it is guaranteed. Where a consent is granted for the occupation of the CMCA by a structure, this occupation is not an exclusive right. Nonetheless, the general public may be excluded from accessing a structure to the extent that is necessary to enable to the primary purpose of the

structure. In the example of a typical boatshed upon a wharf, it is reasonably expected that the shed itself would be locked to protect the belongings stored in that shed. However, the wharf itself should provide public access to the CMCA unless there is a health and safety reason relating to the authorised use of the wharf that would justify the further restriction of access.

The proposed multipurpose building, floating pontoon, and the wharf will occupy the CMCA. The Applicant proposes that the building itself will remain locked, to protect the property and belongings of the Applicant. This is considered to be reasonable and appropriate. The Applicant has stated that while there will be a gate at the entrance to the access ramp to the wharf, the gate will not be locked, hence public access to the wharf and pontoon will not be physically restricted.

However, the proposed building will have a distinct residential character, even when unoccupied, and this may have the effect of discouraging the public from approaching the area, effectively resulting in an increased area of exclusion. When occupied, either by the Applicant, their family, or by paying guests, the residential character and use will be further pronounced. The installation of a gate, even an unlocked gate, will further give rise to the perception that the area is not publicly accessible. As noted above in Section 6.2, the potential for the structure to be occupied for residential activity 365 days a year must be considered.

The Applicant has stated that an existing small crane will be retained with the intention that it is to be used to improve the accessibility to the CMA for disabled persons. While the installation of this crane is something that could be enforced by a condition of consent, there is no guarantee that this crane would be used to provide access to the CMA for disabled persons. This in no way speaks to the intentions of the Applicant; there is just no manner in which the use of the crane for this purpose could be enforced. As such, the provision of a crane is not considered to be a mitigation measure of importance in relation to public accessibility.

The Applicant also proposes that the wharf and building will be used to host recreational, school and sporting events and be available to search and rescue, fisheries officers, and civil defence groups, all of which would serve to encourage and increase public access to the CMA. However, as noted above in relation to the crane, there is no guarantee that these uses will actually occur because they rely on the participation of third parties. As such, the use of the wharf and multipurpose structure for events and emergency response is not considered to be a mitigation of importance in relation to public accessibility.

In summary, while the footprint of the CMA that will be physically inaccessible to the public will be restricted to the locked building itself, and the overall footprint of the occupation is small in comparison to the length of accessible coastline in the Taieri Mouth area, the residential character and the residential use of the building has the potential to discourage public access to the CMA. The other proposed uses of the structure cannot be considered mitigation measures of significance in terms of public access, because they are largely unenforceable and rely on the participation of third parties. As such, I consider that adverse effects on public accessibility to the CMA have the potential to be minor.

6.4 Effects on Coastal Water Quality and Ecological Values

The proposed alteration and extension of the existing structures will not involve any disturbance of, or discharge of contaminants to, the CMA. Any works on the landward side of mean high water springs, while related to this proposal, are not the subject of this application for coastal permits. As such, I consider that adverse effects on water quality and ecological values during construction works within the CMA will be less than minor.

The ongoing occupation of the CMCA by the structures, and their associated use, will not result in any disturbance of, or discharge of contaminants to, the CMA. The Applicant proposes to install a modern, fully self-contained water collection and wastewater disposal system. The

system will include backup spillage systems and alarms that meet industry standard for waste containment. No wastewater of any type will be discharged to the CMA. Rainwater will be captured and held in industry-approved water holding tanks for use within the dwelling. Any overflow rainwater (stormwater) will be released into the environment in accordance with relevant RPC permitted activities rules. As such, I consider that adverse effects on water quality and ecological values as a result of ongoing occupation of the CMCA will be less than minor.

6.5 Effects on Cultural Uses and Values

The proposed structures and activities are located within the Otago Coastal Marine Area/Te Tai o Arai Te Uru, which is subject to a statutory acknowledgement. Known issues as outlined in the Kāi Tahu Natural Resource Management Plan 2005 that may be of relevance to this application include:

- inappropriate siting of moorings and structures;
- tourism activities and infrastructure;
- the cumulative effect of incremental, uncoordinated land use change and building within the coastal environment; and
- coastal subdivisions and building consents.

There are not expected to be any adverse effects on coastal water quality or ecological values as a result of the proposed activities. Adverse effects on landscape values, natural character, visual amenity, and public accessibility to the CMA, are considered to be minor. To the extent that cultural uses and values align with these considerations, I would consider that adverse effects on cultural uses and values are likely to be minor.

However, I acknowledge that it is for mana whenua to determine and assess the cultural effects of activities. I consider it appropriate that their views are sought in relation to this situation given that this is, to the best of my knowledge, the first application received for residential activity within the Otago Coastal Marine Area/Te Tai o Arai Te Uru.

As required by s62 of the Marine and Coastal Area (Takutai Moana) Act 2011, the Applicant notified and sought the views of the relevant Customary Marine Title applicant group, being Ngāi Tahu Whanui, prior to the application being accepted for processing. A response was received from Te Rūnanga o Ngāi Tahu stating that they would support Papatipu Rūnanga in their reply to this application. No further response has been received.

6.6 Cumulative Effects

Adverse cumulative effects can arise due to ongoing impacts of a particular activity or as a result of several similar activities occurring within the same catchment.

The contribution to cumulative effects in relation to coastal water quality or ecological values is expected to be negligible, because the works to alter and extend the current structures will not involve disturbance of the CMA and will not impact water quality.

The proposal does not seek to increase the number of buildings within the area. The increase in size/bulk will increase the proportion of built form within the area to a small extent, but given the footprint of the wharf remains unchanged, the cumulative impact is expected to be less than minor.

The proposed uses of the building may introduce noise, lighting, and movements of a different nature to those typically expected within the CMA at Taieri Mouth. These effects may be adverse on landscape values, natural character, or amenity, as described in section 6.2 of this

report, but are not expected to contribute significantly to cumulative effects given they are of a different nature to the noise and movement typical to the area and may occur at different times of day.

7. Notification

7.1 Section 95A Public Notification

Step 1: Is public notification mandatory as per questions (a) – (c) below?

- (a) Has the applicant requested that the application be publicly notified? **No**
- (b) Is public notification required by Section 95C? **No**
Has further information been requested and not provided within the deadline set by Council? **No**
Has the applicant refused to provide further information? **No**
Has the Council notified the applicant that it wants to commission a report but the applicant does not respond before the deadline to Council's request? **No**
Has the applicant refused to agree to the Council commissioning a report? **No**
- (c) Has the application been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977? **No**

Step 2: Is public notification precluded as per questions (a) – (b) below?

- (a) Is public notification precluded by a rule in the plan or a NES? **No**
- (b) Is the application for one or more of the following activities but no other activities:
- (i) A controlled activity? **No**
 - (ii) *repealed*
 - (iia) A restricted discretionary, discretionary or non-complying activity but only if the activity is a boundary activity? **No**
 - (iii) *repealed*

Step 3: Does the application meet either of the criteria in (a) or (b) below?

- (a) Is the application for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification? **No**
- (b) Will the activity have or be likely to have adverse effects on the environment that are more than minor in accordance with Section 95D? **No**

The adverse environmental effects on the environment from the proposal are discussed in elsewhere of this report. Based on this review, I consider that there will not be more than minor adverse effects on the environment (discounting the site and adjacent sites).

Step 4: Do special circumstances exist in relation to the application that warrant the application being publicly notified? **Yes**

Section 95A (9) of the RMA states that a consent authority must publicly notify an application for resource consent if it considers that 'special circumstances' exist, notwithstanding that the previous steps do not require or preclude public notification.

Special circumstances are not defined in the RMA; however, case law has identified special circumstances as those that are unusual or exceptional, but they may be less than extraordinary or unique. Circumstances which are "special" will be those which make notification desirable, despite the general provisions excluding the need for notification. The consent authority should be satisfied that public notification may elicit additional information on the aspects of the proposal requiring resource consent.

However, special circumstances must be more than:

- where a council has had an indication that people want to make submissions;

- the fact that a large development is proposed;
- the fact that some persons have concerns about a proposal.

I consider that special circumstances exist that warrant the public notification of this application. These circumstances are:

- To the best of my knowledge, this is the first application the Consent Authority has received for residential activity within the Otago Coastal Marine Area/Te Tai o Arai Te Uru. While residential activity, including private use by the Applicant and rented 'Air BnB' style accommodation, is not the only type of activity proposed in this application, it does form a primary part of the proposal. For these reasons, the proposed activity is unusual and exceptional.
- The Regional Plan: Coast for Otago is silent on residential activity within the CMA. There are no specific, rules, objectives, policies, or other guidance that provide an indication that this type of activity was specifically envisaged by the plan. Where an activity is not anticipated by the Regional Plan, and there is no proposed plan change in play to address this type of activity, I consider it appropriate for the wider public to have the opportunity to submit on the matter. Submissions may assist the Council in obtaining additional information in respect of the effects of the proposal.
- There is strong policy direction within the RPC, the Partially Operative and Proposed Otago Regional Policy Statements, as well as in the New Zealand Coastal Policy Statement that structures and activities should only be located within the CMA if there is a functional need for them in this location. There is no functional need for residential activity to occur within the CMA at this location.
- Adverse effects on amenity, public accessibility, and cultural uses and values are likely to be minor. However, in this situation it is difficult or impossible to identify specific affected parties due to the inability to identify those people who use the surrounding CMA and are therefore affected to a minor degree. Accordingly, I consider that public notification, as opposed to limited notification, is appropriate. Again, receiving submissions may assist in obtaining additional information.
- Based on queries received by the Consent Authority requesting information on the consenting requirements for persons to live in boat sheds, residential activity within the CMA is a topic of at least some interest in the region. Should this consent be granted, further applications for residential development, including short-term rented residential activity, within the CMA could reasonably be expected to follow, particularly given the potential financial opportunities presented by rented accommodation. The RPC is ill-equipped to manage the potential cumulative effects that could arise, particularly as this plan does not set limits for occupation of space within the CMCA.

7.2 Section 95B Limited Notification

Given that public notification is recommended in accordance with s95(A)(9) I do not consider that an assessment as to whether the application is to be limited notified is required.

7.3 Other Notifications

In addition to public notification, I recommend that the following parties are directly notified:

- Te Rūnunga o Ngāi Tahu (TRONT) as the entity named in the statutory acknowledgement
- Aukaha on behalf of mana whenua

8. NOTIFICATION RECOMMENDATION:

In accordance with the notification steps set out above, it is recommended that the application proceed on a publicly notified basis.



Shay McDonald
Senior Consents Planner
10 August 2023

DECISION ON NOTIFICATION

Sections 95A to 95G of the Resource Management Act 1991

Date: 10 August 2023

Application No: RM22.550

Subject: *Decision on notification of resource consent application under delegated authority*

Decision under Delegated Authority

The Otago Regional Council decides that this resource consent application is to be processed on a **publicly notified** basis in accordance with sections 95A to 95G of the Resource Management Act 1991.

The above decision adopts the recommendations and reasons outlined in the Notification Recommendation Report above in relation to this application. I have considered the information provided, reasons and recommendations in the above report. I agree with those reasons and adopt them.

This decision is made under delegated authority by:



Alexandra King
Acting Manager Consents