



**Otago Regional Council**

**Section 42A Staff Recommending Report**

Coastal Permit Applications RM17.229.01-02  
By Peter Ronald Graham

Charles Horrell

January 2018

## Executive Summary

Peter Ronald Graham (the applicant) has applied for resource consents to operate a golf 'hole in one challenge' within the Otago Harbour for a term of 25 years.

Application RM17.229.01-03 was jointly notified with Land Use Consent application LUC-2017-408 to Dunedin City Council and 25 submissions were received. After assessing the actual and potential effects of the application and submissions, the recommendation of this report is **to grant the application** subject to recommended consent conditions.

## Administrative Details

File No: RM17.229  
Application No: RM17.229.01-03  
  
Report No: A1069223  
  
Prepared for: Hearing Panel  
  
Prepared by: Charles Horrell, Senior Consents Officer

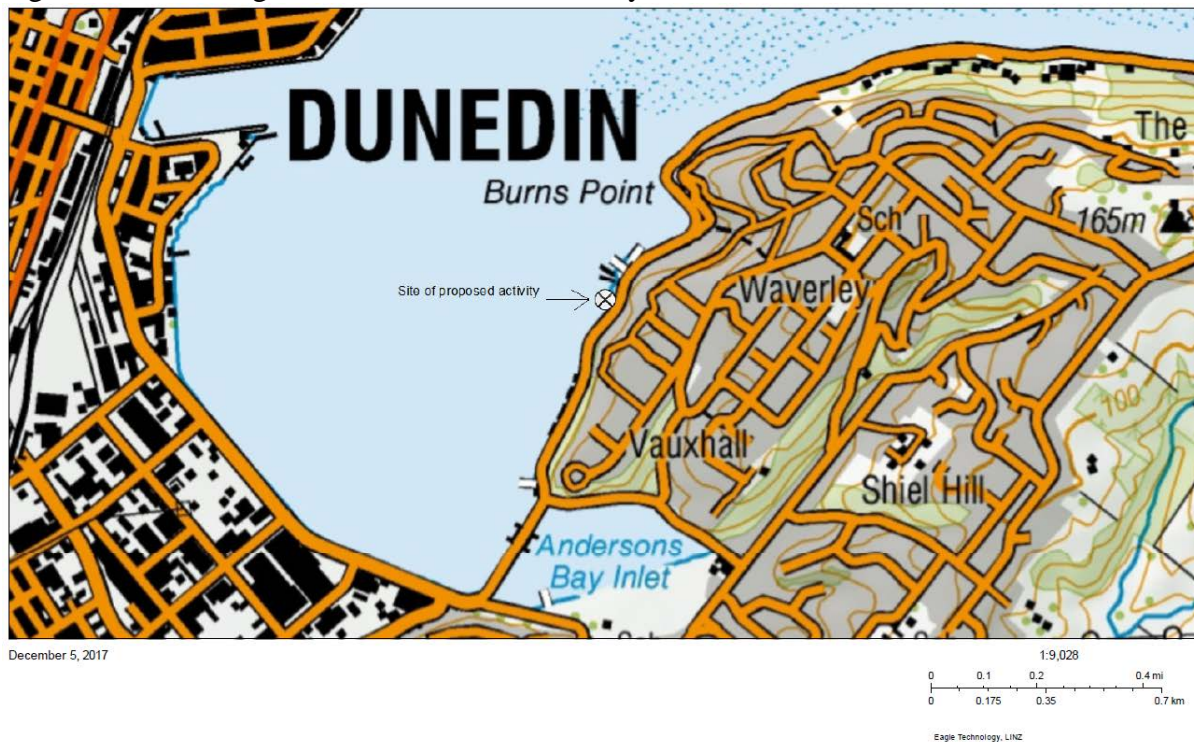
## 1. Purpose

To report and make recommendations on the determination of application RM17.229.01-03 under the notified provisions, Section 95A(2)(b) of the Resource Management Act 1991 (the RMA).

## 2. Background

### 2.1 Introduction

Peter Ronald Graham (the applicant) has applied for resource consent to authorise a golf 'hole in one challenge' within the Otago Harbour. The concept looks to mimic the golf challenge that has operated in Lake Taupo since 1993. The activity would involve the placement of a moored pontoon 95 metres (m) off shore containing a target holes. Golf balls would be struck from the shore with the intention of getting a hole in one. The applicant describes the activity as a low impact tourism activity that will leverage the Dunedin City's existing infrastructure whilst taking advantage of a relatively underutilised part of Otago's Harbour. The proposed location is directly south of the Vauxhall Yacht Club, Dunedin. Figure 1 shows the general location of the activity.

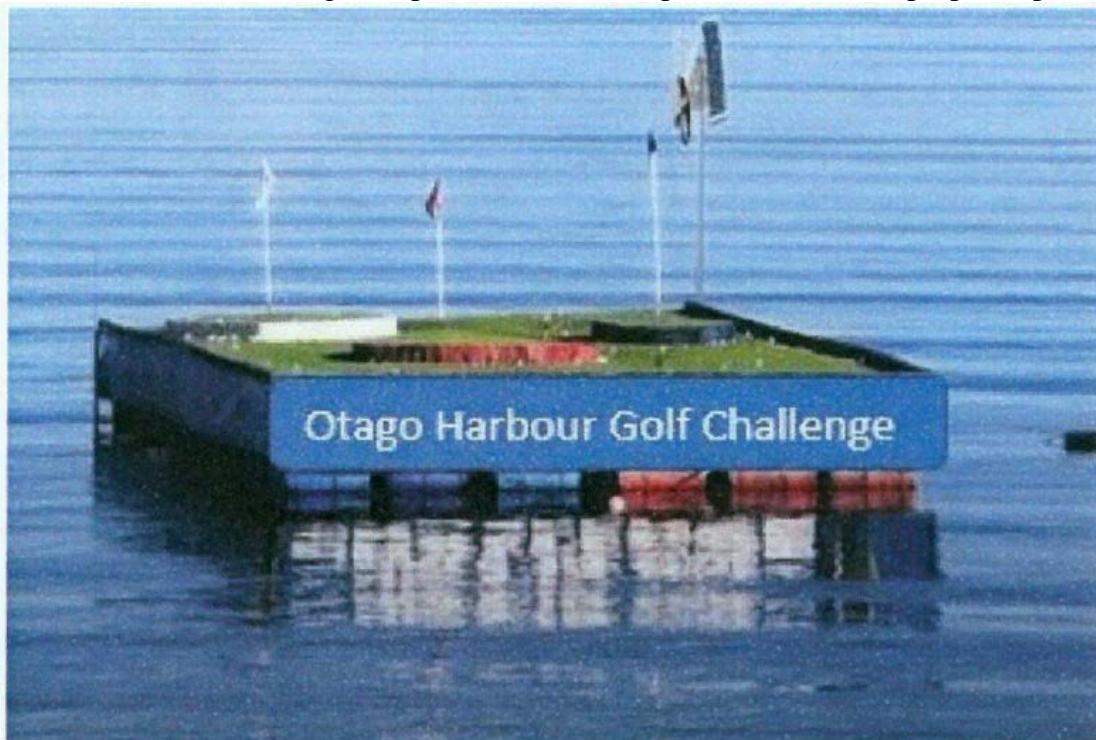


**Figure 1: General location of proposed activity**

In addition to the golfing activity, the applicant intends to serve coffee from a coffee van and provide bike and paddleboat rentals from the site. The applicant has sought land use consent from the Dunedin City Council (DCC) to authorise aspects of the proposal that are in associated with the Dunedin City District Plan.

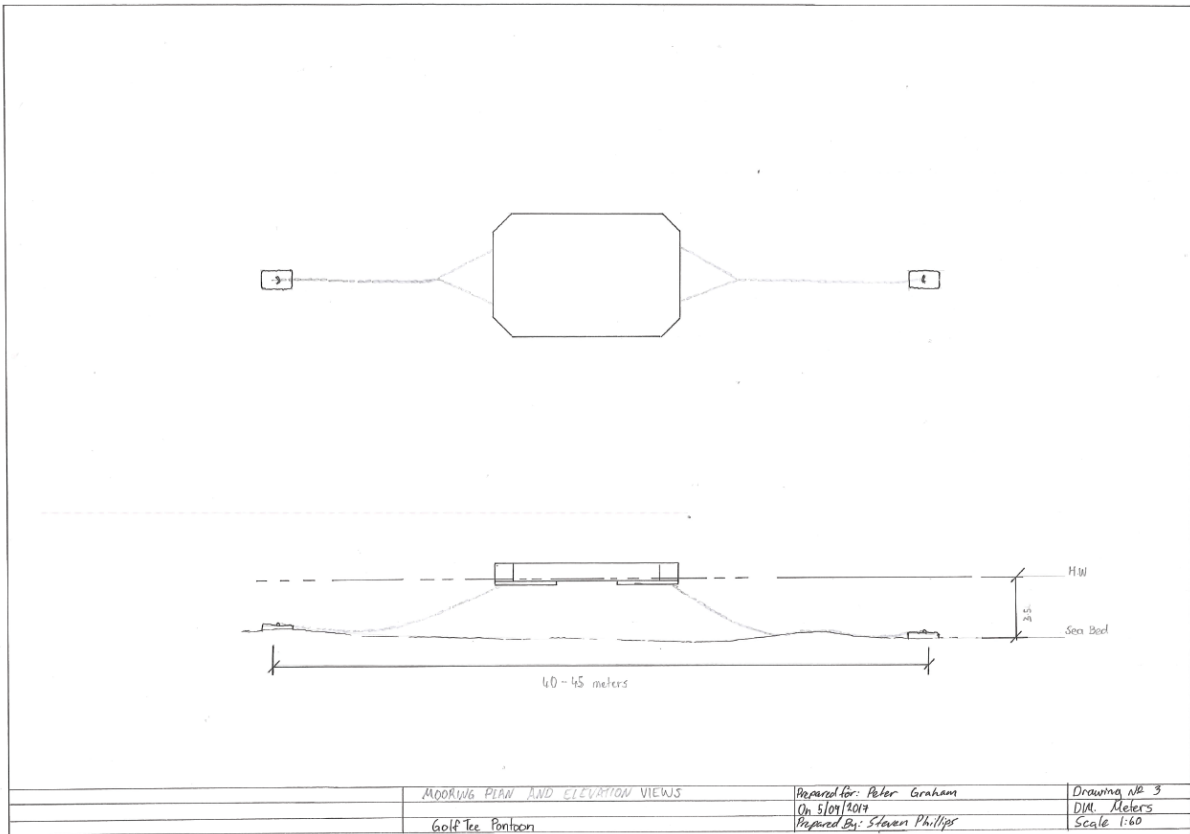
#### 2.1.1 Pontoon

The applicant proposes to place a pontoon 95 m off-shore east of the carpark. The dimensions of the proposed pontoon are 8 metres (m) by 12 m. The proposed height of the pontoon will be between 1.3 to 1.5 metres, this is considered to be sufficient height to avoid swimmers and other water users climbing onto the structure. The structural component of the pontoon will be made up of steel. The bottom pontoon will be lined with PVC tube and the top will be constructed with 21 millimetre plywood platform. In order to increase visibility, the applicant proposes to paint the sides in a reflective light colour and install reflectors on the corners. The platform will have three golf holes of varying degrees of difficulty to sink a gold ball. Three coloured flags are also proposed to indicate the locations of the holes from the shore. The applicant intends the company name displayed on the landward side of the pontoon to be the sole advertisement. Figure 2 provides a visual representation of the proposed pontoon.



**Figure 2: Proposed design of mooring**

The pontoon would be permanently moored in the location and secured by two mooring blocks situated up to 45 m apart with the chains attached to the sides of the pontoon. By securing the pontoon with two mooring blocks, the potential for movement due to tidal processes and wave action will be avoided. Figure 3 below illustrates the design of how the pontoon will be moored.



**Figure 3: Design drawing of how the pontoon will be moored**

Other fixtures on the pontoon include a solar powered camera and lighting if required by the Otago Regional Council Harbour Master.

### *Operation*

The business would be operated from directly below the Vauxhall Yacht Club parking lot, currently used as a grassed area picnic area.

The striking of golf balls would occur within the area indicated in Figure 4 below as “tee off area”, the target being the pontoon located 95 m off shore. As noted above the pontoon has three golf holes with varying degrees of difficulty. Prizes would be awarded to any customers that can successfully strike a ball into one of the holes. The prizes would be proportionate to the difficulty of each golf hole.



**Figure 4: Annotated aerial photograph showing tee off area in relation to pontoon**

The striking area would be approximately 20 square metres (m<sup>2</sup>) in area allowing up to three tee off areas for individuals to strike from at any one time. The ground of the tee off area would have a concrete base and will be covered with synthetic matting. To avoid the potential for an individual slicing a shot and the effect on persons within the margins of the striking zone, the applicant proposes to install 1 m high barriers. The entire striking zone including the tee off pad is removable and will be removed at each close of business day to avoid vandalism and the unauthorised striking of balls.

To ensure no restriction on public access within the Coastal Marine Area (CMA) the applicant intends to employ a ‘spotter’ whose responsibility will be monitoring the individuals striking golf balls and advised when striking is required to cease. Striking would cease if a water user enters the water within the striking zone. The striking zone would include an area where a golf ball may enter when aiming for the pontoon. The applicant has provided an indication of the full extent of this striking zone while taking into account slicing<sup>1</sup> the shots. This area is shown in Figure 5 below.

<sup>1</sup> Slicing a golf shot refers to striking the golf ball on the edge of the golf club causing the golf ball to travel in a sideways direction.



January 25, 2018

1:1,128  
 0 0.0125 0.025 0.05 mi  
 0 0.02 0.04 0.08 km

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**Figure 5: Area of potential striking zone**

The area consists of 1.06 hectares (ha) which would act as the reference area for the spotter to monitor for water uses entering into. The applicant has expressed that the operation would not seek priority over that of other water users. It is noted that the area indicated in Figure 5 would extend to the shore line (where the striking occurs).

Golf balls that enter the Otago Harbour will be retrieved by a certified scuba diver on a weekly basis. The applicant has undertaken testing of the practicality of this retrieval method. Testing consisted of dropping golf balls in a number of locations within the striking zone indicated above, and attempting to retrieve the golf balls twelve days later with a scuba diver. During the interim between depositing the balls and retrieval, a tropical cyclone (Cyclone Debbie) past through Dunedin. Results of the retrieval indicated that neither the cyclone nor the tidal processes of the Otago Harbour caused any particular difficulty with the retrieval, and all golf balls that were placed were retrieved successfully. As part of the retrieval test, the underwater environment was observed and the harbour floor was described as firm sand and rocks. The depth of the water ranged from 0.8 m to 2 m during a mid-tide. The applicant suggests that the firm harbour bed means that there is no risk of golf balls sinking through the bed to become unrecoverable. The applicant notes that the retrieval of the golf balls is essential in ensuring that the operation is profitable.

The applicant proposes that the hours of operation will be limited to daylight hours and could operate for up to 7 days a week.

## 2.2 Site Description

Otago Harbour is a long shallow estuary about 22 kilometres (km) long and almost completely enclosed by Aramoana Spit. The harbour is set between volcanic hills with a

mean width of approximately 2 km and its mouth is only 400 m wide. The proposed site of the activity is within a small inlet at the Peninsula side of the upper harbour. The vicinity of the proposed site is a relatively modified environment. The Vauxhall Yacht Club is located directly adjacent the proposed site, and a number of private boatsheds are located to the south of the site. The bay directly north of the site is a recognised mooring bay in accordance with the Regional Plan Coast for Otago. Currently there are three existing consented moorings in this bay. Figure 6 below illustrates the proposed site in relation to the surrounding environment.



**Figure 6: Annotated aerial photograph of proposed site in relation to existing environment**

The applicant did not provide details of the receiving environment in terms of marine ecology. The upper Otago Harbour inhabits a variety of marine ecology, from cockles to larger mammals such as sea lions and dolphins.

The Regional Plan Coast for Otago (RPC) covers the use, development and protection of Otago’s coastal environment. In considering any activity within or adjacent to any Coastal Development (CDA), Coastal Recreational (CRA), Coastal Protection Area (CPA) and Marine Mammal and Bird sites (MMB) priority shall be given to avoiding adverse effects on the identified values. The CMA affected by this application is identified in the RPC as being a CRA and a CPA. A summary of the values associated with this area are given in Table 1 below. Particular consideration must be given when assessing this applicant to uphold these values.

**Table 1: Summary of identified values within the CMA**



Schedule within RPC	Coastal Area	Values
Schedule 2	CRA 9 Otago Harbour	Boating, Fishing and Walking
Schedule 2	CPA 16 Otago Harbour Seawall	Otago Harbour Rock Walls

### 3. Status of the Application

All activities associated with the proposed applications relate to Section 12 of the RMA and the rules specified in Regional Plan: Coast for Otago (RPC) given the activities occur within the Coastal Marine Area (CMA). The CMA is defined as:

*coastal marine area means the foreshore, seabed, and coastal water, and the air space above the water—*

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5

#### 3.1 Activities

##### 3.1.1 Disturbance of the CMA

Except provided for by Permitted Activity Rules 9.5.3.1, 9.5.3.2, 9.5.3.4 or 9.5.3.5 of the RPC, the disturbance of the CMA is a **discretionary activity** in accordance with either rule 9.5.3.3 or 9.5.3.6. Rule 9.5.3.3 refers to past Restricted Coastal Activity (RCA). RCA's were rules set in coastal plans that relate to activities over a certain scale. If an activity met an RCA, the application required public notification and the decision on the application to be made by the Minister of Conservation. With the introduction of the New Zealand Coastal Policy Statement (2010), RCA's were repealed. Although repealed, the rules still remain as discretionary activities within the RPC and provide an indication of the scale of an activity.

The applicant has applied for the disturbance of the CMA while placing the pontoon and for the associated disturbance while the striking and retrieving of golf balls takes place within the CMA. The activities are not provided for by any of the permitted rules and do not exceed the thresholds specified in Rule 9.5.3.3; therefore the activities are a **discretionary activity** in accordance with Rule 9.5.3.6 of the RPC.

##### 3.1.2 Occupation

Except provided for by permitted activity rules 7.5.1.1, 7.5.1.2 or 7.5.1.4 of the RPC, the occupation of the Common Marine and Coastal Area (CMCA) is a discretionary activity in accordance with either Rule 7.5.1.3 or 7.5.1.5. Rule 7.5.1.3 again refers to a past RCA.

The Common Marine and Coastal Area is defined under Section 9 of the Marine and Coastal Area (Takutau Moana) Act 2011 as:

***common marine and coastal area*** means the marine and coastal area other than—

- (a) *specified freehold land located in that area; and*
- (b) *any area that is owned by the Crown and has the status of any of the following kinds:*
  - (i) *a conservation area within the meaning of section 2(1) of the Conservation Act 1987;*
  - (ii) *a national park within the meaning of section 2 of the National Parks Act 1980;*
  - (iii) *a reserve within the meaning of section 2(1) of the Reserves Act 1977; and*
- (c) *the bed of Te Whaanga Lagoon in the Chatham Islands*

Given the area of occupation in relation to this application is also within the CMA, for the purposes of this report all references to occupation will be within the CMA rather than the Common Marine and Coastal Area. Occupation of the CMCA refers to the restriction or exclusion of other persons to the parts of all of the CMCA.

The applicant has applied for the exclusive occupation of the CMCA within the footprint of the pontoon. The applicant did not apply for the temporary occupation during the CMCA within the striking zone as they did not consider that the activity would restrict public access. However, Council determines that although the ‘spotter’ will ensure that priority is given to other persons using the CMCA, it is inevitable that the activity will cause a degree of public restriction within the margins of the striking zone. This is the restriction during the operation of golf balls entering the Harbour and the associated avoidance by other water users. This avoidance would be due to the discouragement through the potential of injury while entering the striking zone.

The restriction and exclusion of the coastal marine area within the striking zone and the footprint of the pontoon are not provided for in any of the permitted activity rules and do not exceed the thresholds specified in Rule 7.5.1.3; therefore the activities are a ***discretionary activity*** in accordance with Rule 7.5.1.5 of the RPC.

### *3.1.3 Structure*

Except provided for by Permitted Activity Rules 8.5.1.1, 8.5.1.2, 8.5.1.3, 8.5.1.5, 8.5.1.6 or 8.5.1.7 of the RPC the placement of a structure within the CMA is a restricted discretionary activity in accordance with Rule 8.5.1.8, or a discretionary activity in accordance with either Rules 8.5.1.4, 8.5.1.9 or 9.5.1.10. Rule 8.5.1.4 refers to an historic RCA rule. Restricted Discretionary Rule 8.5.1.8 and Discretionary Rule 8.5.1.9 refer to activities related to Port Otago’s operation and the placement of signs and other structures that assist with the port facilities. The placement of a structure differs from the occupation of a structure in that the placement only considers the short term effects of placing the structure, whereas the occupation is the long term.

The applicant has applied to place the pontoon structure along with the associated mooring system. The activity is not provided for by any of the permitted activity rules, it does not exceed the thresholds specified in Rule 8.5.1.4 and is not associated with the operation of the port; therefore is a ***discretionary activity*** in accordance with Rule 9.5.1.10 of the RPC.

A swing mooring can be applied for in accordance with Discretionary Rule 8.5.1.10 of the RPC. When assessing a swing mooring Council may only assess the occupation and disturbance of the mooring system given a vessel is not considered a structure. As the pontoon is not a vessel and meets the definition of a structure, consideration must be given to the placement of the entire structure including the mooring system and pontoon.

#### 3.1.4 Overall Activity Status and proposed applications

Overall the proposal has been assessed as a **discretionary activity**. Council may grant or decline the application for resource consents and, if granted, may impose conditions in accordance with Section 108 of the RMA.

The proposed applications are as follows:

**Coastal Permit Application RM17.229.01:** To disturb and place a pontoon structure within the Coastal Marine Area for the purpose of operating a commercial golfing activity

**Coastal Permit Application RM17.229.02:** To occupy the Coastal Marine Area with a floating pontoon for the purpose of operating a commercial golfing activity

**Coastal Permit Application RM17.229.03:** To occupy and disturb the Coastal Marine Area while striking and recovering golf balls within the Otago Harbour for the purpose of operating a commercial golfing activity

### 3.2 Activities not requiring Consent

The applicant has not applied for a discharge permit to discharge golf balls to the CMA.

The applicant proposes to use non-toxic golf balls made up of a rubber composition with a small amount of zinc within the core. The applicant referenced research that has been undertaken into adverse effects of golf balls on aquatic fauna, flora and sediment. Studies have shown no evidence of adverse effects; particular reference is given to Professor Robert Weiss who studied effects of golfballs within Loch Ness in which Professor Weiss concluded that the zinc within the golf ball would not be displaced in water given water is not acidic enough to do so.

With the proposed retrieval system, the applicant intends to retrieve all golf balls that enter the CMA. The RPC contains no permitted activity rules applicable to this operation. The discharge of 'litter' to the CMA is a prohibited activity in accordance with Rule 10.5.1.1. The definition of litter is as follows:

*Litter* Includes any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, stones, earth, or waste matter, or any other thing of a like nature.

Golf balls are not refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, stones or earth. The definition for waste is:

*Waste* Any contaminant, whether liquid, solid, gaseous, or radioactive, which is discharged, emitted, or deposited into the environment in such a volume, constituency or manner as to cause an adverse effect on the environment and which includes all unwanted and economically unusable by-products at any given place and time, and any other matter which may be discharged, accidentally or otherwise, to the environment.

Golf balls meet the definition of waste if they are discharged in such a volume as to cause an adverse effect on the environment. The temporary discharge from the time the golf ball enters the harbour to when they are collected will cause a negligible effect on the environment given the golf balls are non-toxic and are unlikely to break down. The applicant intends to collect all the balls that enter the CMA. If a small number are not retrieved the effect is still likely to be negligible, adverse effects would only be concerning if the discharge was to become “litter” as per the definitions above. Overall the proposed discharge of golf balls is considered *de minimis* and will not be considered further in this report. The applicant will need to ensure an efficient golf ball retrieval system to avoid meeting prohibited activity Rule 10.5.1.1 and potential compliance action.

Permitted Activity Rule 8.5.2.3 of the RPC allows for the maintenance and replacement of a structure:

- 8.5.2.3** The maintenance, alteration, replacement or reconstruction of a structure, or part of the structure outside a Coastal Development Area, that is fixed in, on, under, or over any foreshore or seabed, other than as specified in rule 8.5.2.1 or 8.5.2.2 is a *permitted* activity provided:
- (a) It does not result in a change to the overall dimensions or outline of the structure; and
  - (b) The disturbance of the foreshore or seabed is confined to within the perimeter of the structure, and after completing the activity the foreshore or seabed is smoothed over to leave a depression no deeper than 0.5 metres; and
  - (c) As far as is practicable the work on the structure results in the structure blending in with the character of the adjoining landscape.

The applicant intends to maintain the pontoon and undertake regular inspections. The applicant may remove the pontoon and mooring system and replace it in accordance with the above rule.

#### **4. Public Notification and Submissions**

The applicant has requested that the applications be publicly notified due to the potential public interest associated with the activity.

Prior to notifying the application the applicant sought and obtained the unconditional written approvals from the following parties:

- Vauxhall Yacht Club
- Richard Grant Paterson (owner and occupier of 137 and 139 Portobello Road)

In accordance with Section 104(3)(c)(ii) of the RMA, effects of these parties shall not be considered.

The applicant also obtained the conditional written approval of Kai Tahu ki Otago on behalf of the local runanga, however given the applicant did not accept all conditions of the approval it cannot be accepted as unconditional in accordance with Section 95E(a) of the RMA.

The applications were notified jointly with Dunedin City Council (DCC) for the proposed Land Use Consent application.

The applications were publicly notified on 30 September 2017 and by the close of the submission period 23 submissions had been received for either the Coastal Permit applications and/or the Land Use application. An additional 2 submission were received after the close of submission, and after consideration the submissions were accepted by Council. A tally of the submissions received along with their category is given below.

**Table 1 Submitter Category and number**

Submitter Category	Request to be Heard	Request not to be heard	Total
Support	-	7	7
Neutral	-	3	3
Oppose	6	9	15
<b>Total</b>	<b>6</b>	<b>19</b>	<b>25</b>

A number of submissions were lodged only to the DCC for the Land Use Consent application, however discussed aspects of the Coastal Permit applications within their submissions. These submitters were contacted and asked if the submission can be considered jointly. Although not all responded I will discuss each submission in detail below:

#### **4.1 Submissions**

##### **4.1.1 Submissions in support**

*Claas Damken.*

Mr Damken did not request to be heard in support of his submission

The submission relates to two aspects of the applications: One being the number and location of proposed road signage; the second in relation to the risk that the floating pontoon may form a resting platform for sea birds. The submitter suggested that the applicant install a bird scaring devise to avoid birds perching. The submitter supports the granting of all proposed applications subject to changes to the number and location of road signage.

The number and locations of proposed road signage will be addressed by the DCC report writer as this is a matter that relates to the Land Use Consent.

Further discussion of the effects on marine birds is given in Section 4.2 and 5.3 of this report.

*Richard Joseph.*

Mr Joseph did not request to be heard in support of his submission.

The submission stated that the proposal will inject vibrancy into an underutilised part of the harbour. The submitter discussed the positive effects of the application and requested that all proposed applications are granted.

A discussion of the positive effects of the applications are given in Section 5.5 of this report.

*Durham Rewa Throp*

Mr Throp did not request to be heard in support of his submission.

The submission related to the number and location of signage and the hours of operation. The submitter stated that the hours of operation should be limited to 9 am to 6pm. This will ensure that noise and associated disturbance to the neighbouring residential properties is mitigated.

The number and locations of proposed road signage will be considered by the DCC report writer as this is a matter that relates to the Land Use Consent.

A discussion of the hours of operation is given in Section 5.1.2 of this consent.

*Gregory Batchelor*

Mr Batchelor did not request to be heard in support of his submission.

The submission stated that the proposal will promote tourism in Dunedin. He also noted that the applicant has been thorough in avoiding and mitigating potential effects to health and safety. The submitter has requested that all proposed applications are granted.

The positive effects of the application are discussed in Section 5.5 of this report and consideration has been given to activity promoting tourism.

Health and safety is discussed in Section 5.1.2 of this report.

*Peter Barton – on behalf of the Ravensbourne Boating Club*

Mr Barton did not request to be heard in support of his submission.

Mr Barton, as the Secretary of the Ravensbourne Boating Club (RBC), advised in his submission that the RBC supports the activity. The submitter discussed the positive effects that the proposal will bring to the section of the harbour and noted that there was no concern for access to the section of the CMA or safety with the proposed measures the applicant will take to avoid effects on other water users. The submitter has requested that all proposed applications are granted.

Positive effects are discussed in Section 5.5 of this report.

*Garth Nicholas Christensen*

Mr Christensen did not request to be heard in support of his submission.

The submission stated that the proposal is highly desirable and will be good for Dunedin and the community. The submitter has requested that all proposed applications are granted.

Positive effects are discussed in Section 5.5 of this report.

*Alan Todd*

Mr Todd did not request to be heard in support of his submission.

The submission stated that the proposal would promote tourism. Mr Todd has requested that all proposed applications are granted.

Positive effects are discussed in Section 5.5 of this report.

#### ***4.1.2 Submissions that are Neutral***

##### *Glen Sinclair*

Mr Sinclair did not request to be heard in support of his submission.

The submitter stated that he supports the operation of the sports hire and the coffee van however opposes the hole in one challenge. The submitter noted that the activity is inconsistent with the current use of the Otago Harbour at the location. The submitter has requested that the applications for the hole in one challenge be refused however other aspects of the applications be granted.

The proposed use of the harbour at location is discussed within Section 5.7 of this report.

##### *Otago University Rowing Club (OURC)*

The OURC did not request to be heard in support of their submission.

The submission opposes the permanent occupation of the moored pontoon as it creates an obstruction within the submitter's training area. The submitter has requested that the applications for the placement and occupation of the pontoon be declined however support the proposed water sports hire and the coffee van.

Effects of the occupation of the pontoon towards other CMA users is discussed in Section 5.1.1 of this report.

##### *Te Rūnanga o Ōtākou*

Te Rūnanga o Ōtākou did not request to be heard in support of their submission.

The submission discussed the cultural significance of the Otago Harbour and the potential threat that the applications pose.

Te Rūnanga o Ōtākou noted that if the consent is to be granted, that the following conditions of consent are implemented:

- a. That all practical measures are undertaken to minimise the risk of contamination and sedimentation of the Otago Harbour.
- b. That bed disturbance is limited to the extent necessary to carry out the works.
- c. That a management plan is prepared that specifies how the golf balls are to be recovered, and the frequency of recovery.
- d. That a review of the resource consent is undertaken every 2 years including, but not limited to, review of the effectiveness of the management plan; any advances in the composition of golf balls; and the overall operation of the commercial activity.
- e. That if any adverse effects are detected within the Otago Harbour this commercial activity should cease immediately, and appropriate mitigation measures should be undertaken.
- f. That new low toxicity golf balls are used for the commercial activity at all times, no recycled golf balls, or those golf balls retrieved from the Otago Harbour, are to be used.

- g. That all due care and respect is taken in and around the Memorial for the Māori Prisoners from Taranaki located at the Vauxhall Yacht Club grounds.

It is recommended that conditions a-c are implemented as conditions of consent. It is noted that these are standardised mitigation conditions that Council would also require.

In regards to condition d, a review clause in accordance with Sections 128 and 129 has been recommended and is discussed further in Section 5.6 of this report. It is however noted that the review of the clause only relates to aspects of the activities that have been applied for. As a discharge permit has not been applied for nor is it currently required, the review cannot consider the composition of golf balls. All other aspects of proposed condition d can be considered.

Condition e cannot be placed as a condition of consent as it reads. There is anticipated to be an adverse effect on the Otago Harbour, however this adverse effect is not considered to be no more than minor (refer to Section 5 of this report). The condition states any adverse effect, which in my opinion is unreasonable. It is likely that the intent of this condition is a more than minor adverse effect detected within Otago Harbour; if this is the case, the review clause described in Section 5.6 of this report will allow Council to review the Coastal Permits to require the applicant to cease the activity and/or to implement appropriate mitigation conditions.

Given there was confusion around the interpretation of condition f, Te Rūnanga o Ōtākou were contacted to further discuss the intent of the condition. They confirmed that the condition should read “new low toxicity golf balls are to be used for the commercial activity; no recycled golf balls or other golf balls found in the Otago Harbour are to be used for the commercial activity”. The golf balls found in the Otago Harbour refers to those that have entered from another source. The effect that is of concern is the potential for contamination to the harbour. Provided the applicant is to use non-toxic golf balls that are free from any cracks or abrasions, the potential for contamination is minimised. A condition to this effect is recommended.

Condition g relates to the Land Use Consent and will be considered by the DCC report writer.

#### ***4.1.3 Submissions in opposition***

*Haley and Johnny Van Leeuwen*

Mr and Mrs Van Leeuwen wish to be heard in support of their submission.

The submission related to the adverse effects on the visual amenity caused by the occupation of the pontoon; noise generated by wave movement against the pontoon; and noise generated by the operation of the hole in one challenge.

The visual amenity effects have been considered in Section 5.2 of this report.

Noise is a matter that the DCC report writer will address.

*Tracy Hudson*

Ms Hudson wishes to be heard in support of her submission.



The submission raised concerns relating to the noise generated from the activity on residential dwellings; the increased traffic; and the adverse effects towards marine wildlife from the discharge of the golf balls and the occupation of the pontoon.

Noise and traffic will be discussed by the DCC report writer.

A discussion of the adverse effects on marine birds is given in Section 5.3 of this report.

#### *Otago Rowing Club*

The Otago Rowing Club wish to be heard in support of their submission.

The submission states that the proposed position of the pontoon is within the submitter's established rowing channel and will pose a potential hazard to other water users. Concerns were also raised in relation to the proposed kayak hire, noting that inexperienced kayakers may cause collisions and harm to others.

The discussion of the occupation of the CMA with the pontoon is given in Section 5.1.1 of this report.

In regards to the concerns relating to the proposed kayak hire, this is not an activity that is managed by the Regional Council. Council's Harbourmaster advised that the applicant will require authorisation for Maritime New Zealand (MNZ) to operate the commercial activity. During this authorisation, Council's Harbourmaster will provide comment to ensure safe navigation in the Upper Harbour.

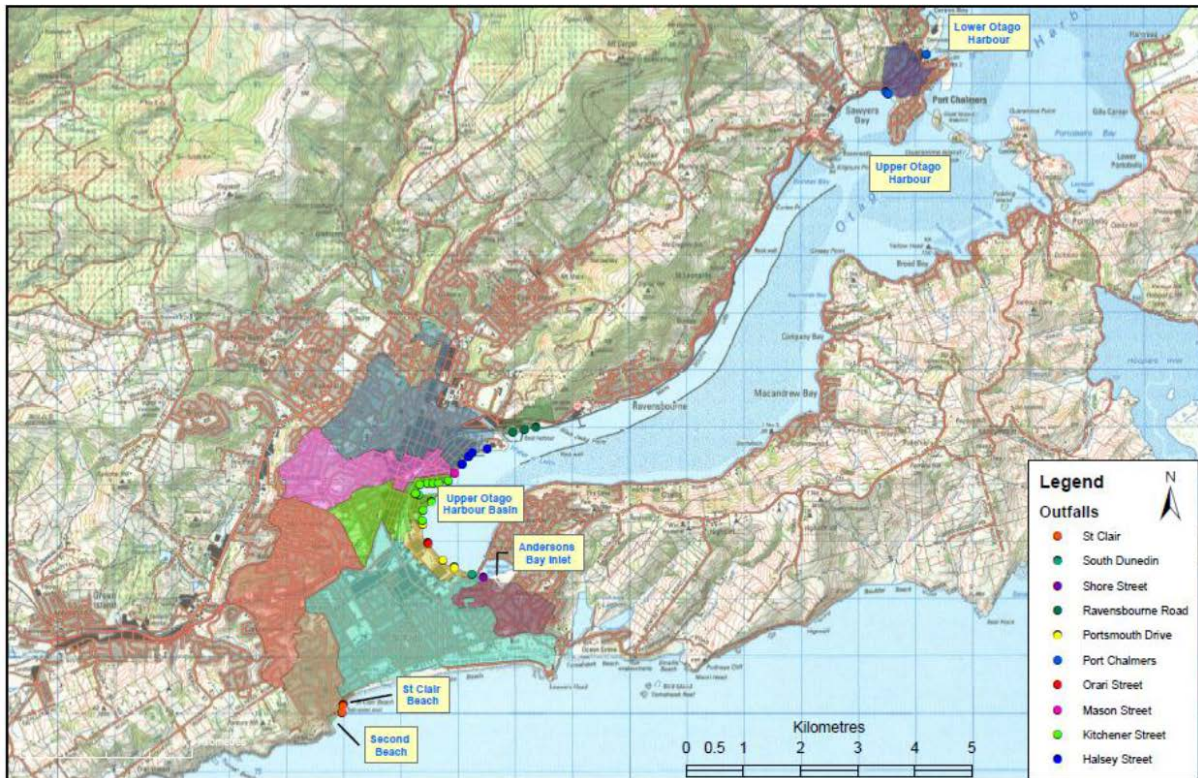
#### *Save The Otago Peninsula (STOP)*

STOP wish to be heard in support of their submission.

The submission raised concerns that marine birds may be adversely affected by the operation. It was noted that shags currently roost on the adjacent jetty. The submitter also referenced that the applicant had provided no environmental report on the marine wildlife in the area. Concerns have also been raised that if golf balls are to be removed from floor of the harbour, this may mobilise heavy metals beneath the immediate surface of the harbour floor. The submitter referred to the stormwater discharges from industrial uses in South Dunedin as the source. STOP have requested that Council investigate if some of the heavy metals flushed were deposited in this area. The decision of the applications sought by STOP is that Coastal Permits relating to the Golf Hole in One Challenge are declined.

A discussion of the adverse effects on marine birds is given in Section 5.3 of this report. As noted in Section 2 of this report the applicant did not go into specific detail of the receiving environment in terms of marine ecology. Council has relied upon the input from Department of Conservation in relation to adverse effects towards marine ecology. Comment from Department of Conservation is discussed in Section 4.2 of this report.

In relation to the potential for mobilisation of heavy metals from stormwater discharges, STOP refer to the discharges from the outfalls into the lower harbour authorised by Discharge Permits RM11.313.01-10 and held by Dunedin City Council. Figure 7 shows the locations of these outfalls.



**Figure 7: Locations of stormwater outfall pipes authorised by Discharge Permits RM11.313.01-10**

The South Dunedin stormwater discharges that STOP refer to are reticulated into the South Dunedin outfall.

The consent holder is responsible for undertaking representative samples of sediment adjacent to the outfalls. If heavy metal concentrations are found to be continuously elevated and pose as a health hazard, Council may review the Discharge Permits in accordance with Section 128 and 129 of the RMA with the intention of ensuring conditions of consent are adequate to deal with the effect. The striking zone indicated by the applicant is approximately 1 km from the South Dunedin outfall. It is unlikely that elevated levels of heavy metals would be dispersed this distance. Further to this, the disturbance is considered minor and inconsequential in comparison to the disturbance that occurs during times of low tide and high wind in the upper harbour. Council’s compliance unit have been advised of the suggestion to investigate further.

*Craig William Latta*

Mr Latta wishes to be heard in support of his submission.

The submission raised concerns that the activity would lead to additional litter entering the Otago Harbour. The submitter questioned the effectiveness of the proposed golf ball retrieval noting that the harbour is a dynamic environment and golf balls can easily be moved around. Concern was raised that uncontrolled behaviour may lead to injury. This instance would occur after the operation has closed and the “spotter” is no longer restricting when individuals may strike. The submitter also noted that although the applicant proposes to cease striking while water users are passing, there will still be a direct adverse effect on users given they

will be discouraged from entering the striking zone with fear of being endured. Further to this, the submitter raises concerns that the occupation of the pontoon and restriction on access through the striking area may adversely affect water users in particular windsurfers and kite boarders who would be moving at an accelerated rate. Concerns were raised in relation to potential adverse effects on marine wildlife in particular around the potential for golf balls to strike marine mammals. The submitter has requested that the applications be declined.

Mr Latta's submission was received at Council 2 November 2017, four statutory days after the close of submissions. The submission was considered by Council, including the reason the submission was lodged late, and has been accepted as a late submission.

In regards to the submitters concerns relating to golf balls causing additional litter to the upper harbour, as discussed in Section 3.1 of this report, the discharge of golf balls to the harbour is not considered "litter" due to the proposed retrieval procedure. However, if the retrieval process isn't as effective as proposed the discharge would be considered "litter" and as a prohibited activity the applicant may face enforcement action.

Uncontrolled behaviour as referenced by the submitter is outside the scope of these applications. These applications are to operate during the proposed hours of operation; the applicant is not responsible for individual's behaviour out of their control.

Council agree with the submitters concerns that the operation may discourage water users entering the striking zone due to fear of injury. The applicant has proposed a procedure to cease striking when a water user enters the striking zone which will avoid and mitigate effects toward access, however these effects cannot fully be avoided. It is noted that if effects were completely avoided, a Coastal Permit for the temporary occupation of the CMA as described in Section 3 of this report would not be required. Further discussion of the effects on public access to the CMA including a discussion regarding the speed in which some water users may approach the striking zone is given in Section 5.1.1 of this report.

A discussion of the effects towards marine wildlife is given in Section 5.3 of this report.

*Lyndon Lawrence Weggery*

Mr Weggery wishes to be heard in support of his submission.

The submission raised concerns that the pontoon would adversely affect the visual amenity of the surrounding environment. Concerns also raised in relation to the adverse effect on recreational users in particular individuals who walk along the margins of the harbour. The submitter also noted that there is potential threat to marine wildlife. The submitter has requested that the applications be declined.

The visual amenity effects have been considered in Section 5.2 of this report.

Effects on recreational users within the CMA is given in Section 5.1.2 of this report, the DCC report writer will address effects to recreational users out of the CMA.

A discussion of the effects towards marine wildlife is given in Section 5.3 of this report.

*Adam Cullen*

Mr Cullen did not request to be heard in support of his submission.

The submission raised a number of concerns including:

- Visual amenity effects of signage and pontoon;
- Hours of operation given close proximity to residential dwellings;
- Insufficient car park space;
- Noise generated, in particular outside of typical working hours (9am – 5pm);
- Sufficient and informative signage should be required;
- Potential issues with the function of the carpark area, including having sufficient “drive through” room;
- Effectiveness of the proposed “spotter” procedure;
- Potential for unruly and/or intoxicated individuals to arrive at the site.

The submitter noted that the proposed site is not appropriate for the activities. Alternative sites are suggested for the activities: For the kayak hire and coffee/food van, the submitter has suggested the north side of the carpark, above the Vauxhall yacht club. For the golf hole in one challenge, Mr Cullen has suggested that they activity may be best suited adjacent the “molars” located on Portsmouth Drive. The submitter has requested that the application be declined at the proposed site.

A number of issues raised by the submitter relate to the proposed Land Use Consent and will be addressed by the DCC report writer.

The visual amenity effects of the pontoon have been considered in Section 5.2 of this report.

The effectiveness of the “spotter” procedure is discussed in Section 5.1.2 of this report.

In relation to the suggestion that the proposed site be changed to adjacent the molars, a discussion of the consideration of alternatives is given in Section 5.7 of this report .

All other matters raised by the submitter will be addressed by the DCC report writer.

*Brenda Jeanette Leigh*

Ms Leigh did not request to be heard in support of her submission.

The submission raised concerns that the operation of would cause adverse effects towards marine wildlife; the safety of other recreational users; the visual amenity of the area; and cause excessive mobilisation during the proposed disturbance of the harbour floor. The submitter did not oppose the operation of the kayak hire business, however did raise concerns in relation to health and safety with inexperienced kayakers. The submitter has request that all applications relating to the golf hole in one challenge be declined.

A discussion of the effects towards marine wildlife is given in Section 5.3 of this report.

The visual amenity effects of the pontoon have been considered in Section 5.2 of this report.

Effects on recreational users within the CMA is given in Section 5.1.2 of this report, the DCC report writer will address effects to recreational users out of the CMA.

Health and safety concerns relating to the kayak business is outside the scope of these applications, however as noted above the applicant will require authorisation from MNZ where this will be considered.

*Patricia McNaughton*

Ms McNaughton did not wish to be heard in support of her submission.

The submission raised concerns that the proposal would lead to additional litter entering the coastal marine area. The submitter also doubted the effectiveness of the proposed retrieval procedure noting that the area is too large to cover by a scuba diver. The submitter has requested that the applications be declined.

As discussed in Section 3.2, a discharge permit has not been applied for therefore matters relating to the discharge are outside the scope of these applications.

*Quentin and Michael Furlong*

Quentin and Michael Furlong did not request to be heard in support of their submission.

The submission raised concerns in relation to the effect of the visual amenity, in particular the occupation of the pontoon. It was noted that the activity is inconsistent with Dunedin's ecotourism reputation. The submitter has requested that the application be declined.

The visual amenity effects of the pontoon have been considered in Section 5.2 of this report.

*Craig McEwan*

Mr McEwan did not request to be heard in support of his submission.

The submission raised concerns that the activity will highly modify the natural environment. The submitter referenced the applicant's comparison to the Taupo Hole in One Challenge and noted that they are not like for like given the existing environment with the proposed site is more sensitive. Concerns have been raised in relation to noise generated by the activity. The submitter questioned the source of the power supply and if a generator would be used which may cause additional noise that may not have been considered. The submitter objected to the use of commercial signage in the area and raised concerns of the potential effect of distraction of drivers. Concerns are raised in relation to adverse effects from the operation towards recreational users, both within the CMA and on land. The submitter noted that the Anderson Bay Sea Scouts and the Vauxhall Yacht Club regularly pass through the striking zone and will be directly affected. The submitter noted that the operation will restrict future swing moorings to be moored within the affected area. The submitter raised doubts to the effectiveness of the proposed retrieval procedure. The submitter has requested that the applications be declined.

Effect on the natural character of the site and the appropriateness of the site is given in Section 5.7 of this report.

Noise and signage are matters that the DCC report writer will address.

Effects on recreational users within the CMA is discussed in Section 5.1.2 of this report, the DCC report writer will address effects to recreational users out of the CMA.

Effects of the future placement of swing moorings within the striking zone is discussed in Section 5.1.2 of this report.

The retrieval procedure is discussed in Section 3.1 of this report and the discharge of litter to the harbour is not within the scope of the applications.

*Erin Anson*

Ms Anson did not request to be heard in support of her submission.

The submission noted that the activity is an inappropriate use of the Otago Harbour at its location and would affect the current use of the area. Concerns were raised with the potential pollution caused by the deposit of golf balls into Otago Harbour. The submitter objected to the occupation of the pontoon and raised concerns that it would affect the visual amenity of the site. Concerns over traffic and associated safety have been raised.

The appropriateness of the proposed site is a discussed in the consideration of alternatives within Section 5.7 of this report.

As discussed in Section 3.1, a discharge permit has not been applied for therefore matters relating to the discharge are outside the scope of these applications.

The visual amenity effects of the pontoon have been considered in Section 5.2 of this report.

Traffic will be addressed by the DCC report writer.

*Paul Van Kampen*

Mr Van Kampen did not request to be heard in support of this submission.

The submission raised concerns in regarding the adverse effects relating to the visual impact of the pontoon; pollution to the harbour from the golf balls; and the impact on recreational CMA users within the striking zone.

The visual amenity effects of the pontoon have been considered in Section 5.2 of this report.

As discussed in Section 3.1, a discharge permit has not been applied for therefore matters relating to the discharge are outside the scope of these applications.

Effects on recreational users within the CMA is discussed in Section 5.1.2 of this report.

*Theo and Lorna Van Kampen*

Theo and Lorna Van Kampen did not request to be heard in support of their submission.

The submission raised concerns regarding the adverse effects relating to the visual impact of the pontoon; pollution to the harbour from the golf balls; and the impact on recreational CMA users within the striking zone.

The visual amenity effects of the pontoon have been considered in Section 5.2 of this report.

As discussed in Section 3.1, a discharge permit has not been applied for therefore matters relating to the discharge are outside the scope of these applications.

Effects on recreational users within the CMA is discussed in Section 5.1.2 of this report.

*Jennifer Macdiarmid*

Ms Macdiarmid did not request to be heard in support of her submission.

The submission raised concerns in regarding the adverse effects towards the water users within the proposed striking zone. The submitter noted that although the applicant has proposed the “spotter”, water users will still be adversely affected through discouragement of entering the striking zone. Concerns were raised that activity would restrict any future swing moorings to be placed in the affected area. The submitter questioned the effectiveness of the proposed golf ball retrieval procedure and raised concerns that this would lead to additional litter to enter the Otago Harbour. Concerns have been raised in relation to the noise generated by the activity, in particular due to the individuals who may be attracted to the activity (e.g. stag parties).

Effects on recreational users within the CMA is discussed in Section 5.1.2 of this report.

As discussed in Section 3.1, a discharge permit has not been applied for therefore matters relating to the discharge are outside the scope of these applications.

Effects of the future placement of swing moorings within the striking zone is discussed in Section 5.1.2 of this report.

Noise will be addressed by the DCC report writer.

#### **4.2 Department of Conservation**

During the notification period, Department of Conservation (DOC) contacted the applicant and Council to raise concerns associated with the applications. Concerns relating to the proposal were the potential effects on marine birds and mammals. The adverse effect would be the potential for a golf ball to strike and injure a marine bird or mammal. DOC advised that there is potential for the birds to perch on the pontoon causing an elevated risk for potential harm. In order to mitigate and avoid adverse effects on marine bird and mammals, DOC requested that the following conditions and notes to be accepted by the applicant:

##### *Land Use Consents*

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

##### *Coastal Permits*

3. The Consent Holder shall investigate options to provide for effective bird deterrence for the pontoon and implement appropriate best practicable option bird deterrence devices within one month of giving effect to the consent.

Notes:

1. “Temporary occupation area” means the area identified by the applicant in figure 1 dated 15th September in their section 92 request
2. This activity requires a consent under the Wildlife Act as it involves disturbance of protected Wildlife. Please contact Craig Leach from the Dunedin Office of DOC to further this matter.

The applicant accepted the above conditions and subsequently has amended their application to propose the conditions, and as a result DOC did not submit on the applications.

The proposed conditions for the “Land Use Consent” should be placed on the Coastal Permit RM17.229.03 to occupy and disturb the CMA while striking and retrieving golf balls. In order to ensure that the Conditions are enforceable it is recommended that if the proposed conditions are implemented on the Coastal Permit as a requirement of the operations and management plan. The applicant should also be required to provide evidence of compliance via annual report.

In regards to proposed note 1, Council would recommend that this should be implemented as a condition of consent rather than a note.

Condition 3 and note 2 are appropriate and can be implemented on the Coastal Permits.

#### **4.3 Other Notifications**

As the work is proposed to occur in a Statutory Acknowledgement Area, pursuant to the Ngai Tahu Claims Settlement Act 1998, Te Runanga o Ngai Tahu (TRONT) was advised on 21 August 2017 of the application. TRONT did not comment within 10 working days, therefore the application proceeded.

Maritime New Zealand (MNZ) was sent a copy of the application on 21 August 2017 as the proposed activity fell within the criteria outlined in Section 89A of the Act. MNZ did not comment within 15 working days, therefore the application proceeded.

#### **4.4 Pre-hearing Meeting**

No pre-hearing meeting in accordance with Section 99 of the Resource Management Act was held.

### **5. Assessment of Environmental Effects**

An assessment of the potential environmental effects of this proposal has been undertaken by Beca Associates Limited (Beca) on behalf of the applicant. Beca have provided this assessment as a planning expert, and the applicant did not provide an assessment of the environmental effects from any other expert.

#### **5.1 Occupation of the Common Marine and Coastal Area**

All individuals have the right in access the Common Marine and Coastal Area (CMCA). The proposal will restrict and exclude public access within areas of the CMCA affected by these applications. The Otago Harbour is identified in the RPC as being a Coastal Recreational Area (CRA9). Specific recreational values are listed such as boating, fishing and walking. The main recreational use of the area is understood to be boating. Given the proposal will be



a commercial activity, particular regard needs to be given to retaining the recreational values in the area.

### **5.1.1 Pontoon**

The permanent occupation of the pontoon will cause exclude access to the CMCA within its margins. The pontoon will occupy 96 m<sup>2</sup> of the CMCA. The applicant advised in their Assessment of Environmental Effects that the exclusive zone of occupation is small in comparison to the Otago Harbour and the effect on other recreational users will be minor. The applicant noted that the receiving environment contains few other water users. The applicant worked in correspondence with the Vauxhall Yacht Club as the main user of the area to place the pontoon in an appropriate location as to mitigate effects on their operation.

The applicant states that the pontoon is located within scheduled Mooring Area 7 (MA7) and is therefore within the RPC's vision for Otago Harbour. I disagree with this opinion. The pontoon is not within MA7 rather adjacent it. The intent of the Mooring Areas in the RPC is to define areas for the safe securement of vessels. The pontoon is not a vessel, rather a structure. Although I do not agree with the applicant's statement above, the fact that MA7 is located directly adjacent the proposed site indicates that the area is a modified environment and a pontoon of a similar size and appearance to a vessel does not completely conflict with the existing environment. Further discussion of the effect on visual amenity is given in Section 5.2 of this report.

The applicant's determination that the section of the harbour is underutilised is contrary to a number of submissions that are neutral or in opposition to the proposal. Both the Otago Rowing Club and the University Rowing Club have expressed concerns with the proposed location of the pontoon. On the other hand other recreational clubs, such as the Vauxhall Yacht Club and the Ravensbourne Boating Club support its location noting that the southern side of the yacht club is the most appropriate position.

Individual recreational users will be excluded from the entire area that the pontoon occupies. Given the size of the occupation in comparison to the full harbour, and the fact that this exclusion would not be much more than a moored vessel would create, effects on individuals is considered no more than minor.

The Otago Rowing Club and the University Rowing Club both raised concerns that the position of the pontoon will be within their current training channel. It is understood that the applicant intends to liaise further with the rowing clubs prior to the hearing relating to the position of the mooring. Assessing the current proposed position of the mooring it is determined that the 8 m (in width) obstacle is not considered to cause a more than minor adverse effect on the rowing clubs operation.

### ***Navigation/Harbourmaster comments***

The ORC Harbourmaster considers all applications for activities that may affect navigation. Throughout this consent process the acting harbourmaster has changed from a temporary Harbourmaster from Navigatus Consulting to the current Harbourmaster, Steve Rushmore. Initial comments were received from Navigatus Consulting prior and during notification of the application, and final comments have been provided by the current Harbourmaster.

The occupation of a structure in the CMCA can affect navigation for vessels and other water users. There is potential for the structure to cause an obstruction resulting in risk to other water users to either collide with the structure or affect navigation by the diversion. The applicant has stated that the size of the pontoon is small in comparison to the full harbour and has proposed the design of the pontoon to reduce the effects on navigation. The proposed bright colour of the pontoon with the reflectors will assist in visibility to other water users. The height of the pontoon will ensure that other users cannot climb onto the pontoon. The anchoring of the pontoon with two mooring blocks will ensure the ability to swing or to be influenced by tidal conditions is reduced. The Harbourmaster notes that the proposed mitigation measures will ensure that effects on navigation are reduced. It was further noted that the current maritime bylaw requires all vessels, including recreational users (rowing boats/kite surfers), to reduce their speed to 5 knots per hour when within 200 metres of the shore. Given the pontoon is located 95 metres off shore, all vessels should be moving no faster than 5 knots which would provide enough time to safely avoid the pontoon. Further to this the Harbourmaster notes that the size of the harbour means that the activity can coexist along with the existing uses. A recommended condition of consent requires the applicant to record all complaints received. Navigational related complaints will be forwarded to the Harbourmaster.

The applicant noted that if required to assist with navigation they can place solar powered lighting to be visible to incoming vessels from the seaward and alongshore directions. The Harbourmaster has advised that this lighting is necessary and should be required. It is recommended that lighting is installed in consultation with the Harbourmaster to ensure sufficient visibility is maintained.

The pontoon poses a hazard if not secured appropriately. The applicant states that the proposed position of the pontoon is within a scheduled mooring area (MA9). As noted above, the position is not within the mooring area rather adjacent to it. Given it is not within the mooring area additional consideration needs to be given to the potential for detaching. The Harbourmaster has advised that the position is within a shelter bay that would not be affected much more than the current mooring area. The effect of swinging or movement by tidal action is considered minimal given the applicant proposed dual mooring design. The Harbourmaster notes that the mooring system is appropriate, however has recommended that the mooring blocks are at least 1 tonne concrete blocks.

The applicant states that the general inspection and maintenance of the mooring system will be undertaken annually, and a full inspection including the removal of the mooring system will be undertaken every 3 years. This will reduce the potential for the mooring system to fail and the pontoon to detach. The Harbourmaster supports this monitoring however notes that the inspections will need to be undertaken by a suitably qualified individual. A monitoring condition to this effect is recommended.

If the tourism activity is not successful the applicant may cease exercising Coastal Permit RM17.229.03. To avoid potential for the pontoon to continue occupying the CMCA for the remainder of the term in this eventuality, a recommended condition of consent requires the applicant to detach the pontoon if RM17.229.03 is not exercised over a continuous 2 year period.

It is recommended that a coastal permit sign is displayed at all times to ensure that provide proof of authorisation and as a reference for members of the public who may have complaints or queries relating to the pontoon. Council enclose standardised coastal permit signs with all Coastal Permits relating to a structure; the signs are 65 mm by 265 mm. An example of a coastal permit sign is shown below:



It is noted that the coastal permit number would be “RM17.229.02”.

Although the applicant has designed the pontoon for a structural life of 25 years, there is potential for the structure to become dilapidated and cause a hazard to other water users. Recommended conditions of consent require the applicant to maintain the pontoon in a structurally sound state and for photographs to be provided every 5 years to provide evidence.

### **5.1.2 Striking of golf balls**

The striking of golf balls will cause a restriction on public access through the striking zone. The applicant has proposed a procedure in which a “spotter” will be employed to visually assess the striking zone and advise customers when they can and cannot strike. The intent is that priority is given to all other water users. The applicant also noted that particular priority will be given to events such as regattas organised by the local recreational clubs (e.g. Vauxhall Yacht Club). By having this procedure in place will ensure that public exclusion is avoided and public restriction is mitigated. Although this procedure will mitigate public restriction there will still be a degree of restriction. This restriction will be caused by discouraging water users to access the section of CMCA that the striking zone occupies through fear of injury. This effect is considered to reduce in time if the proposed “spotter” procedure is successful and confidence is maintained with other water users.

A number of submissions question the effectiveness of the “spotter” procedure. The applicant has not provided evidence of the effectiveness of the procedure. That said, the effectiveness of this procedure needs to be taken at ‘face value’ and it should be expected that the applicant will operate in accordance with what is proposed. If the procedure does not operate as the applicant intends, the RMA allows the Consent Authority to review the consents in accordance with Sections 128 and 129 to ensure conditions of consent are adequate to deal with the adverse effects (restriction of public access). A review clause to this effect has been recommended as a condition of consent, further discussion of a review clause is given in section 5.6 of this report.

The applicant references the success of the Taupo Hole in One Challenge and implies that the proposed operation can rely on this precedent. The proposal cannot be considered like for like with the Taupo example. The Taupo operation was established in 1993 soon following the commencement of the RMA. The operation was likely authorised under provisional plans and was prior to any extensive modification of its surrounding environment. The operation also occurs over the surface of a lake, and in accordance with Section 9 of the RMA the surface of the lake is considered land and under a District Plan rather than a Coastal Plan. Given the

lake surface is land, it can be owned by an individual and cannot be considered the same as the CMCA. As the Taupo example cannot be considered a precedent and there is no similar activity of this nature, the effects of striking of golf balls is somewhat uncertain. It is anticipated that with the proposed spotter procedure the effects on public access will be no more than minor, however this will not become evident until the activity is fully operational. The review clause as mentioned above and discussion in section 5.6 of this report will allow consent conditions to be reviewed if there is a more than minor adverse effect. Therefore, subject to this review clause effects of the activity can be managed throughout the term of the consent.

The applicant has indicated the full extent of the striking zone while taking into account individuals slicing shots. The coastal permit would allow for the temporary occupation within this zone. If this zone is to be increase, a new application will be required and effects will need to be reassessed.

#### ***Navigation/Harbourmaster comments***

Given the applicant has proposed to cease striking while other water users enter the potential striking zone, navigation should not be influenced. As noted above a recommended condition of consent requires the applicant to record any complaints received by the operation.

It is noted that along with navigational safety, the applicant must also be aware of health and safety issues. Navigational safety only refers to the movement of vessels. However, the health and safety of an individual, either on land or within the water, caused by the operation of the activity is the responsibility of the applicant. This is in accordance with the Health and Safety at Work Act 2015 rather than the RMA. The applicant should be aware of their responsibilities if consents are granted.

## **5.2 Effects on Amenity Values, Natural Character and Cumulative Effects**

The Otago Harbour is recognised as a Coastal Recreational Area and a number of submissions support the recreational values associated with this section of the harbour.

Submissions relating to amenity values associated with the Coastal Permit applications related primarily to the proposed occupation of the pontoon. A number of the submissions raised concerns over the visual impact the pontoon would cause and one submission raised concerns relating to noise generated by waves lapping against the structure. The noise created by waves lapping against the pontoon is considered to be negligible and is unlikely to be distinguishable from wave action on the seawall. In relation to the visual impact, Barry Knox a Senior Landscape Architect of DCC has provided comment. Mr Knox advised that the visual impact of the pontoon will be contained within the small cove and the occupation of the pontoon will not be incompatible in its proposed location. Mr Knox recommended that the sign on the pontoon is modified to reduce visibility. The applicant has advised in further correspondence that investigation was undertaken and it has been determined that the minimum size of the pontoon sign reading “Otago Harbour Golf Challenge” will need to be a minimum of 300 millimetres by 8 metres (m) to be visible from a distance of 120 m. It is recommended that the sign is no more than this minimum size and the colour of the font is white. To ensure that no additional adverting signage is erected throughout the occupation of the pontoon a recommended condition of consent restricts the placement of any such signage.

Subject to the alterations to the proposed signage on the pontoon, the effect on the visual amenity is considered no more than minor.

As noted in Section 5.1.1 of this report, it is recommended that the applicant install navigational lighting to assist with visibility. This lighting is primarily to provide a navigational aid to incoming vessels from the seaward and along shore directions. Mr Knox advised that possible changes to navigational lighting would not affect his initial assessment.

The applicant initially proposed that the hours of operation to be from 10 am to 10 pm 7 days a week with no indication of seasonal variability. The applicant later amended their application to restrict operating hours to within daylight hours and noted that no lighting will be used to aid the operation of the activity. The effects of the hours of operation will be considered by the DCC report writer. However it is also recommended that the management plan for the proposed spotter procedure outlines a certain degree of visibility.

As noted in Section 2 of this report, the surrounding area is a modified environment. There are a number of existing boatsheds, moorings and other such coastal structures. There has also been reclamation undertaken within the margins of the harbour. The effects towards the natural character of the surrounding environment is considered to be no more than minor.

No submissions raised concerns in relation to potential cumulative effects. As noted above the existing environment is modified including large scale reclamations. Given the pontoon can be removed and the golfing activity can cease, there is not considered to be any aspect of the application that is permanent and that will lead to a cumulative effect.

### **5.3 Disturbance of the CMA**

The applicant intends to place the mooring system for the pontoon to be attached to. This will cause a degree of disturbance to the bed of the harbour while undertaking the works. This disturbance may cause sediment to be mobilised and for marine vegetation to be lost. Given the temporary nature of this disturbance, the adverse effects associated with this is considered no more than minor. Any habitat that is displaced will recover in time.

The disturbance caused by the striking and retrieval of golf balls will be ongoing. The applicant has not specified specifically how the ball retriever will collect the golf balls, however it is anticipated that the golf balls are to be retrieved individually. The repeated disturbance of the bed of the harbour over the same area may have a cumulative effect. However given the nature of the disturbance, this effect would be inconsequential in comparison to the mobilisation of sediment that is caused during high wind and low tide.

It is unlikely that golf balls could potentially strike fish and other marine wildlife beneath the surface at such a velocity to cause injury or any adverse effect due to the friction the water would cause. There is potential for marine birds and wildlife above the surface to be adversely effected if they enter the striking zone. As discussed in Section 4.2 of this report, DOC raised concerns in relation to this. Conditions to avoid and mitigate such effects were proposed and accepted by the applicant. I rely on the expertise of DOC and their marine experts advice when considering effects on marine birds and wildlife. Therefore subject to the conditions outlined in 4.2 of this report, effects on marine birds and wildlife is considered no more than minor.

## 5.4 Cultural and Historic Values

The maintenance of natural landscapes, protection of waahi tapu and waahi taonga, for taonga species and impacts on the mauri of the land, water and air are all of cultural importance. Tangata Whenua have a long association with the Otago Harbour and the values associated with it; these values are specifically identified in the Kai Tahu ki Otago Natural Resource Management Plan 2005 (see Section 6.2.5). The applicant did not commission a Cultural Impact Assessment, however did consult with the local Runanga (Te Runanga o Otakou) prior to applying. Aukaha (previously Kai Tahu ki Otago) provided an initial response on behalf of Te Runanga o Otakou advising that they oppose the applications due to the potential for contamination to the harbour by the breakdown of golf balls and the release of heavy metals. It was also noted that the Memorial for the Maori Prisoners from Taranaki is located within the Vauxhall Yacht Club grounds and that all due respect and care should be given when operating a commercial activity. A revised response was provided in the form of a conditional written approval. The applicant did not accept all conditions of approval therefore it was not accepted. Te Runanga o Otakou lodged a neutral submission to the application. The submission is discussed in Section 4.1.2 of this report and the majority of the requested conditions will be covered for as conditions of consent.

There are no historic sites in Schedule 8 of the RPC in the vicinity of the proposed site. As noted in Section 2 of this report, the Otago Harbour Rock Walls are identified as a Coastal Protection Area. It is not considered that the proposed applications will adversely affect the rock wall given the coastal permit applications only refer to effects within the CMA that is away from the wall. Heritage New Zealand also did not submit to the applications. Overall it is considered that any historic values will not be adversely affected.

## 5.5 Positive Effects

When assessing an application, the positive effects of the activity should also be considered. The activity looks to enhance a section of the harbour that has been relatively underutilised according to the applicant. The nature of the activity will entice tourists and individuals to the Dunedin City thereby positively influencing GDP. The activity will encourage access to the CMA to users who may not already be utilising it.

The applicants proposed “spotter” procedure will give priority to other water users to ensure that the activity can coexist with other recreational and commercial operations in this section of the harbour.

A degree of the activity (golfing) could be considered a recreational activity for the users, this would be a consistent use of the harbour given the Otago Harbour is classified as a Coastal Recreational Area (CRA9); however it is noted that overall the activity is still considered to be a commercial activity.

## 5.6 Review Conditions

The right for the Consent Authority to review consent conditions under Sections 128 and 129 of the RMA is reserved for the following reasons:

- determining whether the conditions of consent are adequate to deal with any adverse effect on the environment that may arise from the exercise of the consent; and
- ensuring that the conditions of this consent are consistent with any National Environmental Standards or Regulations

A review clause has been recommended for Coastal Permits RM17.229.02 and RM17.229.03. The review clause will allow the Consent Authority to reassess the conditions of consent if it is found that they are not adequate to deal with adverse effects on the environment. The review clause is particularly important to these applications given the effect of the activity is somewhat uncertain.

## **5.7 Assessment of Alternatives**

The applicant has considered a number of alternative methods and locations for the activity. Given the unique nature of the activity, there are only very particular locations that will suit. The applicant has decided on the current location for the following reasons:

- it is located in a shallow mooring area with physical and environmental conditions conducive to retrieving the golf balls;
- it is located in close proximity to Dunedin City and the cycleway;
- it is located near an existing public carparking area; and
- it is collocated with the Vauxhall Yacht Club which has provided unconditional written approval.

Policy 7.4.2 of the Regional Plan Coast for Otago states: *For activities seeking the right to occupy land of the Crown, consideration will be given to the reasons for seeking that occupation, whether or not a coastal location is required, and to any other available practicable alternatives.*

In a pre-application meeting, the applicant was advised of this policy and questioned if the activity could occur at an alternative location (outside the CMCA). It was advised that the current location was preferred given there is already a vacant area of land and CMA that can be utilised. The activity needs to occur over a water mass to retain its appeal as a golf challenge. An alternative location out of the CMA could be Lake Waihola, however there is not an appropriate site to undertake the activity. The area would also lack the available tourists passing through to make it profitable.

A number of submitters identified alternative locations for the activity to occur. The applicant has not considered any other locations within the Otago Harbour. Given the adverse effects associated with the activity at the current site are considered less than minor, the current site is appropriate.

## **6. Statutory Considerations**

Section 104 of the Act sets out the matters to be considered when assessing an application for a resource consent.

### **6.1 Part 2 Matters**

These matters are subject to Part 2, the purpose and principles, which are set out in Sections 5 to 8 of the RMA. Those matters which should be considered for these applications are as follows.

Subject to recommended consent conditions, the proposal is consistent with the purpose and principles of the RMA, as outlined in Section 5. Section 5 states that the purpose of the RMA is to “to promote the sustainable management of natural and physical resources”. Sustainable management has two facets. The resource applicable to these applications is the CMA/Otago Harbour. As discussed in Section 5 of this report, adverse effects are considered no more than

minor. Further to this given the activity will effect only a small space of the CMA in comparison to the wider harbour, the resource is being sustainably managed.

Section 6 of the RMA requires that in assessing the applications, the following matters of national importance are recognised and provided for:

- a) *The preservation of the natural character of the coastal marine area, wetlands, and lakes and rivers and from inappropriate subdivision, use, and development:*
- b) *The protection of outstanding natural features and use, and development:*
- c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- d) *The maintenance and enhancement of public access lakes, and rivers:*
- e) *The relationship of Māori and their culture and traditions sites, waahi tapu, and other taonga.*
- f) *The protection of historic heritage from inappropriate subdivision, use and development.*
- g) *The protection of recognised customary activities.*

There is not considered to be any matters of national importance relevant to the proposed applications.

Section 7 of the RMA sets out those matters that have particular regard attributed to them in achieving the purpose of the Act.

- (a) *kaitiakitanga:*
  - (aa) *the ethic of stewardship:*
  - (b) *the efficient use and development of natural and physical resources:*
    - (ba) *the efficiency of the end use of energy:*
  - (c) *the maintenance and enhancement of amenity values:*
  - (d) *intrinsic values of ecosystems:*
  - (e) *[Repealed]*
  - (f) *maintenance and enhancement of the quality of the environment:*
  - (g) *any finite characteristics of natural and physical resources:*
  - (h) *the protection of the habitat of trout and salmon:*
  - (i) *the effects of climate change:*
  - (j) *the benefits to be derived from the use and development of renewable energy.*

In contrast to Section 6, the matters set out in Section 7 are not declared to be matters of national importance. The proposed activity will have a minor adverse effect on some of these matters identified above. The local ecosystems are not expected to suffer any long term adverse effects.

Section 8 requires all persons acting under the Act to take into account the principles of the Treaty of Waitangi.

The applicant consulted with the local runanga (Te Runanga o Otakou) prior to applying. Although a written approval was provided, the applicant did not agree to all conditions therefore the approval was not accepted. A neutral submission was received by the local runanga and is discussed in Section 4 of this report. The submission requested a number of conditions of consent. All conditions that are lawful and enforceable have been recommended as conditions of consent.



Consequently the principles of the Treaty of Waitangi (the Tiriti o Waitangi) have been taken into account.

Overall, these applications are consistent with Part 2 of the Act.

## **6.2 Section 104 Matters**

The remaining matters of Section 104(1) to be considered when assessing an application for resource consent are as follows:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- (b) *any relevant provisions of –*
  - (i) *a national environmental standard;*
  - (ii) *other regulations;*
  - (iii) *a national policy statement;*
  - (iv) *a New Zealand coastal policy statement;*
  - (v) *a regional policy statement or proposed regional policy statement;*
  - (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

These matters are discussed in the following sections.

### **6.2.1 Environmental Effects**

The actual and potential effects of the proposed activities were discussed in Section 5 of this report. It is anticipated that the adverse effects of the proposal will be no more than minor. Any potential adverse effects should be mitigated and avoided by recommended consent conditions.

### **6.2.2 New Zealand Coastal Policy Statement**

The purpose of the New Zealand Coastal Policy Statement 2010 (NZCPS) is to state policies in order to achieve the purpose of the Act in relation to the coastal environment of New Zealand.

In particular, the following policies state:

#### ***Policy 1: Extent and characteristics of the coastal environment***

*Recognise that the extent and characteristics of the coastal environment vary from region to region and locality to locality; and the issues that arise may have different effects in different localities.*

*Recognise that the coastal environment includes:*

- (a) *The coastal marine area;*
- (b) *Islands within the coastal marine area;*
- (c) *Areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these;*
- (d) *Areas at risk from coastal hazards;*
- (e) *coastal vegetation and the habitat of indigenous coastal species including migratory birds;*

- (f) *elements and features that contribute to the natural character, landscape, visual qualities or amenity values;*
- (g) *items of cultural and historic heritage in the coastal marine area or on the coast;*
- (h) *inter-related coastal marine and terrestrial systems, including the intertidal zone; and*
- (i) *physical resources and built facilities, including infrastructure, that have modified the coastal environment.*

The Otago Harbour is a unique resource that provides for a number of uses. The RPC recognises the Otago Harbour for a Coastal Recreation Area therefore particular emphases has been focused on ensuring that the activity does not impede on other recreational users. As noted in Section 5 of this report, adverse effects on other recreational users is considered to be no more than minor.

***Policy 2: The Treaty of Waitangi, tangata and Māori***

***In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:***

- (a) *recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;*
- (b) *involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;*
- (f) *Provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands and fisheries in the coastal environment through such measures as:*
  - 1) *Bringing cultural understanding to monitoring of natural resources;*
  - 2) *Providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;*
  - 3) *Having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaimai or other non commercial Māori customary fishing; and*

The applicant has recognised the iwi's relationship with the Otago Coastline. Consequently, consultation is being carried with local iwi to address any matters of significance to tangata whenua.

***Policy 3: Precautionary approach***

***Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.***

There has been no precedent of this nature of activity within the region and the only national example (Taupo) is not like for like. It is therefore considered that the effects on the coastal environment of the activity are little understood however not considered to be potentially significant (see Section 5 of this report).

***Policy 13: Preservation of natural character***

***(1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:***

- (a) avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and*
- (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; including by:.....*

The surrounding area is heavily modified environment. The activity is an appropriate use of the CMA in its proposed location and will not adversely affect the natural character.

***Policy 22: Sedimentation***

- (1) Assess and monitor sedimentation levels and impacts on the coastal environment.*
- (2) Require that subdivision, use, or development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water.*

There will be a degree of sedimentation caused by the ongoing disturbance of the CMA while striking and retrieving golf balls. However this disturbance will be very minor and inconsequential in comparison to the current natural processes in the Otago Harbour.

In summary, the proposal is consistent with the New Zealand Coastal Policy Statement 2010.

***6.2.3 Regional Policy Statement for Otago***

The Regional Policy Statement for Otago (RPS) provides an overview of Otago's resource management issues, and ways of achieving integrated management of natural and physical resources. The provisions of Chapter 4 (Manawhenua Perspective), Coast (Section 8) and Built Environment (Section 9) are relevant to this application.

***Section 4 - Manawhenua***

The objectives in this chapter require that the Principles of the Treaty of Waitangi be taken into account in sustainable management of natural and physical resources, and in doing so, recognise the role of kaitiakitanga and provide for the relationship of Kai Tahu with ancestral lands, waahi tapu, water, sites and other taonga.

The applicant undertook consultation with the local runanga prior to applying. Further to this a neutral submission was received subject to recommended conditions.

***Section 8 - Coast***

The following objectives and policies of this chapter are relevant to this application.

Objective 8.4.5 seeks to protect areas of natural character, outstanding natural features and landscapes and their associated values within the coastal environment

Objective 8.4.6 seeks to maintain and enhance public access to and along Otago's coastal marine area.

Policy 8.5.2 seeks to recognise existing uses within the coastal environment.

Policy 8.5.3 seeks to maintain and enhance public access to and along Otago's coastal marine area.

Policy 8.5.6(c) requires that all discharges into Otago's coastal waters maintain the standard for the receiving waters after reasonable mixing.

The surrounding area is a modified environment and there are no outstanding natural features or landscapes present. The activity will not cause a more than minor adverse effect towards the existing natural character. The applicants proposed spotter procedure looks to maintain public access within the CMCA and the pontoon will only occupy a small area. The "spotter" procedure also considers the existing uses in the area and provides priority to these users. If the exercise of the activity shows the procedure is ineffective or there is an unanticipated adverse effect on access, the review clause allows consent conditions to be reevaluated.

### **Proposed Regional Policy Statement for Otago 2015**

The proposed Regional Policy Statement (pRPS) was notified on 23 May 2015 and a decision was released 1 October 2016. The pRPS is currently under appeal. Consideration must also be given to relevant provisions of the proposed RPS.

- Provide for social and cultural wellbeing and health and safety (Policy 1.1.3)
- Taking the principles of Te Tiriti o Waitangi into account (Policy 2.1.2)
- Managing the natural environment to support Kāi Tahu wellbeing (Policy 2.2.1)
- recognising and protecting important sites and values of cultural significance to Kāi Tahu (Policy 2.2.2)
- Manage coastal water to achieve all of the following:
  - Maintain or enhance healthy coastal ecosystems;
  - Maintain or enhance the range of habitats provided by the coastal marine area, including the habitat of trout and salmon;
  - Recognise and provide for the migratory patterns of coastal water species unless detrimental to indigenous biological diversity;
  - Maintain coastal water quality or enhance it where it has been degraded;
  - Maintain or enhance coastal values;
  - Recognise and provide for important recreation values;
  - Control the adverse effects of pest species, prevent their introduction and reduce their spread (Policy 3.1.5)
- maintaining and enhancing public access (Policy 5.1.1)
- Apply a precautionary approach to activities where adverse effects may be uncertain, not able to be determined, or poorly understood but are potentially significant (Policy 5.4.3)

The Te Tiriti o Waitangi was been taken into account and the applications are consistent with them.

Te Rūnanga o Otakou submitted a neutral submission to the applications noting that a Prisoners of Taranaki memorial is an important site of cultural significance and should be given all due respect and care. Recommended conditions of the submission have been recommended on the coastal permits where appropriate.

The disturbance of the coastal marine area will either be temporary or very minor.

Public access will be maintained within the CMCA via the proposed “spotter” procedure and the pontoon will occupy a small area in comparison to the wider harbour.

Although the effects of the activity are yet to be completely understood, the effects are not considered to be significant.

Overall the applications are not inconsistent with the proposed and operative RPS.

#### **6.2.4 Regional Plan: Coast for Otago**

The RPC contains issues, objectives and policies that address coastal management (Chapter 5) public access and occupation of space (Chapter 7), structures (Chapter 8), disturbance (Chapter 9), discharges (Chapter 10), noise (Chapter 12) and exotic plants (Chapter 13). The following objectives and policies are relevant to these applications.

#### **Chapter 5 - Coastal Management**

*Policy 5.4.5. To recognise the following areas, as identified in Schedule 2.3, as Coastal Recreation Areas:*

- *CRA 4 Waikouaiti Beach*
- *CRA 5 Warrington Beach*
- *CRA 6 Purakanui Inlet*
- *CRA 7 Potato Point & Long Beach*
- *CRA 8 Spit Beach*
- *CRA 9 Otago Harbour*

*Policy 5.4.6 Priority will be given to the need to provide for and protect the values associated with the coastal recreation areas when considering the use, development and protection of Otago’s coastal marine area.*

The proposed location for the activity is within CRA 9. Though aspects of the activity have a recreational element the activity overall is for commercial use. The applicant has provided priority to the existing recreational uses by the proposed ‘spotter’ procedure. The pontoon will exclude access in its footprint, however this will be very small in comparison to the wider harbour.

*Policy 5.4.11 To have particular regard to the:*

- (a) Amenity values;*
- (b) Cultural values;*
- (c) Scenic values;*
- (d) Ecological values; and*
- (e) Historical values, including those identified in Schedule 8; associated with Otago’s coastal marine area when considering its subdivision, use or development.*

Section 5 of this report has considered the values above and it is determined that adverse effects towards these values will be no more than minor.

## **Chapter 7 – Public Access and Occupation of Space**

*Objective 7.3.1 To maintain and as far as practical enhance public access to Otago’s coastal marine area.*

*Policy 7.4.1 In order that any proposed restriction on public access, to or along the coastal marine area that will, or is likely to, have an adverse effect on cultural values, can be identified by kaitiaki runanga, Kai Tahu will be:*

- (a) Treated as an affected party for non-notified resource consent applications that would result in a restriction of access to areas identified in Schedules 2 and 3 of this Plan as having cultural or spiritual values to Kai Tahu; and be*
- (b) Notified about notified resource consent applications that would result in a restriction of access to the coastal marine area.*

*Policy 7.4.2 For activities seeking the right to occupy land of the Crown, consideration will be given to the reasons for seeking that occupation, whether or not a coastal location is required, and to any other available practicable alternatives.*

*Policy 7.4.3 Public access to and along the margins of the coastal marine area will only be restricted where necessary:*

- (a) To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna; or*
- (b) To protect Maori cultural values; or*
- (c) To protect public health or safety; or*
- (d) To ensure a level of security consistent with the purposes of a resource consent; or*
- (e) To facilitate temporary Navy defence operations in Otago Harbour; or*
- (f) In other exceptional circumstances sufficient to justify the restriction.*

*Policy 7.4.4 Public access to or along the margins of the coastal marine area may be restricted to provide for recreational and cultural activities which require a degree of occupation for short periods.*

The applicant proposed “spotter” procedure will give priority to other CMA users thereby maintaining public access. Aukaha (previously Kai Tahu ki Otago) were consulted with prior to the application being lodged and where notified of the application when it was received.

The activity looks to occupy land of the crown land within the CMA. It is noted with the implementation of the New Zealand Coastal Policy Statement 2010 this is now referred to as the CMCA. As noted in Section 5.7 the applicant has considered alternative locations and have concluded that the proposed site is the only practicable option.

The applications are generally inconsistent with Policies 7.4.3 and 7.4.4, however given the proposed “spotter” procedure looks to mitigate this restriction and the area affected is small in comparison to the Otago Harbour, the adverse effects associated with the restriction are considered no more than minor.

## **Chapter 9 – Alteration of the Foreshore and Seabed**

*Policy 9.4.1 In order that any proposed alteration of the foreshore or seabed that will, or is likely to, have an adverse effect on cultural values, can be identified by kaitiaki runanga, Kai Tahu will be:*

- (a) Treated as an affected party for non-notified resource consent applications to alter the foreshore or seabed within areas, or adjacent to such areas, identified in Schedules 2 and 3 of this Plan as having cultural or spiritual values to Kai Tahu; and be*
- (b) Notified about notified resource consent applications to alter the foreshore or seabed within the coastal marine area.*

The application was publicly notified and a neutral submission was received from local runanga.

*Policy 9.4.5 The area to be disturbed during any operation altering the foreshore or seabed will be limited as far as practicable to the area necessary to carry out that operation.*

The alteration to the seabed will be limited to where the structure is placed and where golf balls enter the CMA. The area disturbed will be limited to the area necessary. A recommended condition of consent limits disturbance to the striking zone.

### ***Chapter 12 - Noise***

*Policy 12.4.1 In managing and controlling noise levels within the coastal marine area:*

- (a) Particular regard will be had to ensuring consistency with any noise control provisions or standards in any district plan for adjacent land; and*
- (b) Regard will be had to the New Zealand Standards NZS 6801 (1991), NZS 6802 (1991), NZS 6803P (1984) and NZS 6807 (1994); and*
- (c) Regard will be had to any other relevant information relating to the emission and effects of noise, and the measures which may be taken to avoid, remedy or mitigate those effects; and*
- (d) Regard will be had to the duration and nature of noise produced.*

The generation of noise associated with the activity is considered negligible.

In summary, the proposal is not inconsistent with the objectives and policies of the RPC.

### ***6.2.5 Kai Tahu ki Otago Natural Resource Management Plan 2005***

The Kai Tahu ki Otago Natural Resource Management Plan 2005 outlines natural resources of importance to Kai Tahu. The CMA is one of the areas Kai Tahu seeks to preserve and protect.

The following Taku Tai Moana Me Wai Māori issues in the Kai Tahu ki Otago Natural Resource Management Plan 2005 are particularly relevant to these applications:

- *Rubbish (flotsam and jetsam), including lengths of rope from boats and moorings, plastic packaging strips, discarded and lost fishing gear, glass and plastic bottles.*
- *Indiscriminate dumping of rubbish in the coastal environment.*

The following Wāhi Tapu policies in the Kai Tahu ki Otago Natural Resource Management Plan 2005 are particularly relevant to these application:

- (a) To require Kāi Tahu ki Otago whānau and hapu site are established maintained, and protected, and to discourage public access around known wāhi tapu areas.*

The local runanga initially opposed the proposal given it would be inconsistent with the Taku Tai Moana Me Wai Māori issues identified above. With the proposal to retrieve golf balls struck into the CMA, the local runanga no longer oppose the applications provided all golf balls are non-toxic and that no golf balls that are found in the harbour are used.

As noted in Section 5.4 of this report, the Prisoners of Taranaki Memorial site is located within the Vauxhall Yacht Club grounds. Te Runanga o Otakau submitted a neutral submission and requested that all due respect and care is given to the memorial site. The memorial is not within the CMA, therefore is outside the scope of the coastal permit applications, however will be considered by the DCC report writer.

Overall the proposal is not inconsistent with the policies contained within this plan.

## **7. Conclusion**

The applicant is seeking coastal permits to authorise a tourism activity within the Otago Harbour which includes the striking of golf balls to an area of 1.06 hectares.

A proposed mitigation measure of only striking golf balls to the area while it is free of birds, marine mammals and persons will ensure that adverse effects on other water users is sufficiently mitigated. If unforeseen adverse effects are encountered, or the spotter procedure is not as successful as anticipated, the Consent Authority may review the coastal permits in accordance with Sections 128 and 129 of the RMA to ensure conditions are adequate.

The pontoon will cause only minor effects on other water users, and provided the structure is securely moored will not cause a navigational hazard.

In summary, subject to the recommended conditions of consent adverse effects of the proposed application will be no more than minor.

## **8. Recommendation**

That Otago Regional Council grants to Peter Ronald Graham, Coastal Permits RM17.229.01-03, subject to the terms and conditions set out in the attached consents.

### **8.1 Reasons for the Recommendation**

- (a) That it is expected that the adverse effects on the environment will be minor, and can be adequately addressed through the recommended consent conditions.
- (b) That the proposed activities are consistent with the requirements of the Act and the relevant statutory requirements.

### **8.2 Term and Lapse Period**

The applicant has requested a term of 25 years. There is no discussion of the justification for this proposed term, the only indication being the intended structural life of the pontoon.

The recommended review clause will allow the Consent Authority to review the coastal permits to alter conditions of consent if there is an unanticipated adverse effect on the



environment. Although the review clause provides discretion to review during the term, it cannot stop the activity from occurring completely nor can it take into account changes to the existing environment. For these reasons a maximum term of 15 years is considered more appropriate.

Coastal Permit RM17.229.01 for the temporary disturbance while placing the pontoon requires a term sufficient for the applicant to undertake the works while accounting for unforeseen delays. A term of 2 years from the commencement of the consent is considered appropriate and is recommended.

Coastal Permit RM17.229.02 and 03 are activities that are ongoing. A term of 15 years from the commencement is recommended.

The applicant has not specified a proposed lapse period to commence the consents, however it is likely that the applicant intends to commence shortly after obtaining authorisation. As delaying the commencement of the activity will not tie up the resource, a lapse consistent with Section 125 of the RMA is appropriate (5 years).



Charles Horrell  
**Senior Consents Officer**