

Section 92(1) response for Consent Application Number RM22.550

Technical Questions

1) Please describe what is meant by “short-term, temporary accommodation” in the context of this application.

In this context, the phrase ‘short-term, temporary accommodation’ is meant to convey the fact that this will not be a permanently occupied structure and when it is occupied, it will be only for a few days at a time. The majority of accommodation use will be by family and friends, but the opportunity will be provided for others to experience this coastal location.

2) Given one of the potential uses of the dwelling structure is for rented accommodation, such as Air BnB, how does the Applicant propose to restrict or manage water use within the structure such that potable water is not fully drained and that the grey and black water tanks are emptied when required? For example, an alarm system to alert the structure owner, who may not be on site, that tank levels are low, high, or full.

The proposal includes a modern fully self-contained water collection and water disposal system. No waste water of any type will enter the marine environment. The system includes back up spillage systems and alarms that meet industry standards for waste containment.

3) Please confirm whether stormwater running off from impervious surfaces, such as the roof of the dwelling, will be discharged to the CMA or whether it will be captured in gutters and re-used within the building.

It is proposed that all rain water will be captured and held in industry approved water holding tanks for use at the dwelling.

4) If stormwater is to be discharged to the CMA, please confirm whether stormwater will be managed in accordance with Regional Plan: Coast for Otago (RPC) permitted activity rule 10.5.3.1.

Any overflow rainwater will be released into the environment in accordance with the Regional Plan regulations.

5) Please justify why the dwelling structure needs to be located within the CMA. In providing your answer to this question, please address at least the following matters:

o The functional need for the dwelling structure and the activities it will support to be located in the CMA. I would note that the dwelling structure should be distinguished from the wharf structure for the purpose of addressing this question.

▪ Related policies: Partially Operative Regional Policy Statement policy

5.4.9; RPC policy 7.4.2, Proposed Otago Regional Policy Statement policy CE-P10.

First and foremost, while you refer to the structure as a 'dwelling,' it will have multiple uses as set out in the application. Accommodation is one aspect of the wider proposal.

The original application addressed this question in relation to the policies outlined above. In relation to policy CE-P10 of the P-ORPS, the following comment was made:

*"While the temporary accommodation aspect of the **proposal does not necessarily require a CMA location**, the proposal will provide a range of public benefits and recreational opportunities not readily available in this location. The accommodation unit is expected to work in conjunction with these aspects of the proposal. Public access will be enhanced by the proposal."*

In relation to Policy 5.4.9 of Partially Operative Regional Policy Statement policy, the following statement was made:

"This proposal is utilising an existing structure that provides for commercial and recreation uses. While it could be said that the temporary accommodation aspect of the proposal does not have a functional need to be in this location, it is ancillary to the recreational use of the site. The proposal provides for multiple uses of the site and enhances public access."

Hence, the accommodation aspect of the proposal does not sit in isolation of the enhancement of opportunities for people to partake in recreation activities in the Taieri Mouth CMA, both formal and informal, as highlighted in section 1.2.2 of the application. The proposal as a whole is a recognition of the change in use occurring at the wharf area, from a commercial fishing focus to a recreational focus. In this context, the accommodation/activity centre aspect of the proposal is located in a modified, built-up part of the CMA and does not physically interact with the CMA itself because it sits on an existing structure. Enabling multi-usage of an existing structure that is already on the wharf, will secure the wharf's future and enable the public benefits outlined in the application to be realised, which is the alternative to 'functional need' as set out in Policy CE-P10(4) of the P-ORPS and is consistent with Policy 5.4.9(d) of Partially Operative Regional Policy Statement policy.

Overall, this is considered an *“efficient use and development of natural and physical resources”* in terms of s7 of the Act.

o Reasons, if any, that the dwelling structure cannot be set back from the CMA and located, for example, within land adjacent to the CMA and adjoining the wharf.

Advice from Council’s legal team has been received that suggests this land is administered by LINZ.

First and foremost, the applicant does not have any legal interest in the LINZ land, which is an important public area that provides access and parking for users of the wharf area. As noted in the application, this area will also be utilised for events and the like that will be run from the boatshed. Locating the structures on LINZ land will compromise the use of this area. In our opinion, it is a more efficient use of resources to utilise the existing structure as proposed.

o Discussion of how the dwelling structure provides for access of disabled persons directly to the CMA. I note that during the site visit the Applicant mentioned that the current design of the dwelling does not provide for direct access to the CMA for persons with limited mobility. Access is instead provided via the wharf.

I require this information to understand whether there is a functional need for the activities associated with the dwelling structure to locate within the CMA.

The development as a whole will enable disabled persons to access the CMA and enjoy a coastal experience, which is currently not provided for in the Dunedin/Clutha area. The building and its facilities will be designed for mobility access and will have attached an electric sling/crane that will enable disabled people to safely get on and off recreation craft.

6) Please indicate whether/how future sea level rise has been considered both in the design of the dwelling structure and the proposed residential use of the structure?

o Related policies: Partially Operative Regional Policy Statement policies 4.1.6, 4.1.8, 4.2.1

I require this information to understand the long-term suitability of the structure within the proposed CMA location.

As coastal permits are not issued in perpetuity, the long-term effect of sea level rise is largely irrelevant. Wharves and associated structures are obviously built to interact

with the level of the sea and in this case the applicants have reviewed the Governments Sea Level Rise Projections to inform the design of the proposed structure. The design will have a floor level at least 500mm above the current wharf which is approximately 1.2 metres above the high tide mark. Pessimistic projections estimate that sea level rise could be approximately 300mm by 2050. The proposed build floor level will mitigate the impact of sea level rise for the term of consent. Should sea level rise become an issue earlier than expected, the proposed structure will be relatively easy to remove.

7) I note that during the site visit it was discussed that access to the wharf may be restricted.

Please clarify what level of public access to the wharf, if any, will be provided. Where it is proposed that access will be restricted, please describe to which persons access will be restricted and in what circumstances.

o I would note that it is understood that the dwelling structure will be for private or approved access only.

I require this information to understand how the proposed occupation may impact on public access to and use of the CMA.

Obviously, access to the building on the wharf will be restricted. However, while a gate will be provided on the access ramp to the wharf, it will not be locked. Hence, public access to the CMA will not be restricted.

Amenity and Natural Character Questions

It is the opinion of Rachael Annan, Principal Landscape Planner at 4Sight Consulting that the application does not provide sufficient rationale to support the landscape and visual outcomes as concluded in Section 2.2 of the application. As such:

8) Please engage a suitably qualified and experienced landscape architect to assess the potential effects on landscape/natural character and visual amenity.

o The assessment should provide an analysis of the viewshed/viewing audience (to Tuia Pito Ora/New Zealand Institute of Landscape Architects best practice) with representative viewpoints to back up any conclusions reached regarding visual effects.

o The assessment should address the appropriateness/landscape capacity for the residential nature and appearance of the proposal in this location via a comparison of the proposed structure's level of residential use and character with a

recreational/hobbyist boatshed.

I require this information to understand the potential effects of the proposal on amenity and natural character.

A report from landscape architect, Mr Mike Moore, is attached that addresses natural character, landscape values and visual amenity effects of the proposal. Mr Moore essentially confirms the conclusions reached in section 2.2 of the application.

Planning Questions

9) Please assess the application against the New Zealand Coastal Policy Statement

(NZCPS). I consider that this assessment is appropriate because the RPC is a first generation plan that has not been fully updated to reflect the NZCPS.

I require this assessment to determine the consistency of the application with the NZCPS, which is a relevant statutory document.

While the application mistakenly noted that NZCPS was considered when the Regional Plan: Coast for Otago was developed, it was amended in 2011 to provide alignment with that document. But more importantly, the NZCPS has been fully implemented by both the partially operative and the proposed regional policy statements. As a consequence, it is not necessary in a resource consent application to consider the proposal against such a high order document.

Nevertheless, Mr Moore has considered the proposal against the natural character and landscape provisions of the NZCPS and considered the proposal consistent with these policies.

We would also consider the proposal to be consistent with Objective 4 (maintain and enhance recreation opportunities of the coastal environment) and Objective 6 (enable social, economic, and cultural wellbeing and their health and safety, through use, and development). The values of this area of coast are not compromised by the proposal which is in fact enhancing recreation opportunities in the coastal environment. In terms of Policy 6, the proposal is located within an existing settlement and utilizes an existing structure within an identified coastal development area. It does not extend the built settlement area and will have positive landscape and amenity effects.

While Policy 6(2)(d) is to “recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there”, this is not a total avoidance policy. We have previously addressed the functionality issue. We note in this context, that the NZCPS and the other planning documents are simply matters to be ‘had regard to’ under the assessment required under s104(1)(b). Failure to meet one of the outcomes sought in those documents does

not mean that an activity should not be allowed in the King Salmon sense. The extent to which that particular issue (in this case, functionality) is to be had regard to is a matter of weighting and needs to be considered in the context of all of the other effects (positive and adverse), and the other relevant provisions of the planning documents in making a decision under s104 of the RMA.

We understand that the Council may have precedent concerns around this proposal citing the fact that residential use in the CMA is not permitted by Environment Southland. However, we would note that the Southland Region contains the Fiordland National Park and Stewart Island, which have significant natural character and wilderness values. It is appropriate to avoid such uses in these locations. This site can be distinguished from the Southland example as it is in an area identified for coastal development, where the nature of the use is changing from commercial to recreation. This also distinguishes it from similar boatsheds development in the Otago harbour. Mr Moore comments that *“whilst there will be an obvious change in character, including substantial glazing to the river façade expressing usage of the structure for accommodation, **it is common to see boat sheds with various levels of accommodation / residential use provided for all around New Zealand.**”* In our opinion, the weighting exercise that should be applied here identifies this as an appropriate location for the proposal, without setting an undesirable precedent.

10) Please provide an updated assessment of effects on Kāi Tahu cultural uses, values, and beliefs that aligns with the scale and nature of the proposed activity. This assessment should include the views of relevant Runaka where possible. I consider that the proposed dwelling structure and its associated residential use is sufficiently different to a standard commercial fishing boatshed to warrant this further assessment.

o In answering this question, please include an assessment of the application against sections 5.8.13 – 5.8.16 of the Kāi Tahu ki Otago Natural Resource Management Plan 2005.

I require this information to understand the potential adverse effects of the activities on Kāi Tahu cultural uses, values, and beliefs.

This matter is addressed at sections 2.7 and 3.5 of the application. Overall, we conclude that the proposal does not appear to be inconsistent with the NRMP but it is for iwi to advise on how their cultural uses, values, and beliefs may be affected. As a consequence, iwi are being consulted and we are seeking their written approval to the proposal. Once we have had a response, we will advise the Council accordingly.