

Otago Regional Council

Section 42A Staff Recommending Report

Application RM22.550
Onumai Enterprises Limited

The recommendation in the staff report represents the opinion of the writer and it is not binding on the Hearing Commissioners. The report is evidence and will be considered along with any other evidence that the Hearing Commissioners will hear.

Shay McDonald
Principal Consents Planner

19 August 2025

Executive Summary

Onumai Enterprises Limited has applied for resource consents to alter and extend the existing structures upon an existing wharf to construct a ‘multipurpose building’ and has also applied to occupy the common marine and coastal area with those structures and with a floating pontoon, and to use those structures for residential and commercial accommodation purposes, recreational, sporting, and educational use, and emergency, civil defence, and regulatory services use. The site is located at Taieri Mouth.

This is the first application to propose residential accommodation activity within the Otago Coastal Marine Area.

The application was publicly notified on 19 August 2023, for reason of special circumstances. A total of 53 submissions were received, although one submission was later withdrawn. Although there was substantial submitter support for the proposal as a whole, there was also substantial opposition. Submitters in opposition were generally strongly opposed to the proposed accommodation aspects of the proposal, and were otherwise generally supportive of the recreational, sporting, and educational, emergency, civil defence, and regulatory services uses.

I consider that the key issue in contention is the construction and use of the proposed ‘multipurpose building’ for accommodation and whether it is appropriate for this structure to locate in the coastal marine area and to be used for the purpose of accommodation. Although the building is described by the Applicant as providing for multiple uses, this is not supported by the proposed design of the building, which clearly provides for accommodation and does not appear to provide for any other use.

Under s104B my recommendation is that the following parts of the proposal be **granted**:

- The occupation of the common marine and coastal area with a wharf, floating pontoon, and appurtenant structures (ramps and crane with winch) for the purpose of recreational, sporting, and educational use, and emergency, civil defence, and regulatory services use.

And that the following parts of the proposal be **declined**:

- The construction and use of the multipurpose building for any type of private residential or commercial rented accommodation.

The primary reason for my recommendation to decline the construction of the multipurpose building and its use for accommodation is that there is no functional or operational need for an accommodation activity, or a building that is evidently entirely designed to support accommodation activity, to locate within the common marine and coastal area at this location, and hence, the proposal is inconsistent with or contrary to the most relevant provisions of the relevant planning documents.

Although the relevant planning documents have been implemented at different times and with different emphasis, I consider that in respect of the provisions of most relevance to this application these documents are relatively consistent and are not in conflict. The provisions of most relevance relate to the ‘need’ for

activities to locate within the CMA. If there is no need, functional or otherwise, for an activity to locate in the coastal marine area, then it should not be located there. This is the basis for my recommendation.

Also factoring into my recommendation is the finding that the residential character of this building will not appropriately integrate into the landscape setting, resulting in minor adverse effects on landscape values, and the potential adverse effects on cultural values, which are currently not well understood.

Report Author

My name is Shay Maree McDonald, and I am a Principal Consents Planner at Otago Regional Council. I have four years' experience working in the resource management sector, with all of this time being at Otago Regional Council.

I hold the qualification of Bachelor of Science with Honours in Chemistry from the University of Otago. I am an Associate Member of the New Zealand Planning Institute and am certified as an RMA decision maker through the Making Good Decisions Programme (2023).

I have been processing Resource Consent Application RM22.550 since it was lodged on 9 November 2022. I was involved in pre-application work for this proposal prior to lodgement of the application.

I visited the site on 30 November 2022, accompanied by the Applicant and Rachael Annan of SLR Consulting New Zealand. I am otherwise generally familiar with the area having lived in Dunedin and surrounding areas since 2008.



Shay McDonald

Principal Consents Planner

Abbreviations

AEE	Assessment of environmental effects
CMA	Coastal Marine Area
CMCA	Common Marine and Coastal Area
FENZ	Fire and Emergency New Zealand
NES	National Environmental Standard
NPS	National Policy Statement
NZCPS	New Zealand Coastal Policy Statement
ORC	Otago Regional Council
ORPS 2019	Otago Regional Policy Statement 2019
P-ORPS 2021	Proposed Otago Regional Policy Statement 2021
RFI	Request for Further Information
RMA	Resource Management Act 1991
SLR	SLR Consulting New Zealand Limited

OTAGO REGIONAL COUNCIL SECTION 42A REPORT

ID Ref:	1984267334-43640
Application No(s):	RM22.550
Prepared For:	Hearing Commissioners
Prepared By:	Shay McDonald – Principal Consents Planner
Date:	19 August 2025
Subject:	Section 42A Recommending Report – Application RM22.550 by Onumai Enterprises Limited to alter and extend the existing structures upon an existing wharf to construct a ‘multipurpose building’, to occupy the common marine and coastal area with those structures and with a floating pontoon, and for the use of those structures for residential and commercial accommodation purposes, recreational, sporting, and educational use, and emergency, civil defence, and regulatory services use, at Taieri Mouth.

1. Purpose

This report has been prepared under Section 42A of the Resource Management Act 1991 (RMA) to assist in the hearing of the application for resource consents made by Onumai Enterprises Limited. Section 42A enables local authorities to require the preparation of a report on an application for resource consent and allows the consent authority to consider the report at any hearing. The purpose of the report is to assist the Hearing Commissioners in making a decision on the application.

The report assesses the application in accordance with Sections 104 and 104B of the RMA and makes a recommendation as to whether the application should be granted, and a recommendation on the duration of the consent and appropriate conditions.

This report contains the recommendations of the Principal Consents Planner and is not a decision on the application. The recommendations of the report are not binding on the Hearing Commissioners. The report is evidence and will be considered along with any other evidence that the Hearing Commissioners will hear.

2. Summary of the Application

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

The Applicant has applied for resource consents to alter and extend the existing structures upon an existing wharf to construct a ‘multipurpose building’, to occupy the common marine and coastal area (**CMCA**) with those structures and with a floating pontoon, and for the use of those structures for residential and commercial accommodation purposes, recreational, sporting, and educational use, and emergency, civil defence, and regulatory services use.

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

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

The activities will occur at Taieri Mouth.

2.1 Overview

Applicant: Onumai Enterprises Limited

Applicant’s agent: Allan Cubitt of Cubitt Consulting Limited

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

Legal description: Common Marine and Coastal Area

Map reference (NZTM2000) approximate site midpoint: E1382752 N4896309

Consents sought:

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

Purpose: Residential and commercial accommodation purposes, recreational, sporting, and recreational use, and emergency, civil defence, and regulatory services use.

Information requested: 8 December 2022 and 17 April 2025

Notification decision: The application was publicly notified on 19 August 2023.

Submissions: 53 were received, with one submission later being withdrawn.

Site visit: I visited the site on 30 November 2022.

Key issues: It is considered that the key issues with this application are:

- Appropriateness of the proposed residential and short-term rental accommodation occurring within the common marine and coastal area.

- The design of the ‘multipurpose’ building which appears to provide only for accommodation and not for any of the other proposed uses.

Specialist advice:

The following technical expert was engaged by ORC to audit the application:

- Rachael Annan, Technical Director Landscape Planning at SLR Consulting New Zealand Limited.

2.2 Description of Application

The Applicant has advised that there have been no changes made to the proposal since the application was notified. However, due to the time that has elapsed since the s95 Notification Report (**the s95 Report**) was written, and to make this report easier to read, I have reproduced the description below, with minor editions to reflect any updated understanding of the proposal following the pre-hearing meeting.

- The structures currently authorised by Coastal Permit 2006.321 are in a state of poor-repair.
- The Applicant proposes to upgrade the current wharf and convert the storage sheds into a larger multipurpose building. The proposed uses of the wharf and building include:
 - Residential accommodation for the Applicant and their family
 - Short-term rented accommodation in the style of Airbnb or similar
 - As an all-tide base for recreational, sporting, and school-based activities and events requiring access to the CMA, including access for disabled persons
 - Access for Fisheries Officers to undertake inspections of fishing vessels
 - Civil defence and emergency response for marine incidents.
- While the Applicant describes the proposed new building as a ‘multipurpose building’, I consider that the design of the building does not support multiple uses, and is better characterised as a residential building. Hence, in this report this building is hereafter referred to as the residential building.
- The current storage sheds occupy an area of 68 square metres (**m²**). The proposed residential building will occupy an area of approximately 82 m². The increase in area is primarily the result of a new wheelchair access ramp on the northwestern side of the building.
- The proposed residential building will cover the majority of the wharf area that is currently vacant between the storage units. At 5.9 metres (**m**) above ground level, the proposed building will be higher than the existing storage units which are approximately 3 m above ground level.¹
- The residential building will extend approximately 1.7 m further landward than the current sheds. The building will extend out of the CMA onto land adjacent to Marine Drive; however it is

¹ ‘Ground level’ is a reference to the level of the ground on the landward side of the proposed building, rather than the level of the existing wharf, which is lower than the ground.

expected that some of this landward incursion will be underground engineering works rather than above-ground structures.

- Access to the building will be from the landward side adjacent to Marine Drive. This land is administered by Land Information New Zealand (**LINZ**).
- A wheelchair access ramp is proposed on the northwest side of the building.
- The existing fishing crane with winch will be retained to aid with unloading vessels and to assist with access to the CMA by disabled persons. The crane would need to be operated by a suitably experienced person and controls for the operation of the crane would need to be secured in some way.
- A floating pontoon will be attached to the wharf. This pontoon is already in place, although it does not appear to be authorised by the current coastal permit 2006.321 and resource consent for the placement of this structure has not been sought by this application.
- Since the application was lodged, the Applicant has installed an access ramp between the wharf and the floating pontoon. This was not authorised by any coastal permit.
- The Applicant proposes that the residential building will have an open-plan living and dining space with an attached kitchen. Off this central core will be a master bedroom, a bunkroom, and a self-contained bathroom.
- The building will be self-contained with respect to water use; grey and black water will be collected in storage tanks on the landward side of the building, and will be emptied as necessary. Rain will be collected in a tank for on-site use.
- The Applicant proposes to upgrade the power supply to the building from the current overhead line to an underground line. Earthworks within 10 m of the CMA would require resource consent if they are undertaken for the purpose of residential development. This has not been applied for.
- Works to construct the new residential building will be completed in one stage and are expected to take approximately four weeks. No machinery will be required and no construction from the water will occur. Therefore, no resource consent for temporary occupation of the CMA for works is required.
- The Applicant states that they have received advice from a builder that new or replacement piles are unlikely to be required; therefore, they have not applied for a coastal permit to disturb the CMA. The Applicant will consult a geotechnical engineer to determine foundation requirements prior to commencing construction. If additional or replacement piles are required, a separate application will be lodged for the disturbance to the CMA.

For convenience, photographs and images are reproduced from the s95 Report. The current and proposed floor plan is shown in Figure 1. Photographs of the current wharf and sheds, and perspectives of the proposed structure, from both the CMA and from Marine Parade are shown in Figures 2-6.

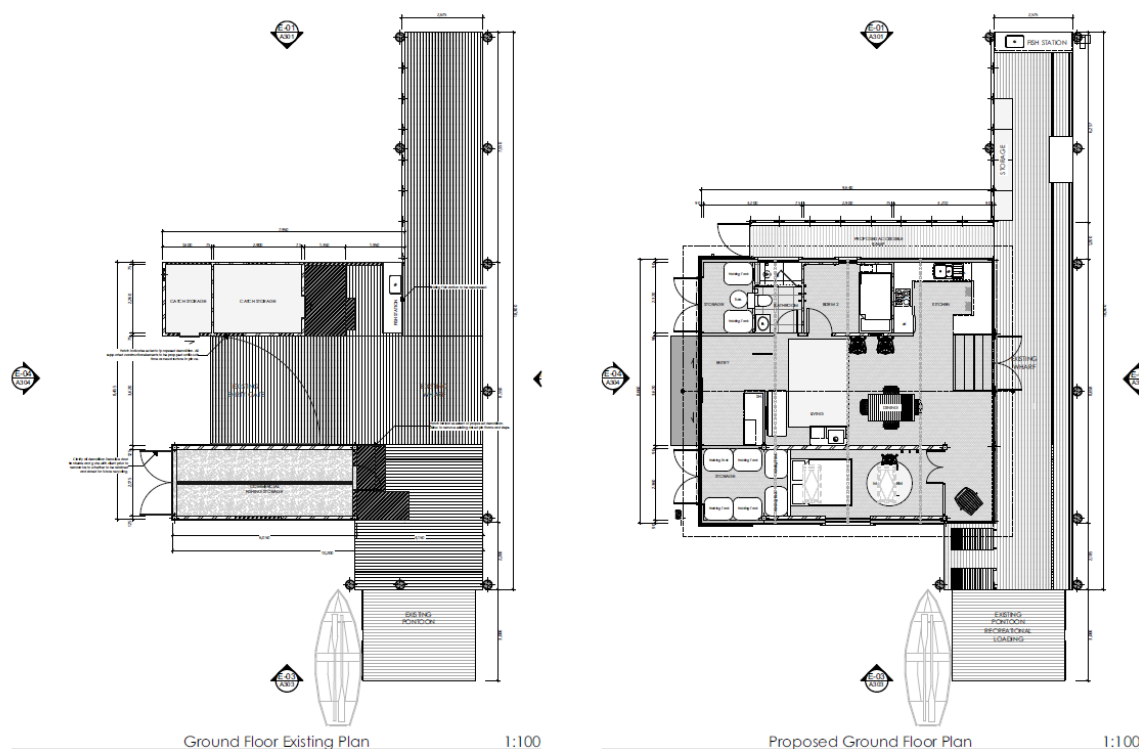


Figure 1 Current (left) and proposed (right) ground floor plan. Marine Parade is to the left of the page; CMA to the right. Source: RM22.550 s92 response.



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



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



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



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



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

2.3 Application Documents

Application as lodged

The application as lodged comprised an Assessment of Environmental Effects supported by a suite of technical assessments. These documents are listed below:

- Application titled *Application for Resource Consent Onumai Enterprises 21 Marine Parade Taieri Mouth*, prepared by Cubitt Consulting Limited, dated June 2022, including application forms 1 and 12B, and Appendices 1-3
 - Appendix 1: Building Plans
 - Appendix 2: Coastal Permit 2006.321
 - Appendix 3: Letters of Support

Requests for further information

The following further information was provided:

- Response to December 2022 s92(1) request for further information provided on 16 February 2023, comprising:
 - letter titled *Section 92(1) response for Consent Application Number RM22.550*, undated and unsigned;
 - Landscape assessment report titled *Proposed Boatshed, 21 Marine Parade, Taieri Mouth, Natural Character and Landscape Effects Assessment*, prepared by Mike Moore, dated 26 January 2023;
 - Graphic supplement to Mike Moore report
- Response to December 2022 s92(1) request for further information provided on 5 April 2023, comprising:
 - Revised design plans, prepared by Bernard Young Architecture, each dated 31 March 2023.
- Response to December 2022 s92(1) request for further information provided on 21 July 2023, comprising:
 - Emails from Allan Cubitt to Shay McDonald, dated 21 July 2023.
- Response to April 2025 s92(1) request for further information provided on 29 May 2025:
 - Email from Angela Mirams to Shay McDonald dated 29 May 2025 confirming no changes to application made since notification.

3. Description of the Environment

A description of the site and the surrounding environment is provided below. This is largely unchanged from the description provided in Section 4 of the s95 Report.

3.1 Location – Wider Context

- The site is located within the CMA on the true right bank of the Taieri River at Taieri Mouth.

- The CMA boundary is specified in the Schedule 12 to the Regional Plan: Water for Otago (**RPW**). The boundary coincides with the downstream extent of the road bridge across the Taieri River. This bridge is shown in Figure 7.
- The land parcel immediately adjoining the site is administered by LINZ.²
- The adjacent Marine Parade Road Reserve is administered by Clutha District Council (**CDC**).



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

- The site is located within Coastal Development Area 5 (**CDA5**) as identified in Schedule 2 of the Regional Plan: Coast for Otago (**RPC**). Coastal development areas are characterised as having a mixture of structures, facilities, and associated infrastructure required by the recreational and commercial activities occurring in those areas.
- Specific values supported by CDA5 are fishing facilities and recreational facilities. Schedule 2 of the RPC states that when considering applications for activities within or adjacent to coastal development areas, the values identified within those areas will be recognised and regard will be given to the need to provide for those values, as appropriate.

² LINZ were directly notified in accordance with Regulation 10 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003, but did not make a submission

- Residential dwellings are located on both sides of the river, with the majority of the Taieri Mouth settlement lying to the south of the river. Dwellings located on the true left side of the river will have a view of the site and proposed structures.
- The site is not located within an area identified as being of high or outstanding natural character. However, the wider Taieri Mouth area has landscape features of biophysical and cultural or historic significance. These include the nearby Moturata Island, regionally significant wetland areas, as well as mahika kai sites.
- The Otago Coastal Marine Area/Te Tai o Arai Te Uru is subject to a statutory acknowledgement.

3.2 Location – Immediate Context

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

3.3 Nearby Activities

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

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

Table 1: Current consents within 200 m of the site

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

Coastal Permit 16.021.01	Occupy CMA with swing mooring	20 April 2051
Coastal Permit 2005.728	Occupy CMA with a wharf for mooring, loading, and unloading a commercial vessel and for operating a commercial takeaway cafe and fresh fish outlet	01 December 2040
Coastal Permit 2006.062	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of fishing equipment	01 May 2036
Coastal Permit 2005.763	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of boating equipment	01 January 2041
Coastal Permit 2006.320	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of fishing equipment	01 December 2040
Coastal Permit 2001.204B	Occupy the foreshore of the CMA with a wharf	01 May 2036
Coastal Permit 2006.382	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a freezing container and storage of fishing equipment	1 December 2040 ³
Coastal Permit 2003.751	Occupy the CMA with a boatshed and wharf for the purpose of using boatshed and wharf	01 November 2038
Coastal Permit 2006.045	Occupy CMA with a wharf and shed for mooring, loading, and unloading a commercial vessel and using the shed for a	01 February 2041

³ The expiry date of this resource consent was incorrectly recorded in the s95 Report as 22 April 2023.

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

4. Notification and Submissions

4.1 Notification Decision

A decision was made on 10 August 2023 that this application would be publicly notified for reason of special circumstances. Public notice was duly given on Saturday 19 August 2023 and the submission period ran until 15 September 2023.

4.2 Submissions Received

A total of 53 submissions were received. This includes one late submission received on 20 September 2023, which was subsequently accepted by Council. Of the 53 total submissions, 35 were in support, 17 were in opposition, and one took a neutral position. In September 2024 one submission (in support) was withdrawn. A summary of all 52 remaining submissions is attached as Appendix A.

As a general comment, the views of submitters are generally quite polarised, with submitters appearing to consider the proposal very positively or very negatively. Throughout this report, I have given greater weight to those submitters who provided reasoning or explanation to support their position on the application, in comparison to those who have simply expressed a view about whether they like or dislike a particular aspect of the proposal, or indeed the proposal as a whole.

A high-level summary of the key themes of the submissions is presented below.

4.2.1 Submissions in support

There are 34 submissions in support of the proposal. Generally, these submitters supported the proposal for the following reasons:

- Improved access to the CMA, including for disabled persons and emergency or regulatory services, via the crane/hoist, access ramp, and floating pontoon;
- Design of structures, including interior of the proposed residential building, with access for disabled persons in mind;
- Public use and use for events;
- Employment of local tradespeople and return of some rental accommodation profits to the community;⁴
- Revitalisation of a run-down wharf area; improvement to 'look' of the area;

⁴ Return of some profits to the community is not proposed in the application.

- Support for short-term 'Air BnB' accommodation;
- Unspecified 'community benefits', or general support without specific reasons.

4.2.2 Submissions in opposition

17 submissions were received in opposition to the proposal. The principal issue raised by opposing submitters was the proposed use of the residential building for residential and short-term rental accommodation.

Other reasons for submitters opposed the proposal for the following reasons:

- Conflict with commercial fishing and reverse sensitivity effects;
- Precedent and future 'cumulative' effects;
- Lack of functional need for a coastal location;
- Adverse effects on character or landscape values;
- Compatibility of the accommodation aspect with the other proposed uses;
- Restriction of public access/privatisation of the CMA;
- Size of the structure and adverse visual impacts;
- Effects of residential activity – rubbish, noise, parties, etc;
- Unnecessary additional access for emergency services;
- Absence of demand for accommodation of this type in this area;
- Climate change concerns;
- Health and safety;
- On-site storage of waste;
- Potential for future s127 variations to remove the positive recreational aspects;
- Inconsistency with policy direction;
- Impacts on cultural values.

4.2.3 Neutral Submissions

One neutral submission was received from Fire and Emergency New Zealand (**FENZ**). FENZ took a neutral position subject to the proposed building being provided with a firefighting water supply in accordance with the relevant firefighting code of practice.

4.2.4 Submitters wanting to be heard

17 submitters indicated that they would like to speak to their submission at a hearing. Significant time has passed since this application was notified and submissions were received. Prior to the hearing commencing, the Hearing Administrator will confirm the number of submitters wanting to be heard.

4.3 Pre-Hearing Meeting

At the request of the Applicant, a pre-hearing meeting was held on 3 October 2024, facilitated by David Randal of Buddle Findlay.⁵ All submitters were invited (rather than required) to attend this meeting. Nine submitters attended, and three other submitters provided written documents to be read and

⁵ Section 99 of the RMA

recorded at the meeting. Following the meeting, Mr Randal prepared a report which sets out the matters that were discussed at the pre-hearing meeting, while specifically excluding anything that was communicated or provided on a without prejudice basis. This report is attached as Appendix B. Despite robust discussions, no issues raised in submissions were resolved at this meeting. Nonetheless, the positions taken in respect of the proposal by the Applicant and the attending submitters were clarified.

5. Status of the Application

5.1 Consents Applied For

As set out in Section 5 of the s95 Report, the Applicant has applied for the following resource consents under the RPC:

- To alter and extend the existing storage sheds upon the wharf to construct the residential building including attached access ramp as a discretionary activity under rule 8.5.2.5;
- To occupy the common marine and coastal area with structures and to use those structures for residential and commercial accommodation purposes, recreational, sporting, and recreational use, and emergency, civil defence, and regulatory services use as a discretionary activity under rule 7.5.1.5.⁶ Although the Applicant has not explicitly stated in their rule assessment (section 1.3 of the AEE) which structures have been applied for in terms of the occupation permit, based on the description of the activities and uses it appears clear that the Applicant has applied to occupy the CMCA with the wharf, associated small structures such as access ramps and floating pontoon, and the residential building.

I agree that these consents are required to authorise the proposed activities.

5.2 Permitted Activities

The Applicant states that the following activities will be undertaken in accordance with the relevant RPC permitted activity rules:

- The removal of unwanted or unsuitable parts of the current wharf and associated buildings, if removal is in fact required, will comply with all aspects of RPC permitted activity rule 8.5.3.1.
- Any discharge of stormwater from impervious surfaces of the structure will comply with RPC permitted activity rule 10.5.3.1.

Based on the description of these activities provided in the application, I agree that these activities can be undertaken in accordance with the permitted activity rules.

5.3 Consents Not Applied For

The Applicant has not applied for resource consent for the following activities:

⁶ Commercial use refers to the use of the multipurpose building for short-term rental accommodation in the style of Air BnB, or similar.

- The placement of the floating pontoon as an attachment to the wharf, and the attachment of the ramp between the wharf and pontoon, which would both be discretionary activities under RPC rule 8.5.1.9. The Applicant has not applied for retrospective consent for the placement of the floating pontoon or the ramp. The Applicant has, however, applied to occupy the CMCA with the pontoon and the ramp.
- Disturbance of the CMA for the installation of additional piles in the seabed. Based on the information provided, additional piles are not considered necessary to support the wharf and the proposed building. Should detailed design indicate that additional piles do need to be installed, resource consents would be required under discretionary activity rules 8.5.2.5 (modification of structure) and 9.5.3.6 (disturbance of the seabed). Resource consent would also be required for temporary occupation of the CMCA, if pile driving were to be undertaken from the CMCA.
- Earthworks for residential development as a restricted discretionary activity under the Regional Plan: Water for Otago (**RPW**) rule 14.5.2.1. It is understood that this will largely be subsurface works to 'pin' the residential building structure. The RPW defines residential development as:

Residential development – Means the preparation of land for, and construction of, development infrastructure and buildings (including additions and alterations) for residential activities and includes retirement villages. It excludes camping grounds, motor parks, hotels, motels, backpackers' accommodation, bunkhouses, lodges and timeshares.

The proposed building will be used, in part, for residential activity. As such, resource consent would be required for earthworks occurring within 10 m of the CMA. I note that even where there are other non-residential uses proposed for the building, the earthworks for the various uses cannot be separated from the earthworks for residential development. Therefore, resource consent for these earthworks would be required prior to commencement of any works authorised by these coastal permits.

- Coastal permit to occupy the CMCA for events extending beyond the wharf and residential building. Should the Applicant choose to undertake or host any event or activity requiring occupation of the CMCA outside the perimeter of the specific structures described in this application, that occupation will need to comply with permitted activity rules or will require an additional resource consent for occupation.

I consider that the above activities are not material to the decision needing to be made on this application.

6. Section 104 Evaluation

Section 104 of the Act sets out the matters to be considered when assessing an application for a resource consent. These matters are subject to Part 2, the purpose and principles, which are set out in Sections 5 to 8 of the Act.

The remaining matters of Section 104 to be considered when assessing an application for a resource consent are:

- (a) the actual and potential effects on the environment of allowing the activity;
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity;
- (b) any relevant provisions of a national environmental standard, other regulations, a New Zealand coastal policy statement, a national policy statement, a regional policy statement or proposed policy statement, a plan or proposed plan; and
- (c) any other matter the Council considers relevant and reasonably necessary to determine the application.

6.1 S104(1)(a) – Actual and potential effects on the environment of allowing the activity

Section 104(1)(a) of the RMA requires the council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the positive and the adverse effects.

6.1.1 Positive Effects

The application states that the proposal will have significant positive benefits for the general public, including:

- Enhanced public access to the CMA through access to the wharf and through use of the crane and pontoon;
- Improved access to the CMA (across full tidal range) for emergency, civil defence, and regulatory groups;
- Enhancement of visual amenity values as a result of the new structure and enhanced public access and safety;
- Economic benefit to the local community from the accommodation and event promotion components of the proposal, including through employment of local persons.

I agree that these are positive effects that may result from various aspects the application. However, I do not agree with the Applicant's assessment that the proposal as a whole will result in significant positive benefits for the general public. This is because it is not clear that some of the stated positive effects are certain to occur. In particular, the Applicant has not demonstrated how the stated economic benefits to the community are an actual positive effect, or the level of this effect. Further, the enhancement of visual amenity values as a result of the new structure are not entirely supported by Council's landscape assessment, as discussed in Section 6.1.2.4 below.

I note that several supporting submitters reference profit sharing, wherein the Applicant would share a portion of the profits realised from the rental of the residential building with the local community. It is not clear where the submitters have obtained this information, as it does not appear to be part of the application. As such, this is not considered a positive effect of this application.

6.1.2 Adverse Effects

A detailed assessment of adverse effects can be found in Section 9 of the s95 Report. This assessment is not repeated here. Rather, updates to the previous assessment, discussion of issues raised by submitters, and recommendations as to consent conditions are provided below. Where expert evidence is relied on this is explicitly stated.

6.1.2.1 General Matters

The Permitted Baseline

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

The permitted baseline is therefore not applicable in this case.

Receiving Environment and the Existing Environment

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

In this case, the receiving environment is the Taieri Mouth CMA, its values, and existing coastal permits as described in Section 3 of this report. Built form within the CMA consists of an approximately 200 m stretch of wharves and fishing industry sheds in generally dilapidated condition. The receiving environment also includes the residential dwellings within the wider Taieri Mouth area which have a partial or unobstructed view of the site.

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

In terms of the existing environment, it is noted here that Coastal Permit 2006.321 authorises the occupation of the CMA by the Applicant's existing wharf and sheds and their commercial use until 1 December 2040. The Applicant suggests that for this reason it is appropriate to consider the existing structures as part of the legal environment, and that the effects of the proposal should be measured against the existing wharf and structures, rather than as a new structure.

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

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

Draft Conditions

The Applicant considers that the conditions on existing Coastal Permit 2006.321 remain adequate and will address all potential adverse effects of the proposal, with the exception of existing Condition 7, which the Applicant states would need to be updated to reflect the new purpose of the consent.

I disagree that the conditions on Coastal Permit 2006.321 are adequate. They neither reflect the application as proposed nor adequately address the potential adverse effects. Noting that it is my recommendation that parts of the application, being the residential building and its use for any accommodation, be declined, I have attached as Appendix C a suite of recommended consent conditions to aid the Commissioners if they are minded to grant the applications for the proposal as applied for.

I have not provided draft consent conditions to align with my recommendations to grant only part of this proposal, as this would require confirmation from the Applicant as to whether they would propose an alternative design for a building upon the wharf, or indeed whether they would choose to proceed with a reduced proposal at all.

6.1.2.2 Adverse Construction-Phase Effects

The application states that the construction of the residential building will occur entirely from the land and will not require any occupation of the CMCA outside the existing footprint of the wharf. It is further stated that construction of this building will be completed in one stage with a duration of approximately four weeks, with works undertaken Monday-Saturday between the hours of 7:30 AM and 6 PM. No machinery would be required. The Applicant states that construction noise will comply with noise limits as specified in New Zealand Standard Acoustics - Construction Noise NZS 6803:1999. The works will not involve any discharge of water or contaminants into the CMA.

Based on the above description of the construction works, the Applicant states that adverse construction-phase effects are expected to be less than minor. I agree with this assessment, subject to the imposition of the consent conditions set out in Appendix C. These conditions are recommended to ensure that the residential building is constructed in accordance with the preliminary design plans provided in the application, and that construction noise and working hours remain within appropriate limits. I note that the RPC does not contain any rules in relation to noise; however, the objective and policy contained within Chapter 12 of the RPC provide guidance to the consideration of activities that require resource consents under any of the other chapters of this plan.

No submitters raised concerns specifically related to construction phase effects.

Subject to the recommended consent conditions in Appendix C being adopted, I am satisfied that the adverse construction-phase effects can be managed such that they are less than minor and acceptable.

For the avoidance of doubt, this assessment does not consider the potential adverse effects that may result from any earthworks that may be undertaken. This is because these earthworks have not been applied for.

6.1.2.3 Adverse Ecological and Coastal Water Quality Effects

The construction of the residential building will not involve any disturbance of the seabed or foreshore, nor will it involve any discharge of water or contaminants into the CMA. Accordingly, adverse effects on ecological values and coastal water quality are expected to be less than minor during the construction phase.

During the ‘operational phase’ where the wharf and appurtenant structures, including the residential building, would be utilised for their proposed purposes, the Applicant considers that the adverse effects on ecological values and coastal water quality are expected to be similarly minimal. The Applicant proposes to install a modern, fully self-contained water collection and wastewater disposal system. The system will include backup spillage systems and alarms that meet industry standard for waste containment. No wastewater of any type will be discharged to the CMA. Rainwater will be captured and held in industry-approved water holding tanks for use within the dwelling. Any overflow rainwater (stormwater) will be released into the environment in accordance with the relevant RPC permitted activity rule.

In her opposing submission, Sally van Dyk raised concerns about onsite storage of waste and the risk posed by storm surges and spring high tides. Similar concerns about risks of storing grey and black water in tanks was raised in an opposing submission by Jeannine Basquin. These concerns were discussed at the pre-hearing meeting and the Applicant indicated that any waste tank would be stored within the interior of the residential building rather than being (for example) below the level of the wharf deck. It was also noted that various engineering and building consent requirements would apply, which would be overseen by the Clutha District Council.

Consent conditions are recommended to ensure that the residential building is constructed and operated in the manner described in the application, and the construction will not involve any disturbance to or discharge of contaminants into the CMA. Subject to these recommended consent conditions being adopted, I am satisfied that the adverse ecological and water quality effects can be managed such that they are less than minor and acceptable.

6.1.2.4 Adverse Landscape, Natural Character, and Visual Amenity Effects

The application suggests that visual amenity values will be enhanced, and that the visual amenity outcomes of introducing residential character in the area are positive. In a response to a request made under s92(1) for further information the Applicant provided a Natural Character and Landscape Effects Assessment Report (**Moore, 2023**) from Landscape Architect Mike Moore. Mr Moore concludes that as there is no baseline requiring protection of the existing fishing port character, the effects on landscape values will be neutral or positive. Mr Moore further considers that the change in character from a fishing industry-related structure to a recreational/accommodation structure will have a very low impact on natural character. In relation to visual amenity effects, Mr Moore concludes that the proposed development would integrate readily into the setting and would improve visual amenity. In summary,

Mr Moore considers that the structure would be an element of visual interest in the landscape that reflects the changing use of the Taieri Mouth Coastal Development Area, the use of which he considers to be changing from commercial fishing to recreation. Further, he considers that the proposed structure will clearly read as a live-in boatshed and will not appear out of place in terms of scale or character.

In her evidence attached as Appendix D to this report, Rachael Annan – Technical Director Landscape Planning at SLR considers the landscape effects of the application as proposed. Ms Annan considers that Mr Moore’s landscape report provides limited discussion of existing landscape attributes and states that in this report the visual amenity and natural character are considered at the expense of identified local landscape values. Ms Annan considers that there are landscape values associated with boating and recreational access to the water from wharves. The appearance, scale and pattern of the existing local wharves and structures are distinct to Taieri Mouth. Landscape assessment practice involves seeking to integrate a project within its receiving environment, and the relevant consideration is the local landscape values.

Ms Annan considers that Mr Moore’s report overstates the change associated with the shift from commercial to recreational boating use of the Marine Parade wharves. This is because the identified values of CDA5 already include ‘boating and recreational use’. Ms Annan states that Mr Moore’s landscape report does not provide the basis for considering the combined legibly increased scale and residential appearance of the proposed residential building as being not ‘out of place’. She considers that there are key characteristics of boatsheds which are not successfully met. These include scale, proportion, repetition and simple materiality.

Visual effects are a subset of landscape effects, being the effects on landscape values experienced as views. The application states that positive effects of the application include the enhancement of visual amenity values as a result of the new structure. Ms Annan considers that this statement disregards the relationship between character and amenity, and that describing the visual amenity outcomes of introducing residential character as entirely positive separates amenity effects from the underlying character and values of the existing area. The application considers that the proposed residential structure would be visible to residents/persons viewing the site from Taieri Mouth Road across the river, and that this would be an overwhelmingly positive effect, seemingly due to the current lack of upkeep of the existing row of structures. Ms Annan notes that introducing residential use and character is not an inherent outcome of maintenance and upkeep of the wharf or the structures upon it, nor is it consistent with structures blending into the environment of the locality.

It is an agreed matter between Mr Moore and Ms Annan that the site is not within an area of high or outstanding natural character. Ms Annan also agrees that the proposal will have very low (adverse) effects on natural character, as is concluded in Mr Moore’s report. The adverse nature of this effect reflects that natural character is expected to decrease as development and built form increase. Ms Annan does not agree that natural character outcomes will be ‘vastly improved’ as is stated in the application, which was prepared prior to the commissioning of Mr Moore’s report.

In her evidence Ms Annan states that while positive amenity outcomes (visual effects) are recognised in terms of experiential qualities, their being considered irrespective of character is a very much a surface level approach and one with inherent risks. Out of character development can initiate incremental

erosion of landscape values. This can also contribute to a loss of a place's distinct identity, coherence and legibility. The existing wharves and structures do not express residential character. It would be a notable loss of character for this area to become homogenous with the wider residential settlement.

In terms of the proposed accommodation use of the residential building, it was noted in the s95 Report that noise associated with residential activity, when combined with lighting effects, particularly the potential 'glowing box' appearance afforded by the indoor lighting spill at night, as well as movements and activities typically associated with residential or domestic use of a dwelling, will contribute to a change in perception of the area's character and identity. These factors are relevant to the experience of persons in the area. However, as explained by Ms Annan, when considering landscape effects, residential use in itself is not the key concern. The primary issue is how effectively the proposal can be integrated into the setting. In this situation, the concern is the shift in character and the domestic appearance in this CMA location. In other words, if the same building was not proposed to be used for accommodation, it would still in most ways be just as much out of character.

Ms Annan concludes:

- The existing landscape values of this coastal location draw on human interaction with the natural environment for boating and recreation. The proposed introduction of local residential character to this area and over the water is not considered to be appropriately integrated with the location.
- A narrowed assessment focus on amenity and natural character is evident through the landscape report. This is at the expense of addressing relevant landscape attributes, character and capacity. There is also considered to be some misdirection in assessing both recreational and residential activity as if comparative new uses.
- This proposed shift in use is not inherent in maintenance and upkeep of permitted use of CDA 5. The application will both be clearly larger (against the existing scale and pattern of wharf structures) and introduce residential accommodation, its character shift most abrupt in the glazed façade facing east over the river.
- Overall, the activities as proposed by the Applicant are expected to result in minor adverse landscape effects in this setting.

Submitters

When presented with the same facts, submitters had polarised views on the 'look' and overall appropriateness of the proposed activities in this location.

- Of the 17 opposing submissions, nine spoke specifically to the change in character or adverse impacts on landscape values associated with the proposed residential building, both in design and proposed accommodation use. Generally, these submitters indicate that they consider that the application would reduce the existing character of the area and that this is unnecessary and inappropriate in making improvements in this location. These submitters identify that the area has an existing character deserving of protection, and that introducing residential activity is neither necessary nor appropriate.

- Specifically relating to the proposed accommodation use, opposing submitters raised concerns about noise, lighting, and parties.
- Only one submitter suggested a change to the design intended to reduce the effects on natural character and visual amenity values. This was Mr Don Hunter who opposes the application as lodged and suggests that the building height be reduced to a maximum of 4 metres.
- Of the 34 submissions in support, 12 spoke to visual improvements, or enhancement of visual appeal. These submissions tended not to consider broader landscape values and focussed narrowly on the visual impacts.

Should the Commissioners seek to grant the proposal, consent conditions are recommended which require the Applicant to provide a detailed design of the residential building to Council for certification prior to construction. Certification would be limited to ensuring that the final design is consistent with the preliminary design put forth in the application. This would ensure that adverse landscape effects are constrained to those that have been assessed.

Overall, there is a degree of disagreement between the landscape expert for the Applicant and the corresponding expert for Council. Adopting the more conservative assessment overall leads to a finding of minor adverse landscape effects. Although a number of submitters spoke to landscape effects, none raised any landscape relevant matters that were not otherwise traversed by the respective landscape experts for the Applicant or Council. Provided the recommended consent conditions in Appendix C are adopted, I consider that the adverse landscape effects can be managed such that they are minor and acceptable.

6.1.2.5 Adverse Public Access Effects

Neither the Crown nor any other person may own the CMCA, and public access to it is guaranteed. Where a consent is granted for the occupation of the CMCA by a structure, this occupation is not an exclusive right. Nonetheless, the general public may be excluded from accessing a structure to the extent that is necessary to enable to the primary purpose of the structure. In the example of a typical boatshed upon a wharf, it is reasonably expected that the shed itself would be locked to protect the belongings stored in that shed. However, the wharf itself should provide public access to the CMA unless there is a health and safety reason relating to the authorised use of the wharf that would justify the further restriction of access. This is typically reflected in consent conditions which require the consent holder to provide access to the wharf for the purpose of enabling public access to the CMA. I note that Coastal Permit 2006.321 does not contain any such condition, and at the current point in time, access to the wharf is restricted by a locked gate.

The proposed residential building, floating pontoon, and the wharf will occupy the CMCA. The Applicant proposes that the building itself will remain locked, to protect the property and belongings of the Applicant. This is considered to be reasonable and appropriate. An access ramp will be installed on the northwestern side of the wharf to facilitate wheeled access to the wharf. The Applicant has stated that while there will be a gate at the entrance to the access ramp to the wharf for health and safety reasons, the gate will not be locked, hence public access to the wharf and pontoon will not be physically

restricted. In terms of physical access to the CMA as it would be enabled by structures, this set up is not expected to result in any adverse effects.

Based on photographs provided by the Applicant at the pre-hearing meeting, it appears that the Applicant has already installed an access ramp from the main wharf to the pontoon to provide access for persons in wheelchairs or for movement of any other wheeled structure/appliance between the wharf and pontoon. This occupation of the CMCA by this ramp was proposed as part of this application; however, the Applicant appears to have undertaken this installation without the required coastal permit for the placement of this structure. Nonetheless, in terms of physical access to the CMA as it would be enabled by structures, this set up is not expected to result in any ongoing adverse effects.

To ensure that the structures are available for the uses proposed by the Applicant, and to ensure that they are not allowed to fall into a state of disrepair, I have recommended consent conditions requiring the structures, including the building, wharf, and access ramps (to the wharf and between the wharf and pontoon) to be maintained such they are structurally sound and able to be used for the purposes that would be listed on the coastal permit. These are included in Appendix C.

In the application, the Applicant stated that the existing crane with winch will be retained and used to load or unload vessels, and to provide direct access into boats for persons with limited mobility. The crane may also be used to aid emergency services to extract distressed or injured persons from boats. Based on photographs provided by the Applicant at the pre-hearing meeting, it appears that the crane/winch is already being used for this purpose. The crane/winch are not expected to result in any adverse public access effects. To ensure that the crane continues to be available for the uses proposed by the Applicant, and to ensure that they are not allowed to fall into a state of disrepair, I have recommended consent conditions requiring the crane and winch to be maintained such they are structurally sound and able to be used for the purposes that would be listed on the coastal permit.

It is understood that for health and safety reasons the controls for the crane would need to be 'lockable' and only utilised by suitably experienced operators. Thus, in reality, the crane would be available on an 'appointment only' basis. To ensure that the crane is made available to the public as has been proposed by the Applicant, I recommend that a consent condition be imposed which requires clearly visible signage be installed on the roadside of the building to inform the public how they can make an appointment to use the crane.

Considering only the structural aspects proposed by the Applicant, and the way in which they would be used to facilitate physical access to the CMA, adverse effects on public access are not likely to arise. However, it is important to note that, as identified in the evidence of Ms Annan, the proposed residential building will have a distinct residential character, even when unoccupied, and this may have the effect of discouraging the public from approaching the area, effectively resulting in an area of exclusion. When occupied, either by the Applicant, their family, or by paying guests, the residential character and use and the sense of privatisation will be further pronounced. The installation of a gate (even an unlocked gate) will further give rise to the perception that the area is not publicly accessible. I am unable to quantify this impact, but I do not expect it to result in significant public access issues as the area involved is very small in comparison to the available length of more accessible coastline in the Taieri Mouth area.

The Applicant has not proposed any measures to counteract this perception. The Applicant has also not proposed any restrictions or limits on the number of days/nights that the residential building would be utilised for accommodation purposes. Therefore, it is assumed that accommodation use may occur year-round. I recommend that the Applicant be required to install signage on the gate and/or the side of the building facing the road which must clearly state that the wharf and pontoon are freely accessible to the public at all times. I expect that this would to some extent mitigate the perceived reduction in public access associated with the accommodation use.

The Applicant also proposes that the wharf and building will be used to host recreational, school and sporting events and be available to search and rescue, fisheries officers, and civil defence groups, all of which would theoretically serve to encourage and increase public access to the CMA. However, this relies on the participation of third parties which cannot be enforced via consent conditions, and these uses are therefore unlikely to mitigate any perceived reduction in public access associated with the accommodation use. Nonetheless, the use of the wharf and residential structure for events and emergency response is not expected to result in any adverse effects in their own right. I have recommended consent conditions which require the Applicant to report to Council on the number and type of recreational or sporting events held at the site each year.

The potential for reduced public access was a matter of concern for a number of submitters. Seven opposing submitters spoke to the importance of retaining public access to the CMA and expressed concerns about the presence of a gate and the proposed accommodation use reducing public accessibility, either through physical restriction or perceived restriction. None of the submitters who opposed the application expressed concerns about the improved access for disabled persons. There was also little opposition to the proposed use of the site for recreational events and emergency use, although several submitters queried the need for such uses and how well supported they would be.

Submitters who were supportive of the application generally spoke favourably of the wharf and structures being made available for emergency services and to improve accessibility for disabled persons. These submitters generally considered that the proposed residential building, wharf, and appurtenant structures would become a valuable community asset. Two submitters were also supportive of the interior design of the residential building insofar as it is designed to be an accessible space for disabled persons. I note that my understanding of the proposal is that the design does not provide for direct access of disabled persons from inside the building to the wharf.

The overall footprint of the proposed occupation of the CMCA is small in comparison to the length of accessible coastline in the Taieri Mouth area. While it is proposed that the wharf and pontoon would remain available for public access at all times, the proposed residential character and accommodation use of the building are likely to discourage public access to the wharf area to a certain extent. Any perceived restriction in access may be somewhat mitigated by signage, as discussed above, and consent conditions to this effect are recommended. Overall, subject to the recommended consent conditions being adopted, I am satisfied that the adverse effects on public access can be managed such that they are no more than minor and acceptable.

6.1.2.6 Safety and Navigation Effects

The area of the wharf itself is not increasing, although the wheelchair access ramp on the northwestern side of the building would hang over the edge of the existing wharf. The pontoon is already in place, although it is not authorised by the existing coastal permit, and retrospective consent to 'place' this pontoon is not sought by this application. The Harbour Master states that no navigational or maritime safety issues are anticipated from the proposal. No comment was received from Maritime New Zealand who were notified in accordance with s89A of the RMA.

Alan Dunlop, who submitted in opposition to the proposal, considers that the pontoon should be removed as it is a maritime hazard and hampers access to and from the river for fishing and other activities. Mr Dunlop does not provide evidence of his qualifications or experience to speak to maritime hazards, does not appear to hold any coastal permit in the vicinity of the site, nor is his position supported by any other submitter. As such, I am unable to place much weight on this part of Mr Dunlop's submission. I understand that Mr Dunlop does not wish to speak to his submission at the upcoming hearing.

The persons qualified to speak to navigational hazards have indicated that there are no such hazards likely to result from undertaking the activities as proposed. I accept this assessment.

Consent conditions are recommended to ensure that the pontoon remains fixed to the wharf at all times in the specific location proposed by the Applicant, which is on the southeastern side of the wharf. subject to the recommended consent conditions being adopted, I am satisfied that the adverse safety and navigation effects can be managed such that they are less than minor and acceptable.

6.1.2.7 Reverse Sensitivity Effects

Reverse sensitivity is the vulnerability of an existing activity, in this case commercial fishing, to complaint from a newly established more sensitive activity, which in this case would be the use of the residential building for accommodation.

Ms Sally van Dyk raised concerns about potential reverse sensitivity effects with the proposed accommodation use occurring adjacent to commercial fishing operations, particularly in relation to potential odour from fishing activities. Ms van Dyk appears to be concerned that potential users of the accommodation facility would lodge complaints about odours from adjacent lawful commercial fishing activities. A similar concern was raised by Mr Glen Patterson, who considers that the proposed accommodation use is a 'conflict of interest' with his lawful commercial fishing operation, which I understand he undertakes, in part, from an adjacent wharf.

I agree that reverse sensitivity is a potential issue. The Applicant has not proposed any specific mitigations in relation to this potential effect; however, at the pre-hearing meeting the Applicant stated that guests would be 'made aware of fishing activities'. I do not consider that this is adequate, and I therefore recommend that a condition be imposed upon the coastal permit authorising occupation activities that the Consent Holder must not make a complaint about any lawful commercial fishing operations in the vicinity of the site. I would welcome further input on this from the Applicant and submitters at or before the hearing.

Subject to the recommended consent conditions being adopted, I am satisfied that reverse sensitivity effects can be managed such that they are no more than minor and acceptable.

6.1.2.8 Cumulative Effects

Adverse cumulative effects can arise due to ongoing impacts of a particular activity or as a result of several similar activities occurring within the same catchment or area. The contribution to cumulative effects in relation to coastal water quality or coastal ecological values is expected to be negligible, because the works to alter and extend the current structures will not involve disturbance of the CMA and will not impact water quality.

The proposal does not seek to increase the number of buildings within the area. The increase in size/bulk will increase the proportion of built form within the area to a small extent, and the proposed access ramp will extend over the existing edge of the wharf. Additionally, the pontoon, although physically already in place, is not lawfully occupying the CMA; therefore, granting of this application would result in an increased area of occupation. However, these changes are small, and the contribution to adverse cumulative effects is expected to be less than minor.

The proposed uses of the building may introduce noise, lighting, and movements of a different nature to those typically expected within the CMA at Taieri Mouth. These effects may be adverse on landscape values, natural character, or amenity, but are not expected to contribute significantly to cumulative effects given they are of a different nature to the noise and movement typical to the area and may occur at different times of the day.

Two submitters referenced concerns about cumulative effects. Lucy Hardy noted concerns about precedent and cumulative effects if other similar activities are subsequently permitted. Aukaha, in their submission on behalf of Te Rūnanga o Ōtākou, also listed cumulative effects as being of concern. As neither submitter elaborated on these concerns, I am not able to make any further recommendations in relation to cumulative effects at this time. Precedent effects are discussed in Section 6.4.1 of this report.

Overall, I consider that the potential adverse cumulative effects are likely to be no more than minor. Consent conditions discussed in other sections of this report, such as noise limits, are expected to be sufficient to manage cumulative effects.

6.1.2.9 Adverse Effects on Mana Whenua Values and Uses

The proposed structures and activities are located within the Otago Coastal Marine Area/Te Tai o Arai Te Uru, which is subject to a statutory acknowledgement. Statutory acknowledgements recognise the relationship of Kāi Tahu with these areas and assigns certain responsibilities to councils in providing for that relationship.

A submission was received from Aukaha on behalf of Te Rūnanga o Ōtākou, the kaitiaki Rūnaka whose takiwā includes the site the application relates to. The submission sets out the relationship that Kāi Tahu have with the te taiao (natural environment) and in particular the relationship with the Taieri River and the Otago coastal environment. The site and surrounding cultural landscape have ancestral significance to Kāi Tahu and support important cultural values.

Te Rūnanga o Ōtākou state that, given the ancestral significance of the area and the associated cultural values discussed above, ka rūnaka have concerns about the uncertainty surrounding this application. The submission goes on to list these concerning areas of uncertainty as including, but not being limited to, potential cumulative impacts, functional need and policy direction, public access, and precedent. It is understood that these concerns relate to the proposed residential and rented accommodation aspects of the application. However, the submission does not explain the way in which these matters may adversely impact cultural values or the relationship of Kāi Tahu with Te Tai o Arai Te Uru, nor whether this impact differs from any impact associated with the existing wharves and structures in the area.

As Te Rūnanga o Ōtākou seek that the application be declined, the submission does not indicate whether any conditions of consent could be imposed to avoid or minimise the effects of the proposed activities upon mana whenua values.

Based on the available information, I am not able to conclude with any certainty the level of effect on mana whenua values and uses, nor whether there are any measures that the Applicant could take to avoid or reduce any effects.

6.1.2.8 Other Concerns Raised by Submitters

Natural Hazard Risks

Six submitters raised concerns about climate change, sea level rise, storm surges, and spring tides and the impact of those hazards on the proposed structures, in particular the residential building. In a response to a request for information the Applicant advised that the design floor level of the residential building would be at least 500 mm above the current wharf which is approximately 1.2 m above the high tide mark. The Applicant expects that this will sufficiently mitigate any risk posed by storm surges or sea level rise, referencing ‘pessimistic’ projections of sea level rise as being approximately 300 mm by 2050. I also note that the RPC contains a policy requiring structures provide at least 300 mm of freeboard to account for possible sea level rise.

A consent condition requiring the residential building to provide at least 500 mm of freeboard is recommended and included in Appendix C.

Fire Fighting Water Supply

FENZ note that the site is located within an unreticulated area, and that the application does not make any reference as to how the proposed residential building will be provided with a firefighting water supply. FENZ state that as a new land use is proposed (residential accommodation) as part of the application, it is vital that a firefighting water supply with appropriate access is provided to protect life and property in the event of a fire emergency. Adequate capacity and pressure for activities can be determined through the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice). I have recommended consent conditions to this effect. The Applicant will need to ensure that any onsite water tank they install is adequate to meet the requirements of this code of practice.

In Principle Opposition

Among the opposing submitters there was particular opposition to the proposed use of the residential building for accommodation purposes. Submitters did not always express this opposition in relation to any identifiable adverse effect. Rather, many submitters object 'in principle' to people being able to live in the CMCA and raised issues of fairness that arise from the utilisation of the CMCA for private use and financial gain. I consider that these matters are best addressed in Section 6.3 below.

6.1.2.9 Summary – Actual and Potential Effects

In most respects, the actual and potential effects on the environment are considered on balance to be acceptable and able to be managed by consent conditions. The exception is the adverse effects on cultural values, which are currently not well understood. Particular note is also made of the potential adverse landscape effects, which are expected to be minor. While this is not a particularly high level of effect, when put into the context of the relevant objectives and policies (as is done below in Section 6.3 of this report) these effects are considered to be less acceptable.

6.2 S104(1)(ab)

The Consent Authority must have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity. The Applicant has not proposed any offsetting or compensatory measures.

6.3 S104(1)(b) Relevant Planning Documents

The relevant planning documents in respect of this application are:

- New Zealand Coastal Policy Statement 2010
- Operative Otago Regional Policy Statement 2019
- Proposed Otago Regional Policy Statement 2021
- Regional Plan: Coast for Otago

The following planning documents are not considered to be relevant to this application and are not discussed any further in this report:

- National Policy Statement for Freshwater Management 2020
- National Policy Statement for Indigenous Biodiversity 2023
- National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat 2023
- National Policy Statement for Highly Productive Land 2022
- National Policy Statement for Renewable Electricity Generation 2011
- National Policy Statement on Electricity Transmission 2008
- National Policy Statement on Urban Development 2020
- Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007
- Resource Management (Measuring and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020

- Resource Management (National Environmental Standards for Freshwater) Regulations 2020
- Resource Management (National Environmental Standards for Air Quality) Regulations 2004
- Water Services (Drinking Water Standards for New Zealand) Regulations 2022
- Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023
- Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016
- Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009
- Resource Management (National Environmental Standard for Marine Aquaculture) Regulations 2020
- Resource Management (National Environmental Standard for Storing Tyres Outdoors) Regulations 2021
- Resource Management (National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023
- Regional Plan: Water for Otago
- Regional Plan: Waste for Otago
- Regional Plan: Air for Otago

6.3.1 New Zealand Coastal Policy Statement 2010

The New Zealand Coastal Policy Statement (NZCPS) sets out objectives and policies written to achieve the purpose of the Resource Management Act 1991 in relation to the coastal environment of New Zealand. I have undertaken an assessment against the relevant provisions of the NZCPS below. However, because both the operative and proposed Otago Regional Policy Statements have been prepared to give effect to the NZCPS, I consider that these are the primary planning documents of relevance. Nonetheless, I consider that NZCPS objectives 2, 3, 4, and 6 and policies 2, 6, 13, 15, and 18 are the most relevant to this proposal, and I provide an assessment against these provisions below.

Objective 2

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- *recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;*
- *identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and encouraging restoration of the coastal environment.*

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:

- c) assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and*
- d) ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.*

(2) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:

- a) natural elements, processes and patterns;*
- b) biophysical, ecological, geological and geomorphological aspects;*
- c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;*
- d) the natural movement of water and sediment;*
- e) the natural darkness of the night sky;*
- f) places or areas that are wild or scenic;*
- g) a range of natural character from pristine to modified; and*
- h) experiential attributes, including the sounds and smell of the sea; and their context or setting.*

Policy 15 Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and*
- b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; including by:*
- c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to:*
 - i. natural science factors, including geological, topographical, ecological and dynamic components;*
 - ii. the presence of water including in seas, lakes, rivers and streams;*
 - iii. legibility or expressiveness—how obviously the feature or landscape demonstrates its formative processes;*
 - iv. aesthetic values including memorability and naturalness;*
 - v. vegetation (native and exotic);*
 - vi. transient values, including presence of wildlife or other values at certain times of the day or year;*
 - vii. whether the values are shared and recognised;*
 - viii. cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features;*
 - ix. historical and heritage associations; and*
 - x. wild or scenic values;*

- d) ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and*
- e) including the objectives, policies and rules required by (d) in plans.*

The site is not located within an area identified as having outstanding natural character, nor are any outstanding natural features or landscapes located in the vicinity. The proposal will not result in significant adverse effects on natural character or on any natural features or landscapes. Nonetheless, the proposed introduction of residential activity into the setting is not considered to be appropriately integrated with the location; hence, natural character is not preserved. Adverse effects on landscape values are assessed as minor. Through the s92 process the Applicant made some minor changes to the exterior design of the residential building to mitigate the residential character of the building, although, as set out in the evidence of Ms Annan, there remain design solutions available to better accommodate the building into the existing row of coastal structures. However, the Applicant has previously indicated an unwillingness to make further design changes to the building. In my opinion, the residual minor adverse effects on landscape values renders the proposal inconsistent with Policy 15. In relation to Policy 13, the relevant experts agree that adverse effects on natural character are very low. On this basis, further mitigation is not warranted, and I consider that the proposal is consistent with this policy.

Objective 3

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- incorporating mātauranga Māori into sustainable management practices; and*
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage

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;*
- c) with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;*

- d) *provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;*
- e) *take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and*
 - i. *where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and*
 - ii. *consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;*
- f) *provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:*
 - i. *bringing cultural understanding to monitoring of natural resources;*
 - ii. *providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;*
 - iii. *having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaitai or other non commercial Māori customary fishing; and*
- g) *in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:*
 - i. *recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and*
 - ii. *provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.*

Based on the submission from Te Rūnanga o Ōtākou, the proposed use of the residential building for accommodation purposes does not appear to provide for the relationship of Kāi Tahu with this part of the coastal environment. In the two years that have elapsed since submissions closed on this proposal, the Applicant did attempt to set up meetings with Te Rūnanga o Ōtākou to discuss the issues raised in the submission, but to my knowledge this did not eventuate. Therefore, the concerns relating to the accommodation aspect remain unresolved, and as a whole the application is considered inconsistent with these provisions. It is noted that Te Rūnanga o Ōtākou did not express specific concerns with any other aspect of the proposal, and I expect that the recreational and sporting and public accessibility aspects of the proposal would be generally consistent with these provisions.

Objective 4

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- *recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;*
- *maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and*
- *recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.*

Policy 18 Public open space

Recognise the need for public open space within and adjacent to the coastal marine area, for public use and appreciation including active and passive recreation, and provide for such public open space, including by:

- a) ensuring that the location and treatment of public open space is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment;*
- b) taking account of future need for public open space within and adjacent to the coastal marine area, including in and close to cities, towns and other settlements;*
- c) maintaining and enhancing walking access linkages between public open space areas in the coastal environment;*
- d) considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to have access to public open space; and*
- e) recognising the important role that esplanade reserves and strips can have in contributing to meeting public open space needs.*

These provisions appear to be of more relevance to councils or large-scale developers; however, to the extent that they apply to an individual consent application, it appears that walking access adjacent to the coastal marine area will not be affected by the proposed activities. Insofar as a wharf and floating pontoon can facilitate 'walking' access to this area of the CMA, public access is likely to be at least maintained and potentially improved compared to the current level of access, given that access is currently prevented by a locked gate. The proposal is considered to be consistent with these provisions.

Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*
- *some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*
- *functionally some uses and developments can only be located on the coast or in the coastal marine area;*
- *the coastal environment contains renewable energy resources of significant value;*
- *the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;*

- *the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;*
- *the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and*
- *historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.*

Policy 6 Activities in the coastal environment

(1) In relation to the coastal environment:

- a) recognise that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals are activities important to the social, economic and cultural well-being of people and communities;*
- b) consider the rate at which built development and the associated public infrastructure should be enabled to provide for the reasonably foreseeable needs of population growth without compromising the other values of the coastal environment;*
- c) encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth;*
- d) recognise tangata whenua needs for papakāinga, marae and associated developments and make appropriate provision for them;*
- e) consider where and how built development on land should be controlled so that it does not compromise activities of national or regional importance that have a functional need to locate and operate in the coastal marine area;*
- f) consider where development that maintains the character of the existing built environment should be encouraged, and where development resulting in a change in character would be acceptable;*
- g) take into account the potential of renewable resources in the coastal environment, such as energy from wind, waves, currents and tides, to meet the reasonably foreseeable needs of future generations;*
- h) consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid those effects;*
- i) set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment; and*
- j) where appropriate, buffer areas and sites of significant indigenous biological diversity, or historic heritage value.*

(2) Additionally, in relation to the coastal marine area:

- a) recognise potential contributions to the social, economic and cultural wellbeing of people and communities from use and development of the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations:*

- b) *recognise the need to maintain and enhance the public open space and recreation qualities and values of the coastal marine area;*
- c) *recognise that there are activities that have a functional need to be located in the coastal marine area, and provide for those activities in appropriate places;*
- d) *recognise that activities that do not have a functional need for location in the coastal marine area generally should not be located there; and*
- e) *promote the efficient use of occupied space, including by:*
 - i. *requiring that structures be made available for public or multiple use wherever reasonable and practicable;*
 - ii. *requiring the removal of any abandoned or redundant structure that has no heritage, amenity or reuse value; and*
 - iii. *considering whether consent conditions should be applied to ensure that space occupied for an activity is used for that purpose effectively and without unreasonable delay.*

Part (2) of the above policy is of most relevance to this application. This part deals with the functional need of activities to locate within the CMA, and also with the importance of managing the CMA for public good and for public access.

Functional need is not defined in the NZCPS. However, it is defined in the New Zealand Planning Standards as “*the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment*”.

It is recognised that the proposed development may have economic and social benefits to the Applicant, particularly from the accommodation aspect. Whether the accommodation aspect would have additional social, economic, or cultural benefits for any other party is questionable. Nonetheless, the proposed structural and accessibility improvements, and proposed use of the wharf, pontoon, and crane for recreational, sporting, or educational events may provide for improved physical public accessibility, and improved recreation values. However, it is not at all clear how the residential building would be used for any of these other purposes, as it appears to be entirely designed for accommodation use.

The wharf and pontoon have a clear functional need to be located in the CMA as they are structures that directly facilitate access to the CMA and enable activities, such as recreational and commercial fishing and boating, and sporting events in coastal waters, that can only occur in the CMA. The minor structures upon the wharf, being the crane and ramps, similarly have a functional need to locate in the CMA as they will directly provide for the transition of persons and/or goods in and out of coastal water or vessels. The accommodation aspect on the other hand, has no functional need to locate within the CMA and would be contrary to part (2)(d) of Policy 6.

The residential (and commercial) accommodation use is the most problematic in terms of functional need, and it is important to note that the proposed residential use is the main influence on the design of the building. As such, I question whether there is a functional need for this building to occur within the CMA. Although it isn't clearly explained by the Applicant, it is expected that the recreational, sporting, fishing, and educational-type activities would require a building or secure space upon the

wharf to directly enable these activities, for example through storage of recreational or sporting equipment, or to locate the controls of the crane, or to serve as a control base for any event. However, the Applicant has not demonstrated that the proposed building would service any activity other than accommodation nor have they proposed an alternative design that more clearly provides for uses other than accommodation. As such, the occupation of the CMA by a building that is evidently entirely designed to support accommodation activity would also be contrary to part (2)(d) of Policy 6.

Overall, when considered as a whole the proposal would be inconsistent with these provisions, noting that this inconsistency primarily stems from the proposed accommodation use. The recreational, educational, and sporting uses, and proposed improvements to accessibility, would likely be consistent with the above provisions.

6.3.7 Otago Regional Policy Statements

The RPSs provide an overview of the resource management issues for the Otago Region and the ways of achieving integrated management of its natural and physical resources. There are currently two regional policy statements in play in the Otago Region:

- Otago Regional Policy Statement 2019 (**ORPS 2019**) fully operative; and
- Proposed Otago Regional Policy Statement (**P-ORPS 2021**), which was first notified on the 26th of June 2021 and on 30 September 2022 for the freshwater instrument components. On 30 March 2024 the ORC notified its decisions on the submissions on P-ORPS 2021. There are several appeals that relate to the P-ORPS 2021. Freshwater planning provisions are appealed to the High Court; non-freshwater planning instruments are appealed to the Environment Court.

Recognising that the P-ORPS 2021 has a different emphasis from the ORPS 2019, there are a number of provisions in the P-ORPS 2021 that have no clear equivalent in the ORPS 2019, and vice versa. However, in general I consider that:

- Significant weight should be given to the provisions of the P-ORPS 2021 that are beyond appeal (or were not appealed) over equivalent provisions in the ORPS 2019.
- Less weight should be given to the provisions of the P-ORPS 2021 that remain subject to appeal, except where they clearly align with higher order documents, such as the NZCPS, and except when there is no equivalent provision in the ORPS 2019, in which case additional weight can be placed on the P-ORPS 2021 provisions.

At the time of writing all objectives and policies within chapter CE – Coastal Environment and IM – Integrated Management remain subject to unresolved appeals to the Environment Court.

The ORPS 2019 and the P-ORPS 2021 are considered to be the key planning documents for this application. This is because they have both been prepared in accordance with and to give effect to the NZCPS, which is the relevant higher order document. The relevant regional plan, the RPC, was first operative in 2001, has not changed since 2012,⁷ and was not prepared to give effect to the NZCPS. As such, less weight is afforded to the provisions in the RPC.

⁷ Except for July 2025 amendment to include aquaculture settlement areas.

Despite the general approach to weighting different provisions of the different planning documents described above, I find that in respect of the provisions of most relevance to this proposal, the planning documents are relatively consistent and provide a coherent framework against which to assess the proposal, albeit with differing levels of directiveness.

6.3.7.1 ORPS 2019

The following provisions from the ORPS-2019 are considered to be of most relevance to the proposal.

Objective 1.1 Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities

Policy 1.1.1 Economic wellbeing

Provide for the economic wellbeing of Otago's people and communities by enabling the resilient and sustainable use and development of natural and physical resources.

Policy 1.1.2 – Social and cultural wellbeing and health and safety

Provide for the social and cultural wellbeing and health and safety of Otago's people and communities when undertaking the subdivision, use, development and protection of natural and physical resources by all of the following:

- a) Recognising and providing for Kāi Tahu values;*
- b) Taking into account the values of other cultures;*
- c) Taking into account the diverse needs of Otago's people and communities;*
- d) Avoiding significant adverse effects of activities on human health;*
- e) Promoting community resilience and the need to secure resources for the reasonable needs for human wellbeing;*
- f) Promoting good quality and accessible infrastructure and public services.*

The resource of relevance is coastal space. The proposal will not increase the amount of space occupied by the wharf. The proposed access ramp on the northwestern side of the building will slightly increase the footprint within the CMCA. While the pontoon is an existing structure, it is not lawfully existing so there will be an additional small increase in the area of CMCA occupied as compared to the current situation. Regardless, the total area of occupation is small in comparison to the length of accessible coastline in the Taieri Mouth area, and will not have any significant impact on the availability of the coastal resource for future generations, nor will it impact the life-supporting capacity of the coastal resource.

With the application as proposed, there are clear economic and social benefits for the Applicant that are derived primarily from the proposed exclusive and private accommodation use of the CMCA for their family, friends, and paying guests. Locating in the CMCA means that the Applicant does not have to purchase land to develop the residential building, nor adhere to any of the land use or subdivision processes normally required to develop a building to be used for accommodation purposes. The Applicant suggests that these economic benefits will flow into the local community from the accommodation and events promotion components of the proposal. However, beyond the potential employment of local persons, it is unclear how the community would benefit in an economic sense.

The upgrade of the wharf and appurtenant small structures such as the ramps, pontoon, and crane, will increase the ability of the general public to physically access the CMA, contributing to their social and cultural wellbeing and health and safety of the local community and the general public. Similarly, the use of the wharf, small structures, and residential building for recreation and sporting events, and for emergency management is generally well supported by submitters and likely to contribute to the social and cultural wellbeing and health and safety of the local community and the general public. The extent to which this increased physical accessibility is undermined by the perceived privatisation of the wharf through the residential character and use of the multipurpose building can be reduced through installation of signage. As evidenced by the submission from Te Rūnanga o Ōtākou, the proposed use of the residential building for accommodation purposes does not appear to provide for the relationship of Kāi Tahu with the coastal environment.

The proposal is therefore only partially consistent with the above provisions.

Objective 3.1 The values (including intrinsic values) of ecosystems and natural resources are recognised and maintained, or enhanced where degraded.

Policy 3.1.5 Coastal water

Manage coastal water to:

- a) *Maintain coastal water quality or enhance it where it has been degraded;*
- b) *Maintain healthy coastal ecosystems, the range of indigenous habitats provided by the coastal marine area, and the migratory patterns of indigenous coastal water species or enhance these values where they have been degraded;*
- c) *Maintain or enhance important recreation values;*
- d) *Maintain or enhance, as far as practicable:*
 - a) *Coastal values; and*
 - b) *ii. The habitats provided by the coastal marine area for trout and salmon unless detrimental to indigenous biological diversity.*
- e) *Control the adverse effects of pest species, prevent their introduction and reduce their spread.*

Policy 3.1.10 Biodiversity in the coastal environment

Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:

- a) *Areas of predominantly indigenous vegetation in the coastal environment;*
- b) *Habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
- c) *Indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
- d) *Habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
- e) *Habitats, including areas and routes, important to migratory species; and*
- f) *Ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

Although the Applicant has not proposed any disturbance of or discharge of contaminants into the CMA, construction activities and occupation of the CMCA by structures are activities which could result in effects on coastal water quality, coastal ecosystems, and biodiversity. However, in this case, the proposal will not occur in any area known to support important habitats of indigenous species nor any area of predominantly indigenous vegetation, and the activities will be managed to ensure that coastal water quality, healthy coastal ecosystems, and important values associated with coastal water are maintained. The proposal will have negligible adverse effect on biodiversity in the coastal environment. Hence, the proposal is considered consistent with the above provisions.

Policy 3.1.11 Natural features, landscapes, and seascapes

Recognise the values of natural features, landscapes and seascapes are derived from the biophysical, sensory and associative attributes in Schedule 3.

Policy 3.1.12 Natural character in the coastal environment

Recognise the values of natural character in the coastal environment are derived from one or more of the following attributes:

- a) Natural elements, processes and patterns;*
- b) Biophysical, ecological, geological and geomorphological aspects;*
- c) Natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, estuaries, reefs, freshwater springs and surf breaks;*
- d) The natural movement of water and sediment;*
- e) The natural darkness of the night sky;*
- f) Places or areas that are wild or scenic;*
- g) A range of natural character from pristine to modified;*
- h) Experiential attributes, including the sounds and smell of the sea; and their context or setting.*

There is agreement between applicant and council landscape experts that the adverse effects on natural character will be very low. The attributes listed in Schedule 3 have generally been considered by these experts in their respective assessments. The proposal is considered consistent with the above provisions.

Objective 4.1 Risks that natural hazards pose to Otago's communities are minimised

Policy 4.1.4 Assessing activities for natural hazard risk

Assess activities for natural hazard risk to people, property and communities, by considering all of the following:

- a) The natural hazard risk identified, including residual risk;*
- b) Any measures to avoid, remedy or mitigate those risks, including relocation and recovery methods;*
- c) The long-term viability and affordability of those measures;*
- d) Flow-on effects of the risk to other activities, individuals and communities;*
- e) The availability of, and ability to provide, lifeline utilities, and essential and emergency services, during and after a natural hazard event.*

Policy 4.1.6 Minimising increase in natural hazard risk

Minimise natural hazard risk to people, communities, property and other aspects of the environment by:

- a) Avoiding activities that result in significant risk from natural hazard;*
- b) Enabling activities that result in no or low residual risk from natural hazard;*
- c) Avoiding activities that increase risk in areas potentially affected by coastal hazards over at least the next 100 years;*
- d) Encouraging the location of infrastructure away from areas of hazard risk where practicable;*
- e) Minimising any other risk from natural hazard.*

Objective 4.2 Issue: Otago's communities are prepared for and able to adapt to the effects of climate change

Policy 4.2.1 Sea level rise

Ensure Otago's people and communities are able to adapt to, or mitigate the effects of sea level rise, over no less than 100 years, by using:

- a) A sea level rise of at least 1 metre by 2115, relative to 1990 mean sea level (Otago Metric Datum); and*
- b) Adding an additional 10mm per year beyond 2115, or the most up-to-date national or regional guidance on likely sea level rise.*

To the extent that these provisions impose obligations upon individual consent applicants, the proposal is considered consistent. The proposed residential building will have 500 mm of freeboard to accommodate natural hazard risk associated with storm surges and potential sea level rise.

Objective 5.1 Issue: Public access to areas of value to the community is maintained or enhanced

Policy 5.1.1 Public access

Maintain or enhance public access to the natural environment, including to the coast, lakes, rivers and their margins and where possible areas of cultural or historic significance, unless restricting access is necessary for one or more of the following:

- a) Protecting public health and safety;*
- b) Protecting the natural heritage and ecosystem values of sensitive natural areas or habitats;*
- c) Protecting identified sites and values associated with historic heritage or cultural significance to Kāi Tahu;*
- d) Ensuring a level of security consistent with the operational requirements of a lawfully established activity.*

There is currently limited access to the wharf because access is restricted by a locked gate. If this application is granted, the Applicant is not proposing to restrict public access to the wharf or pontoon, which would represent an enhancement of the current level of access. The Applicant has also undertaken or proposed structural improvements including installation of ramps and repurposing of a crane to further facilitate access to the CMA, and these facilities are proposed to be made available to

the public. Potentially countering these access improvements, however, is the residential character and use of the residential building which may have the effect of discouraging public access to the wharf, due to the potential perception that the building and wharf are for private access only. Consent conditions are proposed to mitigate this perception to the extent practicable. It should also be noted that access to and use of the crane would be via appointment only, thereby limiting the magnitude of this benefit. Consent conditions are recommended to ensure that signage is erected advising the public how to make an appointment to use the crane. Overall, it is likely that public access will be at least maintained and likely improved compared to the current level of access.

Objective 5.4 Adverse effects of using and enjoying Otago's natural and physical resources are minimised

Policy 5.4.9 Activities in the Coastal Marine Area

In the coastal marine area minimise adverse effects from activities by all of the following:

- a) *Avoiding activities that do not have a functional need to locate in the coastal marine area;*
- b) *When an activity has a functional need to locate in the coastal marine area, giving preference to avoiding its location in:*
 - i. *Areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
 - ii. *Outstanding natural features, landscapes and seascapes;*
 - iii. *Areas of outstanding natural character;*
 - iv. *Places or areas containing historic heritage of regional or national significance;*
 - v. *Areas subject to significant natural hazard risk;*
- c) *Where it is not practicable to avoid locating in the areas listed in b) above, because of the functional needs of that activity:*
 - i. *Avoid adverse effects on the values that contribute to the significant or outstanding nature of b)i.-iii;*
 - ii. *Avoid significant adverse effects on natural character in all other areas of the coastal environment;*
 - iii. *Avoid, remedy or mitigate adverse effects on values as necessary to preserve historic heritage of regional or national significance;*
 - iv. *Minimise any increase in natural hazard risk through mitigation measures;*
 - v. *Avoiding, remedying, or mitigating adverse effects on other values;*
- d) *Providing for the efficient use of space by requiring structures be made available for public or multiple use wherever reasonable and practicable;*
- e) *Applying a precautionary approach to assessing the effects of the activity, where there is scientific uncertainty, and potentially significant or irreversible adverse effects;*

Functional need is described in this ORPS 2021 as: *"The locational, operational, practical or technical needs of an activity, including development and upgrades."*

The wharf and pontoon have a clear functional need to be located in the CMA as they are structures that directly facilitate access to the CMA and enable activities, such as recreational and commercial fishing and boating, and educational or sporting events in coastal waters, that can only occur in the CMA. The minor structures upon the wharf, being the crane and ramps, similarly have a functional need to locate

in the CMA as they will directly provide for the transition of persons and/or goods in and out of coastal water or vessels.

I do not consider that there is a functional need for residential or short-term rented accommodation to locate in the CMA. Accommodation of this type can absolutely occur in a terrestrial location, and the Applicant's desire to provide a unique coastal accommodation experience for their family and paying guests does not constitute a functional need. While the Applicant states that the recreational use of the building is the primary purpose, and that the accommodation aspect of the proposal will be ancillary to the recreational use of the site, I consider that this intention is poorly demonstrated by the indicative interior design which is clearly set out to prioritise and provide for residential activity, with a kitchen, bathroom, living area, and bedrooms. I also consider that the relative priority of the different uses is ultimately immaterial to the consideration of this objective and policy; it matters not whether accommodation is proposed as the primary or secondary purpose of the structure, as accommodation activity still does not have a functional need to locate there.

The residential (and commercial) accommodation use is the most problematic in terms of functional need, and it is important to note that the proposed residential use is the main influence on the design of the building. As such, I question whether there is a functional need for the building itself to occur within the CMA. Although it isn't clearly explained by the Applicant, it is expected that the recreational, sporting, fishing, and educational-type activities would require a building or secure space upon the wharf to directly enable these activities, for example through storage of recreational or sporting equipment, or to locate the controls of the crane, or to serve as a control base for any event. However, the Applicant has not demonstrated that the currently proposed residential building would service any activity other than accommodation, nor have they proposed an alternative design that more clearly provides for uses other than accommodation.

Overall, I consider that, as proposed, the residential building itself and the use of this building for any type of accommodation is contrary to part (a) of this policy. Parts (b)-(e) only apply to activities that have a functional need to locate there, hence, the accommodation aspect is contrary to policy 5.4.9. While it is acknowledged that the proposal as a whole, including the accommodation, is not expected to result in any significant adverse effects, the lack of functional need for the accommodation activity (and hence the building supporting that use) means that adverse effects of using and enjoying Otago's natural and physical resources are not minimised as required by Objective 5.4.

6.3.7.2 P-ORPS 2021

The following provisions from the P-ORPS 2021 are considered to be of most relevance to the proposal.

MW-O1 Principles of Te Tiriti o Waitangi

The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and papatipu rūnaka to ensure that what is valued by mana whenua is actively protected in the region.

MW-P3 Supporting Kāi Tahu hauora

The natural environment is managed to support Kāi Tahu hauora by:

- (1) recognising that Kāi Tahu hold an ancestral and enduring relationship with all whenua, wai māori and coastal waters within their takiwā,*
- (2) protecting customary uses, Kāi Tahu values and relationships as identified by Kāi Tahu to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities,*
- (3) safeguarding the mauri and life-supporting capacity of natural resources, recognising the whakapapa connections of Kāi Tahu with these resources as taoka, and the connections to practices such as mahika kai, and*
- (4) working with Kāi Tahu to incorporate mātauraka into resource management processes and decision-making.*

This P-ORPS 2021 MW chapter provides a contemporary understanding and explanation of Kāi Tahu values. The provisions in this chapter are afforded greater weight than any corresponding provisions in the ORPS 2019 or the RPC, provisions of the Kāi Tahu ki Otago Natural Resource Management Plan 2005, discussed later in Section 6.4.2.

Based on the submission from Te Rūnanga o Ōtākou, the proposed use of the residential building for accommodation purposes does not appear to provide for the important cultural relationship of Kāi Tahu with the coastal environment. On this basis, Kāi Tahu hauora does not appear to be supported in a manner consistent with these provisions. I do note that in the two years that have elapsed since submissions closed on this proposal, the Applicant did attempt to set up meetings with Te Rūnanga o Ōtākou to discuss the issues raised in the submission, but to my knowledge this did not eventuate. Therefore, the concerns relating to the accommodation aspect are remain unresolved, and as a whole the application is considered inconsistent with these provisions. It is noted that Te Rūnanga o Ōtākou did not express specific concerns with any other aspect of the proposal, and I expect that the uses other than accommodation would be generally consistent with these provisions. I would invite Te Rūnanga o Ōtākou to speak to these matters at the hearing.

IM-O1 – Long term vision (mō tatou, ā, mō kā uri ā muri ake nei) The management of natural and physical resources, by and for the people of Otago, in partnership with Kāi Tahu, achieves a healthy and resilient natural environment, including the ecosystem services it provides and supports the well-being of present and future generations.

IM-O2 – Ki uta ki tai The management of natural and physical resources embraces ki uta ki tai, recognising that the environment is an interconnected system which depends on its connections to flourish and must be managed as an interdependent whole.

IM-O3 – Sustainable impact

Otago's communities provide for their social, economic, and cultural well-being in ways that support or restore environmental integrity, form, functioning, and resilience, so that the life-supporting capacities of air, water, soil, and ecosystems are sustainably managed, for future generations.

IM-O4 – Climate change

Otago's communities, including Kāi Tahu, understand what climate change means for their future, and responses to climate change in the region (including climate change adaptation¹⁵⁰ and climate change mitigation):

- (1) are aligned with national level climate change responses,*
- (2) assist with achieving the national target for emissions reduction, including by having a highly renewable energy system, and*
- (3) are recognised as integral to achieving the outcomes sought by this RPS.*

IM-P3 – Providing for mana whenua cultural values in achieving integrated management

Recognise and provide for the relationship of Kāi Tahu with natural resources by:

- (1) enabling mana whenua to exercise rakatirataka and kaitiakitaka,*
- (2) facilitating active participation of mana whenua in resource management processes and decision making,*
- (3) incorporating mātauraka Māori in processes and decision-making, and*
- (4) ensuring resource management provides for the connections of Kāi Tahu to wāhi tūpuna, wai māori (including awa [rivers] and roto [lakes] and wai tai (including te takutai moana [coastal marine area]) and mahika kai and habitats of taoka species.*

IM-P7 – Cross boundary management

Coordinate the management of natural and physical resources and the environment across jurisdictional boundaries and, whenever possible, between overlapping or related agency responsibilities.

IM-P8 – Effects of climate change

Recognise and provide for the effects of climate change by:

- (1) identifying the effects of climate change in Otago, including from the perspectives of Kāi Tahu as mana whenua,*
- (2) assessing how the effects are likely to change over time, and*
- (3) taking into account those changes in resource management processes and decisions.*

IM-P13 – Managing cumulative effects

In resource management decision-making, recognise and manage the impact of cumulative effects on the form, functioning and resilience of Otago's environment (including resilience to climate change) and the opportunities available for future generations.

The provisions in this chapter set out core facets of integration – the interconnections and interdependencies within the environment, involvement of mana whenua in resource management, the fundamental importance of environmental health to human wellbeing, and holistic assessment of human effects on the environment. The extent to which these provisions apply to individual consent applicants is unclear. However, these provisions do not have a clear equivalent in the ORPS 2019 and as such I consider that a degree of assessment is warranted. I do note that all of these provisions remain subject to unresolved appeals to the Environment Court.

The life-supporting capacity of natural resources and ecosystems will be protected. Further, the interconnections of the coastal, freshwater, and terrestrial environments are not expected to be broken

or interrupted. Risks posed by climate change and sea level rise have been recognised and provided for by the Applicant in a manner proportional to the risk. Based on the submission from Te Rūnanga o Ōtākou, the proposal does not entirely provide for mana whenua cultural values, particularly with respect to the accommodation aspects of the proposal. Cross boundary issues are of relevance to this proposal, with part of the residential building extending into the terrestrial environment, into land owned by LINZ. Although Clutha District Council have advised that they have no resource consenting requirements that would apply to the proposal, the Building Act requires Clutha District Council to act as the building authority for structures within the CMA. The Applicant has not applied for all necessary consents and approvals to authorise their proposal. While this is understandable from a financial perspective and does not prevent a decision being made on this application, it does introduce a degree of inefficiency into cross boundary management. The proposal is considered to be generally but not fully consistent with the above provisions.

CE-O1A – Te Mauri o te Moana

The health of Otago's coastal water is:

- (a) protected from inappropriate activities so as to protect the health and well-being of the wider environment and the mauri of coastal waters, and*
- (b) restored where it is degraded, including through enhancing coastal water quality where it has deteriorated from its natural condition.*

CE-O1 – Safeguarding the coastal environment (Te Hauora o Te Tai o Arai Te Uru)

The health, integrity, form, functioning and resilience of Otago's coastal environment is safeguarded so that:

- (2) coastal water quality supports healthy ecosystems, natural habitats, water-based recreational activities, existing activities, and customary uses, including practices associated with mahika kai and kaimoana,*
- (3) the dynamic and interdependent natural biological and physical processes in the coastal environment are maintained or enhanced,*
- (4) the diversity of indigenous coastal flora and fauna is maintained, and areas of significant indigenous biodiversity are protected*
- (5) surf breaks of national significance are protected,*
- (6) the interconnectedness of wai Māori and wai tai is protected, and the effects of terrestrial and fresh water uses and activities on coastal waters and ecosystems, are recognised and understood, and*
- (7) the ongoing effects of climate change within the coastal environment are identified and planned for.*

CE-P5 – Coastal indigenous biodiversity

Protect indigenous biodiversity in the coastal environment by:

- (1) identifying and avoiding adverse effects on the following ecosystems, vegetation types and areas:*
 - (a) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists,*
 - (b) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened,*

- (c) *indigenous ecosystems and vegetation types in the coastal environment that are threatened or are naturally rare,*
- (d) *habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare,*
- (e) *areas containing nationally significant examples of indigenous community types, and*
- (f) *areas set aside for full or partial protection of indigenous biodiversity under other legislation, and*
- (2) *identifying and avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on the following ecosystems, vegetation types and areas:*
 - (a) *areas of predominantly indigenous vegetation in the coastal environment,*
 - (b) *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species,*
 - (c) *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable,*
 - (d) *areas sensitive to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh,*
 - (e) *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes,*
 - (f) *habitats, including areas and routes, important to migratory species,*
 - (g) *ecological corridors, and areas important for linking or maintaining biological values identified under this policy,*
 - (h) *significant natural areas identified in accordance with APP2 that are not included in (1) above, and*
 - (i) *indigenous species and ecosystems identified as taoka in accordance with ECO-M3 that are not included in (1) above.*

CE-P3 – Coastal water quality

Manage water quality in the coastal environment by:

- (1A) *restoring coastal water quality where it is considered to have deteriorated to the extent described within CE-P2(2),*
- (1) *maintaining or enhancing healthy coastal ecosystems, indigenous habitats provided by the coastal environment, indigenous vegetation and fauna, and the migratory patterns of indigenous coastal water species,*
- (2) *sustaining Kāi Tahu relationships with and customary uses of coastal water,*
- (3) *maintaining or enhancing recreation opportunities and existing uses of coastal water,*
- (5) *controlling activities outside the coastal marine area that have an effect on coastal water quality,*
- (6) *maintaining or enhancing water quality within areas of coastal water identified in CE-P2(3) where mana whenua have a particular cultural interest, and*
- (7) *setting appropriate limits and targets for coastal water quality, including for ecosystem health, habitats of taoka species, sediment, contact recreation and safe kaimoana gathering.*

Construction activities and occupation of the CMCA by structures are activities which could result in effects on coastal water quality and coastal indigenous biodiversity. In this case, the health of coastal waters will be safeguarded, and coastal indigenous biodiversity will be supported. This is because there

will be no disturbance of the CMA or discharges of contaminants into the CMA. Hence, the proposal is considered consistent with the above provisions. I note for the sake of completeness that these provisions remain subject to unresolved appeals to the Environment Court. This has little effect on my overall recommendation as water quality and ecological provisions are of limited relevance to this proposal.

CE-O2 – Public access and recreation

Public walking access and recreation opportunities in the coastal environment are maintained and enhanced, and vehicle access is controlled.

CE-P8 – Public access

Manage public walking and vehicle access to, along and adjacent to the coastal marine area by:

(1A) maintaining or enhancing public walking access,

(1B) controlling vehicle access, and

(1C) restricting public walking and vehicle access where necessary:

(a) to protect public health and safety,

(b) to protect significant natural areas,

(c) to protect dunes, estuaries and other sensitive natural areas or habitats,

(d) to protect places or areas of special or outstanding historic heritage,

(e) to protect places or areas of significance to mana whenua, including wāhi tapu, wāhi tupuna and wāhi taoka,

(f) for defence purposes in accordance with the Defence Act 1990,

(g) for temporary activities or special events, or

(h) to ensure a level of security consistent with the operational requirements of a lawfully established activity.

Walking and vehicle access adjacent to the coastal marine area will not be affected by the proposed activities. Insofar as a wharf and floating pontoon can facilitate ‘walking’ access to this area of the CMA, public access is likely to be at least maintained and potentially improved compared to the current level of access, for the same reasons that were discussed for the similar provisions in the ORPS 2019. I note for the sake of completeness that these provisions remain subject to unresolved appeals to the Environment Court. This has little effect on my overall recommendation as there is no substantial difference in policy direction between the two RPS.

CE-O3 – Natural character, features and landscapes

Areas of natural character are preserved and natural features and landscapes (including seascapes) within the coastal environment are protected from inappropriate activities, and restoration is encouraged where the values of these areas have been compromised.

CE-P4 – Natural character

Identify, preserve and restore the natural character of the coastal environment by:

(1) identifying areas and values of high and outstanding natural character which may include matters such as:

(a) natural elements, processes and patterns,

(b) biophysical, ecological, geological and geomorphological aspects,

- (c) *natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, estuaries, reefs, freshwater springs and surf breaks,*
- (d) *the natural movement of water and sediment,*
- (e) *the natural darkness of the night sky,*
- (f) *places or areas that are wild or scenic,*
- (g) *a range of natural character from pristine to modified,*
- (h) *experiential attributes, including the sounds and smell of the sea, and their context or setting,*
- (2) *avoiding adverse effects on natural character in areas identified as having outstanding natural character,*
- (3) *avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects on natural character outside the areas in (2) above, and*
- (5) *promoting activities and projects that will restore or rehabilitate natural character in the coastal environment where it has been reduced or lost.*

CE-P6 – Natural features and landscapes (including seascapes)

Protect natural features and landscapes (including seascapes) in the coastal environment by:

- (1) *identifying their areas and values, at minimum by land typing, soil characterisation and landscape characterisation, in accordance with APP9,*
- (2) *avoiding adverse effects of activities on outstanding natural features and landscapes (including seascapes),*
- (3) *avoiding significant adverse effects and avoiding, remedying, or mitigating other adverse effects of activities on other natural features and natural landscapes (including seascapes), and*
- (4) *promoting restoration or enhancement of natural features and landscapes (including seascapes) where the values of these areas have been reduced or lost.*

The site is not located within an area identified as having outstanding natural character, nor are any outstanding natural features or landscapes located in the vicinity. The proposal will not result in significant adverse effects on natural character or on any natural features or landscapes. Nonetheless, the proposed introduction of residential activity into the setting is not considered to be appropriately integrated with the location; hence, natural character is not preserved. Adverse effects on landscape values are assessed as minor. Through the s92 process the Applicant made some minor changes to the exterior design of the residential building to mitigate the residential character of the building, although, as set out in the evidence of Ms Annan, there remain design solutions available to better accommodate the building into the existing row of coastal structures. However, the Applicant has previously indicated an unwillingness to make further design changes to the building. In my opinion, the residual minor adverse effects on landscape values renders the proposal inconsistent with CE-P6. In relation to CE-P4, the relevant experts agree that adverse effects on natural character are very low. On this basis, further mitigation is not warranted, and I consider that the proposal is consistent with CE-P4. I note for the sake of completeness that these provisions remain subject to unresolved appeals to the Environment Court; however, this has limited impact on my overall assessment as the corresponding natural character provisions in the ORPS 2021 are similar, and the natural features and landscapes policy has no real equivalent in the ORPS 2021 against which to undertake a weighting exercise.

CE-O4 – Mana moana

The enduring cultural relationship of Kāi Tahu with Otago's coastal environment is recognised and provided for, and mana whenua are able to:

- (1) exercise their rakatirataka role, manaakitaka and their kaitiaki duty of care within the coastal environment, and*
- (2) engage in customary fishing and other mahika kai.*

CE-P13 – Rakatirataka and kaitiakitaka

Recognise and give practical effect to Kāi Tahu rakatirataka and the role of Kāi Tahu as kaitiaki of the coastal environment by:

- (1) facilitating partnership with, and actively involving mana whenua in decision making and management processes in respect of the coast,*
- (2) identifying, protecting, and improving where degraded, sites, areas and values of importance to Kāi Tahu within the coastal environment, and managing these in accordance with tikaka,*
- (3) providing for customary uses, including mahika kai and the harvesting of kaimoana,*
- (4) incorporating the impact of activities on customary fisheries, mātaihai reserves and taiāpure in decision making, and*
- (5) incorporating mātauraka Maōri in the management and monitoring of activities in the coastal environment.*

Based on the submission from Te Rūnanga o Ōtākou, the proposed use of the residential building for accommodation purposes does not appear to provide for the enduring relationship of Kāi Tahu with the coastal environment. I am uncertain to what extent this aspect of the proposal would inhibit Kāi Tahu in their ability to exercise their kaitiaki role. The proposed activities will directly affect only a very small stretch of the coastal marine area; however, it is not clear if the proposal would have effects on Kāi Tahu values and uses that extend beyond the immediate activity locations. Clarification on these matters would be helpful; however, at this point in time I consider that the accommodation aspect of the proposal is inconsistent with these provisions.

It is noted that Te Rūnanga o Ōtākou did not express specific concerns with any other aspect of the proposal. Therefore, I expect that the recreational and sporting and public accessibility aspects of the proposal would be generally consistent with these provisions.

I note for the sake of completeness that these provisions remain subject to unresolved appeals to the Environment Court but as there are no real equivalent provisions in the ORPS 2019 a weighting assessment is not necessary (or possible).

CE-05 – Activities in the coastal environment

Activities in the coastal environment:

- (1) make efficient use of space occupied in the coastal marine area,*
- (2) are of a scale, density and design compatible with their location,*
- (3) are only provided for within appropriate locations and limits acknowledging that some activities have a functional need to be located in the coastal environment, and*
- (4) maintain or enhance public access to and along the coastal marine area, including for customary uses, such as mahika kai, except where public access needs to be restricted for reasons of health and safety or ecological or cultural sensitivity.*

CE-P10 – Activities within the coastal marine area

Use and development in the coastal marine area must:

- (1) enable multiple uses of the coastal marine area wherever reasonable and practicable, and*
- (2) maintain or improve the health, integrity, form, function and resilience of the coastal marine area, or*
- (3) have a functional need or operational need to be located in the coastal marine area, or*
- (4) have a public benefit or opportunity for public recreation that cannot practicably be located outside the coastal marine area.*

Consistency with this policy CE-P10 requires clause (1) to be met, as well as at least one of clauses (2)-(4).

Consistent with clause (1), the applicant has proposed multiple uses of the wharf and other smaller structures, and states that they are proposing multiple uses of the residential building, and although it is not at all clear how this has been incorporated to the building design. With respect to clause (2), I am unsure if these requirements are entirely met. This is because the health and integrity of the CMA in relation to cultural uses and values may be reduced in particular by the accommodation aspect, and the form and function will not be maintained due to the proposal not integrating effectively into the landscape setting.

Importantly, and as discussed for ORPS 2019 policy 5.4.9, I consider that there is no functional need for the residential building to locate in the CMA. However, this policy CE-P10 also speaks to operational need. The P-ORPS 2021 imports the definitions of functional and operational needs from the New Zealand Planning Standards, which:

- Define functional need is described in the New Zealand Planning Standards as “*the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment*”.
- Define operational need as “*the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints*”. This is a lower bar than ‘functional need’.

The Applicant has not demonstrated why the accommodation use of the residential building has an operational need to occur in the CMA. The accommodation aspect, and the design of the building, appear to be quite divorced from the other uses, such as the recreational, sporting, and general public access uses. There are no obvious technical, logistical, or operational characteristics or constraints that would mean that residential or rented accommodation needs to occur in order to facilitate or coordinate with any of the other proposed uses that do have a functional need to locate within the CMA. I consider that clause (3) is not met for the building itself or for the accommodation use.

Clause (4) requires public benefit or opportunity for recreation that cannot practicably be located outside the CMA. The recreation, sporting, and public access aspects of the proposal do provide benefits that cannot be located outside the CMA; however, it appears that these benefits can be

delivered in isolation of the proposed building or its use for accommodation. In respect of the building itself and the use of the building for accommodation, I am not sure that provision of a unique coastal accommodation experience for the Applicant's family and their paying guests can be considered a public benefit or opportunity for public recreation. While members of the public would presumably be able to pay to stay in the building, I would describe this as a benefit available to a subset of the general public who could afford to pay to stay in this location. In reality, this is privatisation of the CMCA, and would reduce the ability of the general public to visit or recreate in this area.

I consider that the application is at least inconsistent with, and potentially contrary to, policy CE-P10 and hence at least inconsistent with objective CE-O5. As for the other CE provisions, CE-O5 and CE-P10 remain subject to unresolved appeals to the Environment Court. In particular, CE-P10 is being appealed on the basis that including 'operational need' in the policy does not give effect to the NZCPS. It appears that the other parts of this policy are not appealed and, accordingly, I consider that similar weight should be afforded to this provision as to the corresponding activities policy 5.4.9 of the ORPS 2019.

6.3.8 Regional Plans

The relevant regional plan is the:

- Regional Plan: Coast for Otago (**RPC**)

The current regional plan pre-dates and does not yet fully give effect to the higher order documents, being the ORPS 2019, P-ORPS 2021, and NZCPS. As such, more weight is given to equivalent provisions in the higher order documents where there is a difference in the outcome sought by the respective documents. Generally, however, the outcomes sought by this plan and the ORPS 2019 and P-ORPS 2021 appear to be similar, and a weighting exercise has limited influence on my overall recommendation.

A brief assessment against the relevant provisions of this plan are as follows:

Objective 5.3.1

To provide for the use and development of Otago's coastal marine area while maintaining or enhancing its natural character, outstanding natural features and landscapes, and its ecosystem, amenity, cultural and historical values.

Policy 5.4.3

To recognise the following areas, as identified in Schedule 2.2, as coastal development areas within Otago's coastal marine area:

CDA 1 Oamaru Harbour

CDA 2 Moeraki

CDA 3 Karitane

CDA 4 Otago Harbour

CDA 5 Taieri Mouth.

Policy 5.4.4

Regard will be given to the need to provide for the values associated with any coastal development area when considering the use, development and protection of Otago's coastal marine area.

Policy 5.4.10

To recognise and provide for the following elements which contribute to the natural character of Otago's coastal marine area:

- (a) Natural coastal processes;*
- (b) Water quality;*
- (c) Landforms, seascapes; and*
- (d) Coastal ecosystems.*

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.*

The accommodation aspect of the proposal does not sufficiently provide for the values of CDA5 and may conflict the other proposed uses which do provide for the scheduled values, and minor adverse effects on landscape values are anticipated. Natural character of the area will not strictly be maintained or enhanced but will nonetheless only be adversely affected to a small degree. Ecosystem values will be maintained. Based on the submission from Te Rūnanga o Ōtākou, it would appear that particularly regard has not been had to cultural values. The proposal is considered to be inconsistent with these provisions.

Objective 7.3.1

To maintain and as far as practical enhance public access to Otago's coastal marine area.

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 7.4.5

Alternative forms of access or compensation may be required to compensate for the loss of public access resulting from an activity in the coastal marine area.

The Applicant has proposed that the residential building would be locked, but that access to other parts of the wharf and pontoon will not be restricted and will be publicly accessible at all times. Recommended consent conditions require signage to be installed to ensure that the public understand they are able to access the wharf and pontoon. No alternative form of access is required, as physical access to the CMA via the wharf and pontoon will not be restricted.

Objective 7.3.2

To provide for activities requiring the occupation of 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.

Objective 7.3.2 recognises that some activities require occupation of the CMA in order to be able to carry out that activity, and that in some cases, exclusive occupation may be appropriate. In the case of this proposal, the wharf and pontoon have a clear requirement to be located in the CMA as they are structures that directly facilitate access to the CMA and enable activities, such as recreational and commercial fishing and boating, and educational or sporting events in coastal waters, that can only occur in the CMA. The minor structures upon the wharf, being the crane and ramps, similarly have a requirement to locate in the CMA as they will directly provide for the transition of persons and/or goods in and out of coastal water or vessels. These activities should be provided for.

In my opinion the Applicant has not demonstrated that a CMA location is required for the accommodation aspect of the proposal, nor have they demonstrated how the proposed building provides for any use other than accommodation. Neither the building nor its use for accommodation should be provided for in this location.

Objective 8.3.1

To recognise and provide for values associated with:

- (a) Areas of cultural significance; and*
- (b) Areas of conservation value; and*
- (c) Areas of public amenity; when considering structures within the coastal marine area.*

Objective 8.3.2

To preserve the natural character of Otago's coastal marine area as far as practicable from the adverse effects associated with structures.

Objective 8.3.3

To provide for the development of appropriate new structures and maintenance of existing structures, whilst minimising the use of structures for activities which do not require a coastal marine area location.

Objective 8.3.4

To take into account the effects of natural physical coastal processes when considering structures in the coastal marine area.

Policy 8.4.3

To recognise and have regard for the values and uses associated with coastal development areas and coastal harbourside areas when considering activities involving structures in and adjacent to coastal development areas and coastal harbourside areas.

Policy 8.4.5

New and existing structures will be required to be maintained in a structurally sound and tidy state, and should blend as far as is practicable with the adjoining landscape to minimise the visual impact of that structure on the character of the area.

Policy 8.4.6

When considering structures within the coastal marine area, consideration will be given to the disposal of wastes, the reticulation of water, and the provision of power and other services where necessary.

Policy 8.4.7

To encourage new structures within the coastal marine area to provide an additional 0.3 metres of freeboard, or be designed so as to be able to incorporate an additional 0.3 metres of freeboard at a later date, in order to take account of the possibility of sea level rise.

Policy 8.4.9

Structures should only be allowed to locate in the coastal marine area where there are no practicable alternatives elsewhere.

These provisions speak to the appropriateness of structures within the CMA, taking into account the effects of any structures on coastal values and the need for the structures to locate within the CMA. As discussed at length in the RPS sections above, I do not consider that there is any need for residential or short-term rented accommodation to locate in the CMA. Additionally, the accommodation use is the main influence on the design of the residential building, the residential character of which will not integrate appropriately into the landscape setting, is not consistent with the values of CDA5, and will result in minor adverse effects on landscape values. The wharf, pontoon, ramps, and crane have a clear need to locate within the CMA and are consistent with the values identified for this area.

Overall, as proposed, the application is inconsistent with these provisions. I note that this inconsistency stems entirely from the proposed residential building and the accommodation use.

Objective 12.3.1

To manage and control noise levels within the coastal marine area to minimise any adverse effect on amenity values, conservation values and the use of the coastal marine area.

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.*

Noise will comply with relevant standards.

Overall, the application is considered to be generally inconsistent with the relevant provisions of the RPC. This inconsistency stems almost entirely from the proposed residential building and its use for accommodation. This is primarily because the accommodation does not require a CMA location, and the proposed building appears to be designed only to provide for accommodation.

6.4 Section 104(1)(c) - Any other matters

6.4.1 Precedent Effects and Plan Integrity

When making a decision on any application for a resource consent, consent authorities can have regard to precedent effect, namely that if an application for resource consent is granted there is the expectation that subsequent alike applications are treated consistently. This could lead to the integrity of a plan being undermined where decisions on applications are not in line with the objectives and policies of the plan, challenging the outcomes the plan seeks to achieve and undermining the public confidence in the plan. While consent authorities are not bound to follow previous decisions, an earlier decision may be relevant to the determination of a later application. Consistency of treatment, in the absence of a reason justifying inconsistency, is generally regarded as an important aspect of good public administration. In that sense “precedent effect” may be relevant. Alternately, plan integrity may be undermined if similar applications for resource consents are decided differently as this creates inconsistency in the way that the plan is administered.

This application is (in part) for activities, being residential and commercial accommodation, that do not currently occur anywhere in the Otago Region. Hence, this application is the first of a kind in Otago.

Ten opposing submitters express concerns about precedent effects. The fundamental concern from these submitters appears to be that if this application is granted then others will follow, thereby permanently changing the character of the entire wharf area, and potentially the character of the wider Otago coastline if consents in other areas are subsequently granted.

The concerns of submitters about setting a precedent are noted. However, in my view, limited weight should be given to precedent effects in the determination of this application. There are no permitted activity rules in the RPC that would enable any person to construct or operate any accommodation facility within the CMCA without a resource consent; hence, similar proposals would need to seek resource consents as a discretionary activity. I also note that the RPC separates the Otago CMA into

various coastal management areas, each of which have different values which would need to be considered on a case-by-case basis. That is to say, the acceptability or otherwise of this application in this location does not necessarily translate into acceptability in a different coastal management area.

Furthermore, any assessment of a future similar application would need to consider cumulative effects. While cumulative effects and precedent are not the same thing, the reality is that the concern from submitters about 'precedent' is the concern that in the future the interaction of multiple similar activities will result in unacceptable cumulative effects which could, for example, impact the life-supporting capacity of coastal resources, or on the character of an area. I note that any future application would need to be assessed against the existing environment as it exists at that time, which would include consideration of cumulative effects. If the cumulative effects of the activity have reached unsustainable levels, then the Consent Authority could decline consent on that basis.

The RPC and the two relevant Regional Policy Statements are silent on residential activities within the CMA; however, there is strong and consistent direction in each of these planning documents that activities should not locate in the CMA unless they have a functional need to do so. My recommendation is consistent with this policy direction; therefore, plan integrity is not an issue to be given significant weight in this case.

6.4.2 Kāi Tahu ki Otago Natural Resource Management Plan 2005

The Kāi Tahu ki Otago Natural Resource Management Plan 2005 (**NRMP**) is considered to be a relevant other matter for the consideration of this application. This is because the regional plans have yet to be amended to take into account this Plan and this Plan expresses the attitudes and values of the four Papatipu Rūnaka: Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga.

In Appendix 2 of their submission, Te Rūnanga o Ōtākou set out the issues, objectives, and policies from this NRMP that they consider to be of relevance to this application. However, the submission did not include any assessment of the consistency of the application with these provisions.

The issue of primary concern to ka rūnaka appears to be the proposed residential and commercial accommodation in the CMA. This is not an activity anticipated by this NRMP. There is limited policy direction regarding structures within the CMA, although cultural landscapes policy 5.6.4(24) discourages the erection of temporary and permanent structures within the coastal environment.

The bulk of the issues, objectives, and policies identified in Appendix 2 of the submission as being relevant to the application relate to the effects of discharges, which are not proposed as part of this application, and to the protection of wāhi tapu, mahika kai, and biodiversity, which to my understanding do not appear to be significantly impacted by the proposed activities.

Ka rūnaka may wish to provide additional context or assessment in relation to this NRMP.

7. Section 104(6)

Section 104(6) provides discretion for the consent authority to decline an Application on the grounds that there is inadequate information to determine the application.

(6) A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.

(7) In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.

While there are matters of uncertainty that it would be helpful to resolve with additional information, particularly in relation to adverse effects on cultural values and the relationship of Kāi Tahu with the Otago coastal marine area, I do not consider that there is insufficient information to make a determination on this application.

8. Part 2 of the RMA

Under Section 104(1) of the RMA, a consent authority must consider resource consent applications "subject to Part 2" of the RMA, specifically, sections 5, 6, 7 and 8.

Section 5 identifies the purpose of the RMA as the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Sections 6, 7 and 8 outline the principles of the Act. Section 6 sets out a number of matters of national importance which need to be recognised and provided for, section 7 identifies a number of "other matters" to be given particular regard by the council, and section 8 requires the council to take into account the principles of the Treaty of Waitangi.

The Court of Appeal has clarified how to approach the assessment of "subject to Part 2" in section 104(1). In *R J Davidson* the Court of Appeal found that decision makers must consider Part 2 when making decisions on resource consent applications, where it is appropriate to do so. The extent to which Part 2 of the RMA should be referred to depends on the nature and content of the planning documents being considered.

Where the relevant planning documents have been prepared having regard to Part 2 of the RMA, and with a coherent set of policies designed to achieve clear environmental outcomes, consideration of Part 2 is not ultimately required. In this situation, the policies of these planning documents should be implemented by the consent authority. The consideration of Part 2 "would not add anything to the evaluative exercise" as "genuine consideration and application of relevant plan considerations may leave little room for Part 2 to influence the outcome". However, the consideration of Part 2 is not

prevented, but Part 2 cannot be used to subvert a clearly relevant restriction or directive policy in a planning document.

Where it is unclear from the planning documents whether consent should be granted or refused, and the consent authority has to exercise a judgment, Part 2 should be considered.

In this case, the planning framework, being the NZCPS, ORPS 2019, P-ORPS 2021, and the RPC provide a reasonably coherent set of policies designed to achieve clear environmental outcomes in respect of the coastal environment. Both RPS have been prepared to give effect to the NZCPS, and the policies of most relevance – being those which consider the need for certain activities to locate in the coastal marine area – are reasonably consistent in direction. I consider that it is clear that the accommodation aspect of the proposal, which would include the residential building itself, does not have a functional (or operational) need to locate in the coastal marine area and should be refused. The remaining aspects of the proposal are generally consistent with the relevant objectives and policies, and are not likely to result in any significant or unacceptable adverse effects and I consider that it would be appropriate to grant these parts of the proposal.

However, as the RPC has not been prepared to give effect to the NZCPS, and out of an abundance of caution, I have considered Part 2.

Section 5

While the proposal would have economic and social benefit for the applicant, particularly in relation to the use of the building for accommodation, it is not evident that these benefits would extend to the community. Social and cultural benefits would likely result from the recreational, sporting, educational, and public access aspects of the application, although there is a disconnect between these aspects and the proposed accommodation and residential character and design of the building. Regardless, the proposal is not expected to have any significant impact on the availability of the coastal resource for future generations, nor will it impact the life-supporting capacity of the coastal resource. Further, adverse effects are generally avoided, remedied, or mitigated. The proposal is therefore not inconsistent with the purpose of the Act.

Section 6

Matters of national importance of particular relevance to this application are:

(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:

(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Natural character of the coastal environment will be adversely impacted to a small extent; however, the proposed residential building and the proposed use of this for accommodation are not considered to be an appropriate development in this location. Public access would likely be maintained. The relationship of Māori and their culture and traditions with the coastal environment has not been recognised and provided for. Matters of national importance are only partly recognised and provided for.

Section 7

I consider that the application has generally had particular regard to the relevant matters listed in Section 7. However, based on the submission from Te Rūnanga o Ōtākou, the proposed use of the residential building for accommodation purposes does not appear to provide for the enduring relationship of Kāi Tahu with the coastal environment. I am uncertain to what extent this aspect of the proposal would inhibit Kāi Tahu in their ability to exercise their kaitiaki role.

Section 8

I don't consider that the Applicant is a "person exercising functions and powers" under the RMA.

In my opinion, the proposal does not entirely achieve the purpose and principles of Part 2. As noted above, this does not alter my overall recommendation.

9. Recommendation

Under s104B my recommendation is that the following parts of the proposal be **granted**:

- The occupation of the common marine and coastal area with a wharf, floating pontoon, and appurtenant structures (ramps and crane with winch) for the purpose of recreational, sporting, and educational use, and emergency, civil defence, and regulatory services use.

And that the following parts of the proposal be **declined**:

- The construction and use of the residential building for any type of private residential or commercial rented accommodation.

The primary reason for my recommendation to decline the construction of the residential building and its use for accommodation is that there is no functional or operational need for an accommodation activity, or a building that is evidently entirely designed to support accommodation activity, to locate within the common marine and coastal area at this location, and hence, the proposal is inconsistent with or contrary to the most relevant provisions of the relevant planning documents.

Although the relevant planning documents have been implemented at different times and with different emphasis, I consider that in respect of the provisions of most relevance to this application these documents are relatively consistent and are not in conflict. The provisions of most relevance relate to the 'need' for activities to locate within the CMA. If there is no need, functional or otherwise, for an activity to locate in the coastal marine area, then it should not be located there. This is the basis for my recommendation.

Also factoring into my recommendation is the finding that the residential character of this building will not appropriately integrate into the landscape setting, resulting in minor adverse effects on landscape values, and the potential adverse effects on cultural values, which are currently not well understood.

10. Section 108 and 108AA of the RMA

Noting that it is my recommendation that parts of the application, being the residential building and its use for any accommodation, be declined, I have nonetheless attached as Appendix C a suite of recommended consent conditions to aid the Commissioners if they are minded to grant the applications for the proposal as applied for.

I have not provided draft consent conditions to align with my recommendations to grant only part of this proposal, as this would require confirmation from the Applicant as to whether they would propose an alternative design for a building upon the wharf, or indeed whether they would choose to proceed with a reduced proposal at all.

11. Term of Consent (s123)

The application states that a 35-year term is requested. It is assumed that this term is requested for all activities. Noting that my recommendation is that the construction of the multipurpose building and its use for any kind of accommodation should be declined, my recommendation as to consent terms is:

- In respect of the Coastal Permit RM22.550.01 to alter and extend existing structures, I do not consider that a 35-year term is necessary or appropriate. The Applicant has proposed what is essentially a one-off construction project to construct the multipurpose building and any supporting structures upon the wharf or pontoon. Taking into account the fact that the Applicant will still need to commission a detailed design for the multipurpose building and will need to obtain a building consent (and potentially other approvals), I consider that a five-year term of consent is appropriate.
- In respect of Coastal Permit RM22.550.02 to occupy the common marine and coastal area with a wharf, floating pontoon, and multipurpose building for the purpose of mooring, loading, and unloading commercial and recreational vessels, and for recreation and sporting purposes, I agree that a 35-year term would be appropriate and reflect the likely substantial effort and financial input of the Applicant.

Appendix A: Summary of Submissions

Appendix B: Pre-hearing report

Appendix C: Recommended Consent Conditions

Appendix D: Evidence of Rachael Annan