

EVIDENCE OF JOHN FREDERICK BYWATER

This application relates to undertaking various activities upon an existing wharf at Taieri Mouth.

This Onumai application is essentially a business venture which initially proposed the construction of a "sympathetic multi use community facility" on a wharf at Taieri Mouth.

It offered a range of community benefits. It now has morphed into almost a single issue. As a functional necessity this venture must be located on the wharf, ~~as a functional necessity.~~

My objection relates to the prime activity, the application for the construction and use of a multi purpose building for residential and commercial accommodation, and the precedent it will set for future developments of this nature at this location. For the rest of my submission I will refer to this structure as to what the plans show it to be, a house (not a multi purpose building as claimed).

The applicant for the house proposes that its use will result in a range of benefits and largesse for both the local and wider community. Indeed, without any public consultation to discuss the issue with the community, the applicant endeavoured to consent the house via both the non notification and limited notification processes (thus involving no community or public scrutiny) as the applicants considered the effects to be "less than minor".

The application was subsequently publicly notified and there were community meetings etc.

The prehearing meeting perhaps resolved some minor design issues but the question about the construction and need for the house on the wharf was not resolved.

The ORC section 42A report clearly identifies planning issues which justify its recommendation consent be declined for the house.

I think that no one would deny there is a need for accommodation suitable for the disabled, but whether this is a functional need that can only be met by locating the house on the wharf is the point of contention.

Virtually all of the activities, both passive and active, can be undertaken from the wharf and a house in another location within Taieri Mouth.

This application proposes a limit of 180 days occupancy as a high end BNB. There is nothing to stop the applicant not using it as a BNB but as simply personal accommodation ~~365~~ days per year, likewise there nothing binding on its use proposed for any future owners.

for 180

I support the council decision as most of the community benefits and largesse proposed by the applicants can still take place on the wharf without there being a house present. Indeed, as the applicants have identified the wharfs potential value for safety responders, I'm rather surprised they (responders) currently cannot gain immediate access.

I note much prominence is now given to the functional necessity for the house to be located on the wharf as it enables the disabled (Those disabled who can afford high end accommodation) to undertake the passive activity of sleeping over the water (though that would still be possible on the applicants boat moored next to the wharf). With the hoist and ramp etc all other potential uses for the wharf are already available.

for an extra charge

The proposed house plan appears not to have considered the disabled in its initial design. NZS 4121:2001 requires bathroom and toilet doors to be sliding or opening outwards - this fundamental feature is not included in the current design, these doors open inwards. It also has steps precluding the disabled access directly to the wharf. (though I note it looks a ramp is now intended as a retro fit to the design).

Functional necessity for the wharf site appears to have been an after thought.

Some might believe the currently heightened emphasis on the disabled is purely a cynical ploy to get the house aspect of the proposal over the line.

I might note that perhaps retro fitting a ramp and a few modifications to the other BNB owned by the applicant (or its directors) located in Taieri Mouth would resolve many of the issues they plan to solve for visiting members of the disabled community.

The house in essence is a business venture as is their other BNB. It is proposed as high end accommodation and thus will have a comparatively high price and be only attractive and affordable to the "well heeled" (both abled and disabled).

→ *Insert A*
Should this fail as a business entity it will still remain as a house for the applicant.

Hence I suggest for the above reasons that the aspect of the application to build a house on the wharf be declined.

I will now discuss precedent:

I find it surprising that the ORC at both the prehearing and in the Section 42A report downplays the importance of precedent stating that new applications will be judged on a case by case basis through the consenting process. New applicants will be required to gain resource consents and, thus precedent is only considered to be a minor effect for this application.

I would surmise the need for the consent authority to consider not just this house but what it implies for the next one. Indeed the next application for a house on one of the adjacent wharves will have as its prime justification that housing on Taieri Mouths wharves has been

approved. As in "You have allowed one, why cannot I have mine, after all I am offering similar benefits as compensation etc".

In my simplistic view I see this house as a major impact.

Visually it is higher, wider and far more imposing than any of the existing structures. It introduces a "new and modern architectural" interpretation of a boat shed with "different colours" to the adjacent marine structures and has a lot of glass, which is a new feature. In my opinion it does not blend in or reflect a genuine boathouse theme, . ~~Indeed, I suggest it sticks out like a mangy dogs testes.~~ *I might add that the shop on the wharf blends in as the panel found.*

The ORC section 42A report clearly identifies planning issues which justify its recommendation to decline the consent for the house.

The applicants put forward a case of long association with the area hence believe their views on what the community needs should rank highly in consideration of this application.

If this is the case then surely the views of Iwi, the traditional owners of the area, should take precedence by their much longer association with Taieri Mouth.

I now make reference to the lack of financial benefits to the Taieri Mouth community and to the Clutha District in general. This business venture is on a non ratable location with pittance rental and compliance costs. The house will use CDC facilities for which Clutha property owners pay rates with no monetary return to the CDC. The offer of 3% of profit (nett or gross?) to an unidentified Taieri Mouth entity seems fraught with complications - it is dependent on the venture being profitable which could take years, if ever, with no financial return to the community.

Furthermore approving a house on the wharf will undoubtedly greatly inflate the value of wharves as locations for potential house sites, therefore precluding their availability for activities that do require close proximity to the water.

Here is some case law relating to precedents:

Cavalli Properties Ltd v Far North DC (1997) Court rejected exclusive residential development on the coast because it would normalise private encroachment.

Clearwater resort Ltd v Christchurch City Council - rejected a development partly because of the precedent risk - "thin edge of the wedge".

Although the applicant has presented the house justification as "unique circumstances and a fundamental need" which I have commented on previously, I understand the Environment Court expects the consenting body to avoid creating a permissive precedent for coastal privatisation.

- 1: RMA requires consideration of cumulative effect;
2. This proposal will shift the base line;
3. Council need to consider not just this house but what it implies for the next one;
4. Courts have repeatedly said allowing a proposal like this will open the "floodgates".

My final comment is:

Kia tupato ki nga Kariki e mau koha ana.

Insert A.

I note statistics NZ, interpreted by
Figure NZ on disabled income 2023.

Disabled income 2023

70 - 100,000 8%

100,000+ 5%

This includes all aspects of disability, not
just ~~wheelchair~~ those in a wheelchair.

For what these data¹¹ suggests that only a small
minority of disabled could ~~aff~~ afford to
use the house, and in time it will
just morph into a ~~high end~~ high end ~~b & b~~.
b & b

Insert B

~~This is~~

For use of the CMA this is