Resource Management Act 1991

Canterbury Regional Council

Decision of Dr Philip Burge (CRC Principal Consents Advisor)

Applications by McMillian Civil Limited ("the applicant') to:

Canterbury Regional Council for:

A coastal permit (s12(1)(b)) to place a structure in the Coastal Marine Area

The Application

1. The application to the Canterbury Regional Council is for:

   Coastal permit - CRC224653 to place a structure (a swing mooring) in the Coastal Marine Area.

2. A consent duration of 35 years is sought.

3. This application is for a new consent for the placement of a swing mooring in Petit Carenage Bay, Akaroa Harbour. The chosen location is outside a designated swing mooring area in the Regional Coastal Environment Plan (RCEP).

4. The application was limited notified to on Te Rūnanga o Ngāi Tahu and Ōnuku Rūnanga Incorporated Society on 19 May 2023, with submissions due 19 June 2023. No submissions were received.

5. The Canterbury Regional Council (CRC) has delegated to me (in my role as a Principal Consents Advisor and a member of the Council's Resource Managers Officers Group (RMOG)), the authority to decide whether an application should be granted if that application has been limited notified but where there are no submitters to be heard.

6. To assist in making this decision, a Section 42A Officer's report has been prepared by Mr Edward Ryde. His report describes the details associated with the application, an assessment of the effects associated with the activity requiring consent and makes recommendations regarding whether the application should be granted or refused. The report also recommends conditions to be included on the consent, should the application be granted.

7. Where appropriate, I have adopted Mr Ryde's report as per s113(3)(b) of the RMA rather than repeating information, and this decision should therefore be read in conjunction with the recommendations in that report (CRC Content Manager records document C23C/164158).

Summary of Application and Description of the Receiving Environment

8. Mr Ryde has provided a summary of the proposal (paragraphs 12 - 17) and a description of the affected environment (paragraph 18), in his s42A officer's report. Rather than repeat those matters, I adopt them as part of this decision.

Legal and Planning Matters

9. Mr Ryde provides an assessment of the legal status of the application (paragraphs 26 - 60). I agree with Mr Ryde's assessment that the proposed placement of a swing mooring is to be treated as a "non-complying" activity under Rule 8.4(a) of the RCEP. I am therefore unlimited in

my discretion. I note that the other associated activities (including the on-going occupation of the CMA and discharge of sediment) are permitted should this application be granted.

Submissions

10. As noted above, no submissions were received, and this application can be decided 'on the papers'.

Substantive Decision

11. Mr Ryde has provided a recommendation on whether to grant or refuse consent in his s42A report. This recommendation includes discussion of Part 2 of the RMA, and those matters in s104, s104B and s104D which must be considered in making this decision.

12. For clarity, I have outlined my consideration of these matters below.

Consideration of the Application (s104 RMA)

13. Section 104(1) of the Resource Management Act 1991 (RMA) requires, subject to Part 2, decision makers to have regard to several matters.

Assessment of Actual and Potential Effects (s104(1)(a) and s104(1)(ab) RMA)

14. Section 104(1)(a) of the Resource Management Act 1991 requires decision makers to have regard to any actual and potential effects on the environment of allowing an activity. I note that I am unlimited in my discretion of effects, and I agree with Mr Ryde (paragraph 53 of his report) that it is appropriate to consider the consequential 'flow on' effects of the on-going use of the mooring as part of that assessment.

15. Mr Ryde helpful provides a discussion of the actual and potential effects that could arise from the activity, in paragraphs 51 – 111 of his s42A report. I note that this assessment is focused on the adverse effects of the proposal and include:

    a. Effects on ecosystems and water quality.

    b. Effects on natural character and amenity.

    c. Effects on navigation safety, including effects on moored vessels, structures, and access-ways.

    d. Effects on recreational values.

    e. Effects on coastal processes, including coastal erosion.

    f. Effects on cultural values.

16. I am also required (per s104(1)(ab) RMA) to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive adverse effects on the environment or offset or compensate for any adverse effects on the environment of allowing the activity. The applicant has not proffered any offset or compensation.

17. I am satisfied that the relevant adverse effects have been had regard to in Mr Ryde's report and I adopt the summary and discussions of these effects provided by Mr Ryde, including the review by technical experts.

18. For clarity, I consider that there are residual adverse effects on the rūnanga that are not addressed by the current proposal as they would require the relocation of the swing mooring

outside of the bay. While I consider these effects are likely to be 'minor' in terms of the RMA, this is relevant to my consideration of the proposal and discussed further below.

19. I note that Mr Ryde has not considered positive effects of the proposal in his assessment. While positive effects are not a relevant effect for making a notification decision, they are a relevant consideration at the substantive decision stage of the consenting process.

20. I note that the applicant has also provided a statement of positive effects that will accrue if consent is granted on page 11 of their application. The applicant has also provided further information on the potential positive 'health and safety' effects of granting consent in further information provided 2 August 2023 (CRC electronic record C23C/163883).

21. For clarity, I identify these positive effects here as they are relevant an assessment of effects under s104(1)(a). I accept that these are relevant positive effects but leave my discussion regarding these effects and their influence on my decision, to my Consideration of the Proposal below.

Provisions of relevant documents (s104(1)(b))

22. Mr Ryde has also provided a view on what he considers are the relevant objectives and policies of those documents specified in s104(1)(b) (see paragraphs 112 - 131 of his s42A report).

23. I thank Mr Ryde for this discussion. I note however, that the Canterbury Regional Statement (CRPS) (paragraphs 118-119 of Mr Ryde's report) provides direction not just to the LWRP, but also to RCEP. Mr Ryde has not provided a fulsome discussion of the provisions of the CRPS but it is a relevant document to which I must have regard. While I note that I have had regard to all the relevant provisions, there are several that I consider are particularly relevant to this application.

Canterbury Regional Policy Statement 2013

24. Of greatest relevance to this proposal is Chapter 8 of the CRPS which addresses the management of the coastal environment. Objectives 8.2.2 and 8.2.5 are particularly relevant to this decision. Objective 8.2.2 of the CPRS directs that there is a framework for the appropriate occupation, subdivision, use and development of the coastal environment, while managing the adverse effects of those activities. Objective 8.2.5 relates to the maintenance and enhancement of public and Ngāi Tahu access to and along the CMA for recreational purposes and to enable Ngāi Tahu to access kaimoana and exercise tikanga Māori.

25. These objectives are then given effect to via the policies of Chapter 8. Of most relevance to this decision are policy 8.3.3, which directs the Council to provide a framework for managing activities in the Coastal Marine Area while avoiding, or where that is not practicable, remedying or mitigating adverse effects. I am also mindful of policy 8.3.5 which relates to the maintenance and enhancement of public and Ngāi Tahu access to the coastal marine area subject to several matters. The CRPS considers this policy is to be given effect to via the direction of the RCEP which (as I discuss later), has specific policies related to the establishment of swing moorings.

26. I note that the Regional Coastal Environment Plan 2005 predates the CRPS. As such, I have considered whether there is anything in the RCEP that would be inconsistent with the CRPS that would affect my decision. I do not consider that this is the case and have continued to provide weight to the direction of the RCEP.

New Zealand Coastal Policy Statement 2010 and the Regional Coastal Environment Plan for Canterbury 2005

27. As noted above Mr Ryde has provided a discussion of the relevant provisions of the NZCPS and RCEP. He notes that the proposal is inconsistent or contrary with several provisions in the New Zealand Coastal Policy Statement 2010 (specifically Objective 2, Policy 6, Policy 13, Policy 15) and Regional Coastal Environment Plan for Canterbury (specifically Objective 8.1(1)). I largely agree with those conclusions and rather than repeat that discussion here, I largely adopt it as part of this decision.

28. The exception is Mr Ryde's conclusion regarding the applications consistency with Policy 8.13 of the RCEP. Policy 8.13 of the RCEP is central to the consideration of this application as it specifically relates to the activity applied for, specifically the placement of swing moorings outside of designated swing moorings. I have discussed the direction provided in that policy below.

Other Relevant Matters (s104(1)(c))

29. Mr Ryde has also considered the Mahaanui Iwi Management Plan as another matter that is relevant to the consideration of this application. I agree with Mr Ryde that the Mahaanui Iwi Management Plan is a relevant consideration and adopt his discussion as part of this decision.

30. For clarity, I agree that the proposal is inconsistent with policy A8.2 as identified by Mahaanui Kurataiao Ltd prior to the notification decision on this application.

31. I also note the concerns raised by Ōnuku Rūnanga regarding 'precedent' effects are considered as potentially relevant s104(1)(c) matters by the Courts[1]. This is discussed further under the Consideration of the Proposal.

Consideration of the Proposal

32. As noted above, I agree with Mr Ryde that the adverse environmental effects of this proposal are not more than minor. I also note that adverse effects on Ōnuku Rūnanga were also previously considered minor (for the purpose of the notification decision) and that they were served notice and given the opportunity to submit. While no submission was received, the absence of a submission does not mean that the concerns of the rūnanga have been addressed, and I must still have regard to those effects based on the information available.

33. The effects on Ōnuku Rūnanga were summarised by Mr Ryde in his recommendation in paragraphs 98 - 111 and include:

    a. The decline in the quantity and quality of kaimoana because of deteriorating marine environments which prevent mana whenua from exercising cultural values including manaakitanga; and

    b. That Akaroa Harbour is a cultural landscape with important mahinga kai, wāhi taonga and wāhi tapu associations. Protecting of wāhi tapu and wāhi taonga is essential as part of recognising and providing for the relationship of mana whenua with this catchment.

    c. The proposal is inconsistent with policy A8.2 of the Mahaanui Iwi Management Plan 2013 (which seeks to group moorings in areas where they are already concentrated).

[1] *Dye v Auckland Regional Council* [2002] 1 NZLR 337 (CA)

34. I note that the applicant has adopted mitigation to address the biophysical effects of the proposal including to prevent damage to the seabed and associated kaimoana beds. I agree with Mr Ryde's conclusions in paragraph 105 of his recommendation that those measures will mitigate the potential effects of the mooring on the seabed (and associated ecosystems and kaimoana).

35. Irrespective of those mitigations, the Kaitaki of Ōnuku Rūnanga remained opposed to the application (see CRC file reference C23C/66911) due to concerns around:

    a. the cumulative loss of space in the coastal marine area; and

    b. the potential for new moorings to be established outside of swing mooring areas in the future; and

    c. the associated impacts on wāhi taonga, wāhi tapu and mahinga kai

36. I note regarding the first point, that there are only two moorings in this bay, and it is my conclusion that the addition of a third is unlikely to significantly reduce available space in the coastal marine area.

37. While this mooring may not result in a significant loss of space in the coastal marine area, the second concern expressed by the rūnanga, relates to the granting of this application resulting in the potential for new moorings to be established outside of swing mooring areas in the future. The Courts have indicated that this sort of 'precedent' effect may be relevant under s104(1)(c)[2]. The Courts have also noted that decision makers must be cautious in their consideration of these effects because every application must be considered on its merits[3].

38. I have therefore considered whether the granting of this application is likely to result in a proliferation of swing moorings outside of designated Swing Mooring areas. In doing that, I am cognisant of Policy 8.13 of the RCEP which specifically relates to the placement of swing moorings outside designated Swing Mooring Areas. I note that the policy is strongly directive, instructing decision-makers to avoid granting consent for swing moorings outside of designated Swing Mooring Areas, except in limited circumstances. As such, I do not consider that granting this application would significantly increase the potential for new moorings to be established outside of designated Swing Mooring Areas in the future. Each application will need to be considered case-by-case on whether they meet those limited circumstances.

39. I must, however, also consider whether the limited circumstances specified in Policy 8.13 apply to this proposal. While I must have regard to all relevant policies and effects, this policy is central to a decision on this application as it is directly and specifically relevant to the activity applied for.

[2] *Dye v Auckland Regional Council* [2002] 1 NZLR 337 (CA)

[3] *Berry v Gisborne District Council* [2010] NZEnvC 71

40. Policy 8.13 of the RCEP states:

> *"Policy 8.13*
>
> *To preserve the natural character of the coastal environment by avoiding… the placement of new swing moorings outside defined Swing Mooring Areas, except where:*
>
> *a. there is a necessity for a … swing mooring to be located outside of a designated Swing Mooring Area, because of the operational requirements of an associated activity that is located in the same part of the Coastal Marine Area or immediately adjacent to it; or*
>
> *b. in the case of a swing mooring where a consent to place the swing mooring is sought outside a defined Swing Mooring Area, but not within an Area of Significant Natural Value:*
>
> *i. there are extraordinary and unusual reasons for the swing mooring to be placed in the area; or*
>
> *ii. the mooring owner occupies adjacent land on shore; and there is no defined Swing Mooring Area in close proximity to the site."*

41. There are several criteria that are required to meet the exception to the *"avoid"* aspect of Policy 8.13. Caselaw has clarified that the term *"avoid"* has the meaning of *"not allowing"*. [4] Where those matters are therefore not met, the policy would direct that consent for a swing mooring outside a designated Swing Mooring Area should refused.

42. The applicant has not advanced any *"associated activities"* that would require the mooring to be located at this location for operational reasons. As such, I do not consider it meets the exception criteria of clause (a) of policy 8.13. I have therefore considered whether it meets clause (b).

43. I note that Petit Carenage Bay is <u>not</u> specified as an Area of Significant Natural Value under the RCEP, and that the applicant <u>does</u> own and occupy land adjoining the bay. There is, however, an additional criterion that must also be met to be exempted from the *"avoid"* part of the policy, specifically that there must also be no defined Swing Mooring in *"close proximity to the site"*.

44. The applicant considers that there are no designated Swing Mooring Areas in *"close proximity"* stating on page 12 of their application:

> *"… there are existing mooring areas located at French Farm Bay and Tikao Bay respectively, as shown in **Figure 3** below. Whether these can be described as being "in close proximity" is a subjective assessment. The proposed location at Petit Carenage Bay is located approximately halfway between these identified areas, in the only area of the harbour that is suitable for moorings close to the shoreline and away from the heavily used main Harbour. These factors, and that there are only two private landowners within Petit Carenage Bay, are such that it is considered that firstly there is no mooring area in close proximity.*

[4] While related to a plan decision and the New Zealand Coastal Policy Statement 2010, the Supreme Court in *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38 determined that the word "avoid" means "not allowing".

45. The applicant's assessment states that the site applied for is the only area of the harbour *"suitable"* for moorings close to the shoreline. I am not convinced by this statement. The RCEP has specifically set aside designated Swing Mooring Areas to provide suitable areas for mooring. As such I see no reason why a designated Swing Mooring Area should not be a suitable mooring location unless there is no capacity within that area to safely moor a vessel (I will return to this point below).

46. I must determine whether there is a designated Swing Mooring Area in *"close proximity"*. The assessment provided by the application does not specify what distance *"halfway between"* the designated areas is but notes that there is a degree of subjectivity of what could be considered *"close proximity"*.

47. For practical purposes, I consider that whether the proposed mooring is in *"close proximity"* to a designated Swing Mooring Area requires consideration of three factors:

    a. the physical distance to a designated Swing Mooring Area;

    b. whether it is accessible in a practical sense; and

    c. whether the designated Swing Mooring Area has capacity for another mooring to be accommodated.

48. Mr Ryde notes that the closest designated Swing Mooring Area is 1.6km by sea. I have also considered the distance of the applicant's property to the designated Swing Mooring Area in Tikao Bay by land. Google Maps and the subsequent information from the applicant indicates it is circa 2km by road. This does not seem an unreasonable distance to travel to access a swing mooring noting that it is an approximately 5-minute drive, 15-minute bike ride, or 30-minute walk. In terms of the physical distance therefore, I consider there is a designated Swing Mooring Area nearby.

49. Just because there is a designated Swing Mooring Area nearby, however, does not mean there is available space within the mooring area to accommodate the applicant's vessel.

50. I therefore requested that Mr Ryde confirm with the harbourmaster office whether there is currently space within the Tikao Bay mooring area for the mooring of a 12m vessel? The harbourmaster's office has confirmed that there is currently likely to be space for one or two vessels of this size to be accommodated.

51. I note that Mr Ryde's conclusion regarding policy 8.13 was that the activity was consistent with it. Based on the information above and in the application and Mr Ryde's report however, I consider more evidence is required to demonstrate this. In the interests of natural justice, I have asked Mr Ryde to request from the applicant any other reasoning on why the Swing Mooring Area in Tikao Bay should not be considered in *"close proximity"* or is otherwise unsuitable.

52. The applicant responded with additional information on this matter on 2 August 2023 (CRC electronic file reference C23C/163883). Part of the applicant's argument is that whether there is a designated Swing Mooring Area in *"close proximity"* has been settled by the granting of a previous consent (CRC225053) in the bay and that *"consistent administration"* requires the same conclusion to be reached.

53. Respectively I disagree. While a previous decision may be persuasive, this application must be based on an independent assessment of the merits, policy, and effects, and it is open to a decision maker to reach a different conclusion to the decision maker on a previous application.

54. The applicant has also provided discussion in their additional information why it is unreasonable to consider the designated Swing Mooring Area as being in *"close proximity"*. This includes that if a mooring was to be established in the designated Swing Mooring Area in Tikao Bay it would be necessary for the inflatable tender to be trailered by public road to that area. Alternatively, leaving the tender on the vessel would require use of a kayak to access the vessel and tender, and then launching of the tender to be used to transport people and equipment to-and-from shore. This is considered *"impracticable and unsafe"* by the applicant.

55. The applicant has also detailed concerns regarding the use of a trailer and the need to undertake a sharp right hand turn when travelling from Tikao Bay into their property. The applicant has a self-imposed *"no right-hand turn"* rule due to this safety concern and therefore consider that (to turn safely), the return journey is closer to 5 km. The applicant has also highlighted the narrow and steep descent into Tikao Bay, and the safety issues with negotiating a trailer and tender along this route.

56. While not directly related to the proximity question, the applicant has also argued concerns regarding health and safety related to the need to manage children and requirements to dock a vessel to enable them to safely board, given tides, depths, and high winds. I also note that, while the harbourmasters office considers there is *"maybe a spot or 2"* for a 12m boat in Tikao Bay (see CRC electronic file reference C23C/158370), the applicant has provided information indicating that, in practice, the bay is crowded and there is a lack of room for negotiating tenders etc. due to the congestion from existing users.

57. I find the combination of these arguments compelling. While there is likely to be physical space available in the Tikao Bay to provide for the 'swing' of the moored vessel, the area is clearly crowded and accessibility is an issue.

58. Overall, I consider that there is unlikely to be a practicably accessible designated Swing Mooring Area in *"close proximity"*. As such, I consider that while the proposal may be inconsistent with the direction of Policy 8.13 on a plain reading (in that physically there is a designated Swing Mooring nearby), in practice accessing the designated Swing Mooring Area is likely to be problematic.

59. I also recognise that the policy provisions of the relevant planning documents are not the only matters to which I must have regard to. I must also have regard to the adverse and positive effects of the proposal.

60. As noted above, I have already concluded that adverse effects on the wider environment are minor, but that there are residual adverse effects on Ōnuku Rūnanga that cannot be addressed except through avoiding the activity.

61. Regarding the positive effects of the proposal, the applicant suggested in their original application that that use of a mooring will negate the need to launch off the beach and therefore remove impacts on the foreshore area. The applicant also notes in their original application, that the proposal will provide *"convenience"* and *"security"* benefits to them. I agree that these benefits may accrue to the applicant if consent is granted, particularly given the additional information provided 2 August 2023.

62. The applicant also notes in their 2 August 2023 information that, if this application is refused, a logical consequence will be that *"the vessel would be motored around to Petit Carenage Bay and placed at anchor in the same location as the swing mooring is sought"*. This is presumably on the basis that granting the swing mooring will mean that this will not need to occur and that that will be a 'positive effect'. Given the mitigation proposed around the mooring, I consider that the use of a dedicated mooring will have less effect on the seabed then simply allowing a boat to anchor and will also provide greater safety in terms of securing the vessel.

63. While not framed as such, I also consider that granting consent will also result in improved health and safety and that this can be considered a 'positive effect'. I find these arguments more compelling than the potential for improved convenience and security that the applicant provided in their original application.

64. Finally, as noted above, the applicant has highlighted that a previous application was recently granted in Petit Carenage Bay for a swing mooring on a non-notified basis, and that *"consistent administration"* would mean that this application should also be granted. I note that previous consent decisions are not binding on another decision-maker and each application must be considered on its own merits, effects, and policy context. In saying that, I acknowledge that consistent administration is desirable.

Conclusion

65. I agree with Mr Ryde's assessment that the granting of this swing mooring application is unlikely to have adverse effects on the environment that would be more than minor given the mitigation proposed and conditions recommended. I also note that while there is a designated Swing Mooring Area nearby, in real terms access to the area is problematic given the need for trailering of tenders etc. From a practical point of view, I therefore consider that there is not a designated Swing Mooring Areas in *"close proximity".* As such, granting consent would not be contrary with Policy 8.13 of RCEP.

66. I acknowledge that granting consent would be inconsistent with Policy A8.2 of the Mahaanui Iwi Management Plan 2013 and would not address the all the adverse effects on the values of Ōnuku Rūnanga as kaitaki. While I consider the mitigation proposed does address many of the issues raised, there remain residual concerns regarding the cumulative impact of granting swing moorings outside of areas where they are already clustered. This concern is valid, however on balance I consider that the strong policy direction in Policy 8.13 of the RCEP will prevent this occurring on any significant scale. While this does not fully address the concerns raised by rūnanga, I do not consider that granting this consent would result in a 'precedent' effect or a proliferation of mooring outside of designated Swing Mooring Areas (particularly in this bay where there are a limited number of residents).

67. I have also considered the positive effects identified by the applicant and find that the health and safety concerns and reasoning provided in the applicant's further information of 2 August 2023 are compelling. From an environmental effects point of view, I also note that the proposed mitigation around the permanent mooring is likely to have less of an effect on the seabed then then simply anchoring in the bay.

Part 2 Assessment

68. In having regard to the matters specified in s104 I recognise that that consideration is "subject to Part 2". I note that the Court of Appeal considered what "subject to Part 2" means in *R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316, [2018] 3 NZLR 283*.

69. Mr Ryde has provided a discussion of that case in paragraphs 47 – 49, and I note that I must consider whether it is necessary to resort to "Part 2" to determine this application. Having considered the relevant planning documents, I consider that they are appropriately prepared to give effect to Part 2, and that there is no need to resort to Part 2 to determine this application.

Determination of the application (section 104D RMA)

70. As a non-complying activity, I must determine whether the application meets the 'gateway' tests of Section 104D of the RMA. Section 104 specifies that the application may only be granted if I am satisfied that:

    a. The adverse effects of the activity (except where Section 104(3)(a)(ii) of the RMA applies) will be minor; or

    b. The application is not contrary to the objective and policies of the relevant plan and/or proposed plan.

71. Mr Ryde has concluded that the actual and potential adverse effects arising from the proposal are no more than minor, and that the application is not contrary to those plans.

72. I agree with Mr Ryde that the adverse effects of this proposal (other than an effect to which s104(3)(a)(ii) applies) are minor. I therefore agree that the application can meet the gateway test under s104D(1)(a) and may be granted.

73. For completeness, I have also considered whether the proposal is contrary to the objectives and policies of the relevant regional plan (the RCEP; there is no proposed plan). I note that being "contrary" to the objectives and policies of a plan (in its entirety) is a higher bar then being "inconsistent" or "contrary" to a specific objective and/or policy.

74. While I consider that the proposal is inconsistent with specific policies of the RCEP as identified in Mr Ryde's s42A report, I do not consider the proposal is contrary to the objectives and policies overall. I therefore consider the application would also meet the second 'gateway' test.

75. In conclusion, s104D does not prevent granting of this application.

Determination of the application (section 104B RMA)

76. Section 104B of the RMA states that, after considering an application for a discretionary or non-complying activity, the consent authority may grant or refuse consent and, if it grants consent, may impose conditions under s108.

77. As noted above, I am not prevented by granting consent by s104D. Given the realities of the accessing the designated Swing Mooring Area presented by the applicant in their further information of 2 August 2023, I also consider that granting consent would not be inconsistent with the policy direction of Policy 8.13 in the RCEP. I accept granting consent would be inconsistent with policy A8.2 of the Mahaanui Iwi Management Plan 2013.

78. Having regard to all the matters in s104, I conclude that granting consent, subject to the conditions recommended, would be consistent with the purpose of the RMA.

Conditions (s108 RMA)

79. Section 108 allows conditions to be imposed on a consent. Mr Ryde has recommended a suite of conditions that should be included as part of the consents that will result from this transfer. I agree that those conditions are appropriate to mitigate the effects of the proposal.

Duration (123 RMA)

80. The applicant has applied for a 35-year consent based on the need to *"occupy the coastal marine area"* (application section 3.3, page 3).

81. I note however that occupation of the Coastal Marine Area is a permitted activity under rule 8.22(d) of the RCEP, and that consent is only required to establish the mooring.

82. Mr Ryde has recommended a five-year duration for this consent on that basis, and I agree that this duration is sufficient to give effect to a consent to establish this mooring.

Decision

83. For the reasons discussed above, it is my decision, under delegated authority on behalf of the Canterbury Regional Council, to **GRANT** McMillian Civil Limited the following resource consent:

CRC224653 – A coastal permit (s12(1)(b)) to place structures in the Coastal Marine Area.

subject to the conditions in Mr Ryde's s42A report and a duration of five years as recommended.

Dated at Christchurch this 3rd of August 2023

Dr Philip Burge

Principal Consents Advisor

(Resource Managers Officers Group)