



Notice is hereby given that a Meeting of the Regulatory and Consents Committee will be held on:

Date: Thursday, 25 March 2021  
Time: 9am  
Meeting Room: Council Chamber  
Venue: 20 Don Street, Invercargill

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## Regulatory and Consents Committee Agenda OPEN

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### MEMBERSHIP

Chairperson	Paul Duffy Mayor Gary Tong
Councillors	Darren Frazer Julie Keast Christine Menzies Margie Ruddenklau

### IN ATTENDANCE

Group Manager, Environmental Services	Fran Mikulicic
Committee Advisor	Alyson Hamilton

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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.



## Terms of Reference – Regulatory and Consents Committee

TYPE OF COMMITTEE	Council committee
RESPONSIBLE TO	Council
SUBCOMMITTEES	None
LEGISLATIVE BASIS	Committee constituted by Council as per schedule 7, clause 30 (1)(a), LGA 2002. Committee delegated powers by Council as per schedule 7, clause 32, LGA 2002.
MEMBERSHIP	The Regulatory and Consents Committee will comprise of six members.
FREQUENCY OF MEETINGS	Six weekly or as required
QUORUM	Three
SCOPE OF ACTIVITIES	<p>The Regulatory and Consents Committee is responsible for overseeing the delivery of regulatory services and statutory functions that fall with the scope of, but limited to, the following legislation:</p> <ul style="list-style-type: none"> <li>• Resource Management Act 1991</li> <li>• Health Act 1956</li> <li>• Food Act 2014</li> <li>• Dog Control Act 1996</li> <li>• Sale and Supply of Alcohol Act 2012</li> <li>• Heritage New Zealand Act Pouhere Taonga Act 2014</li> <li>• Building Act 2004</li> <li>• Freedom Camping Act 2011</li> <li>• Psychoactive Substances Act 2013</li> <li>• Impounding Act 1955</li> <li>• Southland Land Drainage Act 1935</li> <li>• Southland Land Drainage Amendment Act 1938.</li> </ul> <p>The committee is responsible for hearing and determining regulatory matters including but not limited to:</p> <ul style="list-style-type: none"> <li>• resource consents</li> <li>• public work requirements</li> <li>• objections against the construction of public works on private land</li> <li>• objections to decisions made by the committee and/or delegated staff</li> <li>• administration of Council bylaws</li> <li>• proposed variations to the District Plan.</li> </ul>
DELEGATIONS	Council delegates to the Regulatory and Consents Committee the following functions:

	<p><b>Power to Act</b></p> <ol style="list-style-type: none"> <li>a) maintain an oversight of the delivery of regulatory services</li> <li>b) conduct statutory hearings on regulatory matters and undertake and make decisions on those hearings (excluding matters it is legally unable to make decisions on ie - pursuant to the RMA)</li> <li>c) appoint panels for regulatory hearings</li> <li>d) hear appeals on officer’s decisions to decline permission for an activity that would breach the Southland District Council Control of Alcohol Bylaw 2015</li> <li>e) approve Council's list of resource management hearing commissioners (from whom a commissioner can be selected) at regular intervals and the chief executive be authorised to appoint individual commissioners for a particular hearing</li> <li>f) make decisions on applications required under Southland District Council’s Development and Financial Contribution Policy for remissions, postponements, reconsiderations and objections</li> <li>i) receive and approve Council’s Annual Reports on dog control and alcohol licensing</li> <li>j) hear and determine objections to officer decisions under the Dog Control Act 1996</li> <li>k) hear objections and decide on matters under the Southland Land Drainage Act 1935 and Southland Land Drainage Amendment Act 1938.</li> </ol> <p>The Regulatory and Consents Committee shall be accountable to Council for the exercising of these powers (Local Government Act 2002, Schedule 7, Clause 32).</p> <p><b>Power to Recommend</b></p> <p>The Regulatory and Consents Committee is responsible for considering and making recommendations to Council regarding:</p> <ol style="list-style-type: none"> <li>a) regulatory policies and bylaws for consultation</li> <li>b) regulatory delegations</li> <li>c) regulatory fees and charges (in accordance with the Revenue and Financial Policy)</li> <li>d) assisting with the review and monitoring of the District Plan.</li> </ol>
FINANCIAL DELEGATIONS	<p>Council authorises the following delegated authority of financial powers to Council committees in regard to matters within each committee’s jurisdiction.</p> <p><b>Contract Acceptance:</b></p> <ul style="list-style-type: none"> <li>• accept or decline any contract for the purchase of goods, services, capital works or other assets where the total value of the lump sum contract does not exceed the sum allocated in the Long Term Plan/Annual Plan and the contract relates to an activity that is within the scope of activities relating to the work of the Finance and Assurance Committee</li> <li>• accept or decline any contract for the disposal of goods, plant or other assets other than property or land as provided for in the Long Term Plan</li> </ul>

		<p><b>Budget Reallocation.</b></p> <p>The committee is authorised to reallocate funds from one existing budget item to another. Reallocation of this kind must not impact on current or future levels of service and must be:</p> <ul style="list-style-type: none"> <li>• funded by way of savings on existing budget items</li> <li>• within the jurisdiction of the committee</li> <li>• consistent with the Revenue and Financing Policy.</li> </ul>
LIMITS DELEGATIONS	TO	<p>Matters that must be processed by way of recommendation to Council include:</p> <ul style="list-style-type: none"> <li>• making operative District Plan changes</li> <li>• decision to notify the reviewed District Plan and make operative amendments to fees and charges relating to all activities.</li> </ul> <p>Powers that cannot be delegated to committees as per the Local Government Act 2002 and sections 2.4 and 2.5 of this manual.</p> <p>Delegated authority is within the financial limits in section 9 of this manual.</p>
STAKEHOLDER RELATIONSHIPS		<p>This committee shall maintain relationships including, but not limited to the following organisations:</p> <ul style="list-style-type: none"> <li>• Each of the nine community boards</li> <li>• Southland Museum and Art Gallery</li> <li>• Southland Heritage Building Preservation Trust</li> <li>• Emergency Management Southland</li> <li>• Southland Regional Heritage Committee</li> <li>• Public Health South</li> <li>• New Zealand Police</li> <li>• Ministry of Business, Innovation and Employment</li> <li>• Alcohol Regulatory and Licensing Authority.</li> </ul> <p>The committee will also hear and receive updates to Council from these organisations, as required.</p>
CONTACT WITH MEDIA		<p>The committee chairperson is the authorised spokesperson for the committee in all matters where the committee has authority or a particular interest.</p> <p>Committee members, including the chairperson, do not have delegated authority to speak to the media and/or outside agencies on behalf of Council on matters outside of the committee’s delegations.</p> <p>The group manager, environmental services will manage the formal communications between the committee and its constituents and for the committee in the exercise of its business. Correspondence with central government, other local government agencies or other official agencies will only take place through Council staff and will be undertaken under the name of Southland District Council.</p>

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1 Apologies

At the close of the agenda no apologies had been received.

2 Leave of absence

At the close of the agenda no requests for leave of absence had been received.

3 Conflict of Interest

Committee Members are reminded of the need to be vigilant to stand aside from decision-making when a conflict arises between their role as a member and any private or other external interest they might have.

4 Public Forum

Notification to speak is required by 12noon at least one clear day before the meeting. Further information is available on [www.southlanddc.govt.nz](http://www.southlanddc.govt.nz) or phoning 0800 732 732.

5 Extraordinary/Urgent Items

To consider, and if thought fit, to pass a resolution to permit the committee to consider any further items which do not appear on the Agenda of this meeting and/or the meeting to be held with the public excluded.

Such resolution is required to be made pursuant to Section 46A(7) of the Local Government Official Information and Meetings Act 1987, and the Chairperson must advise:

- (i) the reason why the item was not on the Agenda, and
- (ii) the reason why the discussion of this item cannot be delayed until a subsequent meeting.

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

**"Where an item is not on the agenda for a meeting,-**

- (a) that item may be discussed at that meeting if-
  - (i) that item is a minor matter relating to the general business of the local authority; and
  - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further **discussion."**

6 Confirmation of Minutes

6.1 Meeting minutes of Regulatory and Consents Committee, 10 December 2020



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## Regulatory and Consents Committee

### OPEN MINUTES

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Minutes of a meeting of Regulatory and Consents Committee held in the Council Chamber, 15 Forth Street, Invercargill on Thursday, 10 December 2020 at 9am.

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#### PRESENT

Chairperson	Paul Duffy
	Mayor Gary Tong
Councillors	Darren Frazer
	Julie Keast
	Christine Menzies

#### APOLOGIES

Margie Ruddenklau

#### IN ATTENDANCE

Team Leader - Resource Management	Marcus Roy
Committee Advisor	Alyson Hamilton



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1 Apologies

There was an apology from Councillor Ruddenklau.

Moved Cr Frazer, seconded Cr Keast and resolved:

That the Regulatory and Consents Committee accept the apology.

2 Leave of absence

There were no requests for leave of absence.

3 Conflict of Interest

There were no conflicts of interest declared.

4 Public Forum

There was no public forum.

5 Extraordinary/Urgent Items

There were no Extraordinary/Urgent items.

6 Confirmation of Minutes

Resolution

Moved Cr Menzies, seconded Mayor Tong and resolved:

That the minutes of Regulatory and Consents Committee meeting held on 10 September 2020 be confirmed as a true and correct record of that meeting.

Reports

7.1 Earthquake Prone Buildings - Submissions Received

Record No: R/20/12/69573

Building Compliance Team Leader - Simon Tonkin was in attendance for this item.

Mr Tonkin advised the purpose of this report is to receive submissions on the earthquake-prone buildings consultation and to hear from those who wish to speak to their submission.

The committee noted the consultation focused on vehicle and pedestrian thoroughfares with sufficient traffic to warrant prioritisation in the areas of Otautau, Riverton, Tuatapere,

Winton and Wyndham and that staff had written to 149 identified property owners in the proposed priority areas.

The meeting was advised a total of 22 responses were received, of which eight have requested to speak to their submission as follows:

- Lindsay Gutsell
- Lindsay Eunson
- Tania Beck
- John Hay
- Peter Davey (via Simon Tonkin - council staff)
- Christine Henderson (via Zoom)
- Winton Kindergarten (3 adults 5 children).

The Chair expressed appreciation to all submitters for their attendance at the meeting and presentation to the committee.

Resolution

Moved Mayor Tong, seconded Cr Keast and resolved:

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Earthquake Prone Buildings - Submissions Received” dated 7 December 2020.**
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.
- d) Receives submissions on the Earthquake-prone Buildings consultation (Attachment B).

The meeting concluded at 10.56am

CONFIRMED AS A TRUE AND CORRECT RECORD AT A MEETING OF THE REGULATORY AND CONSENTS COMMITTEE HELD ON THURSDAY, 10 DECEMBER 2020.

DATE:.....

CHAIRPERSON:.....



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## Presentation - Te Puka o Te Waka Rakiura Museum

Record No: R/21/1/3061  
Author: Johanna Massey, Roving Museums Officer  
Approved by: Fran Mikulicic, Group Manager Environmental Services

Decision  Recommendation  Information

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### Purpose

- 1 The purpose of the report is to provide the committee with an update on the Te Puka o Te Waka Rakiura Museum via a powerpoint presentation.
- 2 Mention will be made of how several issues including Covid-19 lockdown affected the progress of the development of exhibitions and project timelines.
- 3 A powerpoint presentation is provided to highlight the role of the roving museums officer via one aspect of collection and exhibition development. This will be presented for the Committee's information only, no decisions are required.

### Recommendation

That the Regulatory and Consents Committee:

- a) **Receives the report titled "Presentation - Te Puka o Te Waka Rakiura Museum"** dated 9 March 2021.

### Attachments

There are no attachments for this report.



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## Earthquake Prone Priority Area

Record No: R/21/1/2483  
Author: Simon Tonkin, Building Compliance Team Leader  
Approved by: Fran Mikulicic, Group Manager Environmental Services

Decision  Recommendation  Information

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### Purpose

- 1 The purpose of this report is for the Regulatory and Consents committee to consider and discuss the submissions to the earthquake-prone buildings consultation and to make a recommendation to Council on the priority areas.

### Executive Summary

- 2 The system for identifying and managing earthquake-prone buildings changed on 1 July 2017. The new system prioritises identification and remediation of earthquake-prone buildings that either pose a high risk to life safety or are critical to recovery in an emergency.
- 3 To help determine which buildings may be priority buildings, staff have identified thoroughfares in five areas that may have sufficient vehicular or pedestrian traffic to warrant prioritisation, if parts of unreinforced masonry buildings were to fall onto them in an earthquake.
- 4 The five consultation areas are Otautau, Riverton, Tuatapere, Wyndham and Winton.
- 5 Earthquake-prone buildings in a medium seismic risk area that are not deemed priority buildings have 25 years to carry out remedial works. Priority buildings must be identified and remediated in half the standard time, 12 and a half years, to reduce the risks to life safety more promptly.
- 6 Council has received submissions through the special consultative process and is required to make a decision as outlined in the options below.

## Recommendation

That the Regulatory and Consents Committee:

- a) Receives the report **titled “Earthquake Prone Priority Area” dated** 16 March 2021.
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to deciding on this matter.
- d) Considers the submissions, including the additional verbal information, received on 10 December 2020.
- e) Recommends to Council that the following four areas are included as priority areas:
  - Otautau - 126-176 Main Street from the Alderly Street intersection to the Chester Street intersection
  - Riverton - 96 - 176 Palmerston Street from Jetty Street to in part just past Princess Street
  - Winton - 102 – 304 Great North Road from Bute Street Intersection to George Street Intersection
  - Wyndham - Balaclava Street from Redan Street towards Scutari Street not including numbers 12, 42, 44, 61 and 63 Balaclava Street.
- f) Recommends to Council that Tuatapere - 1-5 Orawia Road and 57-77 Main Road is not included as a priority area.



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## Background

- 7 The system for identifying and managing earthquake-prone buildings changed on 1 July 2017. The new system prioritises identification and remediation of earthquake-prone buildings that either pose a high risk to life safety or are critical to recovery in an emergency.
- 8 Certain hospital, emergency, and education buildings that are earthquake-prone may be 'priority buildings'. Other earthquake-prone buildings may be priority buildings due to their location and the potential impact of their failure in an earthquake on people, property and vehicles.
- 9 These buildings must be identified with community input and in accordance with section 133AF(2)(a) of the Building Act 2004, which requires Southland District Council to use the special consultative procedure as set out section 83 of the Local Government Act 2002. Council must identify potentially earthquake-prone buildings by 1 July 2022 in medium seismic risk areas.
- 10 To help determine which buildings may be priority buildings, staff have identified thoroughfares in five areas that may have sufficient vehicular or pedestrian traffic to warrant prioritisation, if parts of unreinforced masonry buildings were to fall onto them in an earthquake.
- 11 The consultation focused on vehicle and pedestrian thoroughfares with sufficient traffic to warrant prioritisation in the areas of Otautau, Riverton, Tuatapere, Winton and Wyndham.
- 12 Staff wrote to 149 identified property owners in the proposed priority areas. A total of 22 responses were received, of which eight spoke to their submissions at the Regulatory and Consents Committee meeting on 10 December 2020. Council also advertised the consultation on social media, local papers and Council's website.
- 13 The five consultation areas are Otautau, Riverton, Tuatapere, Wyndham and Winton.
- 14 Earthquake-prone buildings in a medium seismic risk area that are not deemed priority buildings have 25 years to carry out remedial works. Priority buildings must be identified and remediated in half the standard time, 12 and a half years, to reduce the risks to life safety more promptly.
- 15 Council undertook public consultation in the five consultation areas in 2020 and received, including hearing those who requested to speak, to submissions in December 2020.

TOWN	TOTAL SUBMISSIONS RECEIVED	REQUESTS TO SPEAK TO SUBMISSIONS
<b>Otautau</b>	7	2
<b>Riverton</b>	2	1
<b>Tuatapere</b>	0	0
<b>Winton</b>	8	3
<b>Wyndham</b>	4	1
<b>Across District</b>	1	1

- 16 All but one of the eight Winton submitters identified high vehicle and pedestrian traffic routes with children from the Winton Kindergarten using those routes on a daily basis.

- 17 The two submissions from Riverton agreed on high vehicle routes but only one submitter felt there was also high pedestrian routes.
- 18 From the seven submissions from Otautau only one identified key pedestrian and traffic routes but felt the risk was minimal.
- 19 No submissions were received from Tuatapere.
- 20 Council staff maintain the view that four of the townships have areas of significant vehicle and pedestrian traffic and a sufficient number of buildings within these thoroughfares are made up of predominantly unreinforced masonry.
- 21 The Christchurch earthquakes clearly showed that unreinforced masonry buildings create a higher risk and potential loss of life to people passing by these buildings.
- 22 The priority area legislation is to protect members of our community and if Council agrees with the priority areas the buildings will be assessed and brought up to code in half the timeframe (12 and a half years) compared to 25 years for non-priority buildings in the medium seismic zone.

#### Issues

- 23 Council approved the consultation process to meet our obligations under the Building Act 2004. There remains a risk that the identified priority areas may be too wide or too narrow. This risk has been mitigated through consulting with the community.

#### Factors to Consider

##### Legal and Statutory Requirements

- 24 The Building Act 2004 contains the earthquake-prone building provisions and sets out the scope of buildings to which those provisions apply. Subject to section 133AF, Council has undertaken the special consultative procedure to enable the community to assist in identifying priority buildings. The special consultative procedure states that Council must provide opportunity for those submitters who wish to be heard to have that opportunity. This opportunity was provided at the Regulatory and Consents Committee meeting held on 10 December 2020.

##### Community Views

- 25 This consultation obtained the community views on priority areas.

##### Costs and Funding

- 26 No financial implications arise from this report.

##### Policy Implications

- 27 There is no anticipated policy implication.

#### Analysis

##### Analysis of Options

- 28 Options considered are to agree with the five priority areas as per the consultation document, option 1 or decide there are no priority areas as per option 2 or option 3 reduce the priority areas

from five to four townships as Tuatapere has no obvious unreinforced masonry buildings therefore should not be considered as a priority area under the current legislation.

- 29 In considering the options Council staff have listed the advantages and disadvantages of each option and listed these in the tables below under each option.
- 30 It was also considered that scaling down the area along the main streets on some of the priority areas was not an option. Staff were not satisfied that scaling down the area would meet the criteria.

Option 1 – agree with five priority areas as per the consultation document

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>main streets of the five towns would have their buildings assessed by engineers and possibly upgraded within 12 and a half years where required</li> <li>the areas of higher vehicular and pedestrian traffic within the district will be prioritised for assessment</li> <li>provides certainty on the process for building owners</li> </ul>	<ul style="list-style-type: none"> <li>some submitters disagree with this approach and submitted that there is not enough foot or vehicular traffic to warrant any of the towns being priority areas</li> <li>it is possible that financial stress may be caused to the owners by assessing the buildings within the shorter timeframes</li> </ul>

Option 2 – decide there are no priority areas

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>building owners will have a longer timeframe to have their buildings assessed and upgraded where required</li> </ul>	<ul style="list-style-type: none"> <li>there may be a higher risk to life and property by not having any priority areas the timeframes move from 12 and a half to 25 years</li> <li>costs in the future will potentially increase for any work – assessment and upgrade</li> <li>areas within our towns may degrade over the longer period due to lack of maintenance and non-use of the buildings</li> </ul>

Option 3 - decide there are four priority areas - Tuatapere to be removed as a priority area

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>main streets of the four towns would have their buildings assessed by engineers and possibly upgraded within 12 and a half years where required</li> <li>the areas of higher vehicular and pedestrian traffic within the district will be prioritised for assessment</li> </ul>	<ul style="list-style-type: none"> <li>some submitters disagree with this approach and submitted that there is not enough foot or vehicular traffic to warrant any of the towns being priority areas</li> <li>it is possible that financial stress may be caused to the owners by assessing the buildings within the shorter timeframes</li> </ul>

<ul style="list-style-type: none"><li>• provides certainty on the process for building owners</li><li>• Tuatapere has no obvious unreinforced masonry buildings on the main street</li></ul>	
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### Assessment of Significance

- 31 This matter is not considered significant in accordance with Council's Significance and Engagement Policy.

### Recommended Option

- 32 The recommendation from staff is for option 3 - agree with the four priority areas identified, and not include Tuatapere as a priority area as per the consultation document.

### Next Steps

- 33 Council is required to make a decision on the priority areas before staff can set up the inspection programme for the district.
- 34 This decision will dictate the timeframes set out under the Building Act 2004 under which Council must undertake its work. The building act sets out the timeframes for action by Council, engineers and owners.

### Attachments

There are no attachments for this report.

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## Resource Consent 360/10/20/120 - NJ and VC Hamilton Family Trust - objection pursuant to section 357A and 357C of the Resource Management Act

Record No: R/21/2/8047

Author: Howard Alchin, Planner Resource Management - Consents

Approved by: Fran Mikulicic, Group Manager Environmental Services

Decision

Recommendation

Information

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### Purpose

- 1 The purpose of the report is for the Regulatory and Consents committee to consider an objection pursuant to sections 357A and 357C of the Resource Management Act 1991 (RMA). The objection was received from NJ and VC Hamilton Family Trust (the applicant) and relates to the term of the consent.
- 2 The applicant has also requested that the application fee to lodge the objection be waived.

### Executive Summary

- 3 A land use resource consent was granted in November 2020 to allow for the establishment of an Airbnb accommodation activity. The consent was issued, subject to conditions, without first being sent to the applicant for review.
- 4 The consent was issued with an expiry date of two years from the date of decision, with a section 128 review condition, and subject to compliance with a site management plan.
- 5 The applicant is objecting to the term of consent expiring after two years and has requested a five-year term of consent. The applicant is also seeking that the application fee, applied for a section 357 objection, be waived.
- 6 In addition to the above points the applicant has raised concern about having not received a courtesy copy of the draft decision for comment.
- 7 Staff are supportive of the five-year timeframe, but do not support the fee waiver. Council is not obliged to provide a draft for comment by the applicant prior to issuing the consent. Therefore a revocation of the application fee is not supported.

## Recommendation

That the Regulatory and Consents Committee:

- a) **Receives the report titled “Resource Consent 360/10/20/120 - NJ and VC Hamilton Family Trust - objection pursuant to section 357A and 357C of the Resource Management Act” dated 15 March 2021.**
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to a decision on this matter.
- d) Determines to increase the term of resource consent 360/10/20/120 from two years to five years from the date of this hearing with the consent now expiring on 25 March 2026.
- e) Declines the request for the waiver of the \$500 application fee.

## Background

- 8 Resource consent 360/10/20/120 was processed on a non-notified basis and is dated 2 November 2020. It grants consent for an Airbnb style visitor accommodation business for up to 15 guests. The consent was granted for a term of two years, and included conditions relating to a site management plan and a right of review. Following the expiration of the two-year term, the consent holder would be required to apply for a new resource consent.
- 9 The applicant was unable to secure the written approval of all the adjacent neighbours however Council approved the consent on a non-notified basis for a two-year period so that any adverse effects, including any complaints and any unanticipated effects could be assessed. After the expiration of the two-year consent period a further resource consent would need to be applied for.
- 10 The main issue addressed in the decision was noise and the mitigation of noise effects which resulted in conditions relating to a site management plan, the addition of a section 128 right to review condition, and the expiry of the consent after two years. Although the decision was made to process the consent on a non-notified basis, rather than on a limited notification basis, this was a close call, and a firmer view of residential amenity and traffic effects may have resulted in limited notification. The applicant advises that the owner of the vacant land at 66 South Arm Drive was not able to be reached for their written approval and the neighbour across the road (57 South Arm Drive) was against the granting of any resource consent. As a result, Council worked with the applicant to bring about a resolution to assist the applicant while recognising the potential for adverse noise effects. The resource consent is subject to stringent noise measures.
- 11 The application was lodged in May 2020 shortly after the first lockdown. There has been a downturn in visitor numbers and tourism has been severely affected in Te Anau. In light of the current environment, the committee could consider allowing the consent duration to be extended to five years and the applicant given the opportunity to secure written approval from all neighbouring properties. If all the written approvals were obtained the consent could be granted without the need for a limited timeframe.
- 12 Staff are of the view that had all the written approvals been obtained, the resource consent would likely have been granted without a specified expiry date imposed.

## ISSUES

- 13 Three key issues are before the committee. The first is that the consented timeframe was two years. Secondly, the applicant is seeking a waiver of the \$500 application fee for the objection process. Thirdly, the applicant has raised concerns with Council's process, specifically that the applicant was not given a copy of the draft decision and conditions for consideration prior to the consent being issued.
- 14 The main factor considered in decision making was noise and the authorised officer considered that the site management plan on its own was unlikely to be effective at managing the noise effects of large groups of people on the site.
- 15 The site management plan addresses the use of outdoor areas, limiting this to numbers of people at any one time along with hours that these areas can be used; enforcing check in and check out times; limiting guest numbers to 15; prohibiting gatherings, parties and events; limiting vehicle

movements and the number of vehicles at the site to three; expecting courtesy from guests towards neighbours.

- 16 The applicant has advanced an economic argument in favour of their case partly due to Covid-19, and partly due to the timeframe to proceed with a building consent after approval and the time to complete the building works. The applicant is concerned that only one year of operations would be completed in an uncertain economic environment before a new resource consent would need to be sought.
- 17 The applicant has made the following appeal: “When considering some of the building work our client will need to do as part of his activity, and the current economic climate and ongoing uncertainty in the tourism sector, this tight timeframe makes the activity very high risk of being economically unviable thereby almost making the consent worthless. The client will have to invest more time and money in getting building work done by which time he will have only a very short period left on the accommodation consent with no guarantee that after paying to go through the re-consenting process he will actually get that replacement consent.”
- 18 The applicant states in the approach to Council on these matters that: “We would however be happy to accept slightly longer consent period of five years. This being a much fairer timeframe as it provides the client a reasonable degree of certainty that they can operate long enough to recoup investment and make the activity economically viable.”
- 19 The applicant has also submitted that the imposition of a restricted timeframe and a section 128 review clause is an overly cautious approach. Staff are of the view that the section 128 clause would allow Council to act sooner than the two-year timeframe if there were any adverse effects that were more than minor and required immediate action.
- 20 The applicant has raised concerns that they were not provided with a copy of the draft decision/conditions prior to the ‘Final’ decision been granted and, on this basis, is seeking to have the \$500 application fee waived. Staff are of the view that there is no obligation to provide a draft decision to applicants for review, it is merely a long-standing courtesy. There is no basis for waiving the fee and staff are of the view that this fee should stand.

#### Factors to Consider

##### Legal and Statutory Requirements

- 21 No statutory timeframes were breached in the processing of the underlying resource consent. Council has accordingly accepted the current application under Section 357 of the Resource Management Act 1991.

##### Community Views

- 22 Community views are implicit in the consenting process. In this case the authorising officer was of the view that the direct neighbours were likely to be affected parties. Due to difficulties in obtaining these written approvals and the site management plan to manage potential noise effects the consent was not limited notified; however, it was issued with a two-year consent duration and a section 128 review condition.



Costs and Funding

- 23 There are no funding issues arising for Council from the processing of the consent or this objection to conditions. The comments provided in the objection regarding the timeframe to give effect to this decision and likely financial implications.
- 24 The application for a fee waiver has been raised by the applicant, however staff are of the view that the application fee should stand as there has been no breach of process or timeframes on the part of Council.

Policy Implications

- 25 There are no direct policy implications, although the long-standing courtesy of sending draft consents to applicants has caused concern even though Council was within its legal rights. Council continues wherever possible to extend this courtesy to applicants.

Analysis

Options Considered

- 26 There are three options for the committee to consider: These are:
- option 1 - reject the waiver of the application fee and the application for an extension of the consent duration to five-years.
  - option 2 - reject the waiver of the application fee, but approve the extension of the timeframe to five years.
  - option 3 - approve both the waiver of the application fee and the extension of the timeframe to five years.

Analysis of Options

Option 1 – Reject the waiver of the application fee and the application for an extension of the consent duration to five-years

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• the costs stand as appropriate</li> <li>• maintains the integrity of the consenting process</li> <li>• provides consistent administration of the District Plan</li> <li>• provides a clear example for similar future applications</li> </ul>	<ul style="list-style-type: none"> <li>• heightened risk to Council’s public relations</li> <li>• potentially leaves a perception of placing undue constraint on the applicant in difficult economic times.</li> </ul>

Option 2 – Reject the waiver of the application fee, but approve the extension of the timeframe to five years.

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>allows the applicant more time to complete the required building consent and building work</li> <li>recognises the difficult economic times for the tourism sector</li> <li>section 128 review remains to address unforeseen adverse effects.</li> <li>Council still has scope to deal with any adverse or unanticipated effects/consequences.</li> </ul>	<ul style="list-style-type: none"> <li>results in further costs for the applicant</li> </ul>

Option 3 – Approve both the waiver of the application fee and the extension of the timeframe to five years

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>allows the applicant more time to complete the required building consent and building work</li> <li>recognises the difficult economic times for the tourism sector</li> <li>section 128 review remains to address unforeseen adverse effects.</li> <li>Council still has scope to deal with any adverse or unanticipated effects/consequences.</li> </ul>	<ul style="list-style-type: none"> <li>has the potential to send a mixed message to the community</li> <li>could potentially allow for any adverse effects to go unaddressed for longer</li> <li>Council loses fee revenue</li> <li>the granting a fee waiver could set a precedent</li> </ul>

#### Assessment of Significance

- 27 The objection sits under the Resource Management Act 1991 and is therefore not considered significant in terms of the Local Government Act 2002.

#### Recommended Option

- 28 Staff recommend that the committee proceed with option 2 - reject the waiver of the application fee, but approve the extension of the timeframe to five years, with the consent now expiring on 25 March 2026.

#### Next Steps

- 29 Should the committee determine to follow option 2, staff will reissue the consent with an amended timeframe and advise the applicant accordingly.

## Attachments

- A FINAL Decision Letter to N J and V C Hamilton Family Trust [↓](#)
- B Email from Gareth Clark - applicants agent [↓](#)

2 November 2020

NJ and VC Hamilton and NJ & VC Hamilton Family Trust  
C/- WM Compliance Solutions  
90a Layard Street, Windsor  
Invercargill 9810  
Attn: Gareth Clarke

Dear Mr Clarke

**Resource Consent 360/10/20/120 –N J and V C Hamilton Family Trust – Land use consent to establish visitor accommodation for up to 15 people, which breaches the permitted baseline as detailed in the Urban Zone of Southland District Plan 2018 – 64 South Arm Drive, Te Anau**

Thank you for your resource consent application received by Council on 2 June 2020.

Additional information was requested and all information required was received on 18 July 2020 and 5 October 2020.

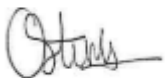
Your application has been considered by Resource Management department staff under delegated authority and **granted subject to the conditions in the resource consent** enclosed with this letter.

You have rights of objection and appeal in respect of this decision in accordance with Sections 120 and 357A of the Resource Management Act 1991.

I acknowledge receipt of the \$600.00 resource consent processing deposit. The total cost incurred in processing this application was \$3,090.00. Accordingly, an invoice for 2,335.50 will follow. This is after a discount of \$154.50 has been made in accordance with Section 36AA of the Resource Management Act 1991 – please refer to the attached letter.

If you have any further questions, please do not hesitate to contact the undersigned.

Yours faithfully



**Olivia Stirling**  
Graduate Resource Management Planner

### Outline of Resource Consent 360/10/20/120

The site subject to this application is located at 64 South Arm Drive, Te Anau and is within the Mararoa Waimea Ward of the Southland District. The site is located within the Urban Zone as defined by the Southland District Plan 2018 (the District Plan) and is subject to the Lakeside Protection Overlay and the Flood Hazard Overlay.

The subject site was created by Resource Consent 03/148 on 10 December 2003 which approved a staged 240 allotment residential subdivision. The subject site was identified within this Resource Consent as Lot 37. The application site is described as residential in nature with an established six-bedroom residential dwelling and an outdoor spa pool adjacent to the north western boundary of the property.

The surrounding environment is residential in nature and the subject site is located between two presently bare allotments being 66 South Arm Drive which is private land adjacent to the western boundary, and 60 South Arm Drive which is Southland District Council owned land adjacent to the eastern boundary. Two residential dwellings are located on properties within close proximity of the site being 57 South Arm Drive adjacent to the south of the subject site and separated by the road (South Arm Drive) and 68 South Arm Drive to the west of the site and separated by 66 South Arm Drive.

This application seeks approval from Council to undertake visitor accommodation in the Urban Zone for up to 15 paying guests which is over the permitted baseline of 5 paying guests at one time.

The applicant has provided an updated Site Management Plan on 18 June 2020, titled *The Lake House, 64 South Arm Drive, Te Anau* and dated June 2020 as a means to set guidelines for the use of the subject site for visitor accommodation. The Site Management Plan states that confirmation is required from guests prior to staying that they agree to the house rules as a condition of using the property.

The house rules state that there shall be no more than 15 guests present at the property at all times, and consideration shall be shown to the neighbours of the property at all times. Smoking is not permitted anywhere on the property. Additionally pets, parties, or events are not permitted. Unless travelling with parents, all members of an approved group must be at least 21 years of age. The house is available for visitor accommodation bookings 365 nights per year and a minimum of two nights per booking and can only be booked by one visitor accommodation group at a time.

In order to mitigate noise, the applicant proposes to prohibit the use of the outdoor areas on the south-east side of the dwelling between the hours of 10pm and 7am. Additionally, the use of outdoor areas on the lake side of the dwelling will be restricted to eight or less people between the hours of 10pm and 7am. The proposed check-in time is to be from 2pm and the check-out time is proposed to be 10am.

An acoustic assessment titled *64 South Arm Drive, Te Anau – Acoustic Advise*, dated 22 September 2020 and prepared by Paul Hazard from Bladon Bronka Acoustics Limited (BBA) was submitted with the application as requested by Council. The report recommends conditions of consent relating to noise limits at the notional boundary and the management of noise from visitors.

Vehicular access to the site is an existing access off South Arm Drive. The application states that all vehicles used by guests are to be parked on site and in the garage if possible, not on the street. There are six possible carparks on site; two disabled carparks in the garage, two in front of the garage on a concreted area and two directly in front of the dwelling on a concreted area. The applicant has advised that no more than three vehicles associated with the use of the property for visitor accommodation are permitted in

these carparks at one time. Each group of guests will receive a map outlining the location of the carparks in relation to the house.

### Activity Status

The proposed activity requires resource consent for the following reasons:

- Rule URB.1(2) only provides for five or less paying guests for visitor accommodation activities at any one time. In this instance up to fifteen paying guests may be accommodated.

Accordingly, resource consent will be required as a **Discretionary Activity** pursuant to Rule URB.3 of the District Plan as the activity cannot be undertaken as a Permitted, Restricted Discretionary or Non-Complying Activity and is not listed as a Prohibited Activity

### Reasons for approving Resource Consent 360/10/20/120 are:

- (a) Pursuant to Sections 87A(4) and 104B of the Resource Management Act, Council is satisfied that the adverse effects of the activity will be minor and further that for the reasons outlined below, the application will not be contrary to the objectives and policies of the Southland District Plan 2018.

The relevant objectives and policies of the Southland District Plan 2018 are considered to be Objective URB.1 to maintain or enhance residential amenity, Policy URB.1 and Policy URB.5 to avoid remedy or mitigate reverse sensitivity effects, reflect the needs of the community, integrate with existing land use activities and avoid adverse effects on the environment.

Council is satisfied that the activity as proposed is in keeping with the provisions of the District Plan as the adverse environmental effects of the proposed activity will be less than minor. This determination has been made on the basis of the written approvals received and the following assessment of the potential effects.

As each application for resource consent is assessed on its merits, and due to the application being the only visitor accommodation activity proposed by way of resource consent at the time of writing this report within the South Arm Drive lakefront area, it is not considered that the proposed development would set a precedent. Any future application for visitor accommodation within the South Arm Drive area would need to consider cumulative effects, and the mitigating of reverse sensitivity effects of providing visitor accommodation in areas where only residential activity has been provided for in the Urban Zone in the District Plan.

### (b) Noise

Noise is a key aspect of residential amenity as per Policy URB.3, therefore, a Site Management Plan was provided by the applicant and a noise assessment was requested by Council from the applicant.

The applicant has advised in the application that the visitor accommodation activity will not likely result in noise impacts over the threshold as stated in the District Plan. The site is advertised as “peaceful and secluded” therefore, in essence, the type of guests staying are not likely to create noise over the permitted limit and are unlikely to have noisy gatherings or parties. The application advises that due to separation distances from neighbouring dwellings noise impacts are unlikely to be an issue to neighbours, additionally the dwelling layout is such that any noise is orientated towards the rear of the property where the open plan kitchen, indoor and outdoor living areas and a large backyard are situated. Mitigation measures to ensure noise is kept to a minimum have been implemented through the Site Management Plan.

The site management plan proposes to mitigate noise by:

- Prohibiting the use of the outdoor areas on the south-east side (road frontage side) of the dwelling between the hours of 10pm and 7am.
- Limiting the use of outdoor areas on the north- eastern side (lake side) of the dwelling to eight or less people between the hours of 10pm and 7am.
- Enforcing check-in and check-out times (check-in time from 2pm and check-out time at 10am).
- Limiting the number of visitor permitted on the premises at a time to 15 guests.
- Prohibiting gatherings and parties at the property.
- Limiting the number of vehicle movements by ensuring guests only have a maximum of three vehicles at the property at a time.
- Visitors must be courteous of residents, neighbours and other visitors at all times.

Noise Assessment

The applicant submitted an acoustic assessment titled *64 South Arm Drive, Te Anau – Acoustic Advise*, dated 22 September 2020 and prepared by Paul Hazard from Bladon Bronka Acoustics Limited (BBA) as requested by Council.

Council did not commission a Peer Review of the submitted *64 South Arm Drive, Te Anau – Acoustic Advise* and subsequent information from the applicant in this instance because it is considered the expert advice has been provided by a nationally and internationally reputable Acoustics Consultancy firm and is, therefore, satisfactory for the purposes of determining notification.

Summary and key findings of amended Assessment of Noise Assessment Report 6 December 2019

The report assessed the potential noise emissions from guest noise including car parking, noise from guests outdoors and cumulative noise levels with internal amplified music at the nearest sites. Computer Aided Noise Abatement (CadnaA) version 2018 internationally recognised 3D noise modelling software was used to prepare a 3D noise model to predict the potential noise emissions from the site resulting from the proposed visitor accommodation on site.

The sites that the noise assessment considered were:

- 66 South Arm Drive, Te Anau
- 57 South Arm Drive, Te Anau
- 68 South Arm Drive, Te Anau

The report concluded that if the recommended mitigation and management methods are adopted, it is expected that the proposal will comply with the daytime and night time noise limits for the Urban Zone at all surrounding sites.

The application advises that noise from visitor accommodation activities on site will not be any louder than what is expected in a residential area. Council's Environmental Health Manager, Mr Michael Sarfaiti assessed the application and the noise assessment report and did not have any concerns relating to the

activity. The application states that the visitor accommodation activity on site will comply with the Urban Zone noise requirements. To ensure compliance with the Urban Zone noise limits, Council has used its discretion to impose conditions relating possible noise pollution including, prohibiting the use of outdoor stereo or sound systems and limiting the use of outdoor areas between the hours of 10pm and 7am.

(a) **Timeframe**

It should be noted that this resource consent is approved and affected parties have been identified on the basis of the information as detailed in the resource consent application and associated additional information.

Given the assessment of the Visitor Accommodation activity is reliant on compliance with the Site Management Plan and with the Urban Zone Noise rules in the District Plan, Council considers that a maximum **two year timeframe** is sufficient. Therefore, if the applicant wishes to reapply for resource consent after the expiry of this resource consent the application can be reassessed to ensure the Site Management Plan is being adequately enforced.

Council will be able to consider a longer timeframe in the assessment of any future resource consent applications, if the applicant can demonstrate compliance with the Site Management Plan and show how the application as proposed has been monitored and enforced.

(c) **Hours of operation**

The application states that the hours of operation are to be 365 days per year, however, the owner of the property will also use the dwelling for their own residential purposes various times throughout the year. Each group is required to stay a minimum of two nights and there is no limit for how long a group can stay. The check in time is proposed to be 10am and the checkout time is to be 2pm.

(d) **Residential Amenity**

Given the potential number of guests, it is considered that the scale of the visitor accommodation proposal would be greater than a typical permitted residential activity. The key difference between a visitor accommodation and a residential activity is that visitor accommodation results in irregular vehicle movements, additional noise effects, utilisation of outdoor spaces, loss of privacy and potential loss of residential cohesion, which can reduce the overall character and amenity of the area.

Additionally, Policy URB.5 of the District Plan relates to urban amenity and integration with existing land use activities, where there may be the potential for conflict where neighbouring properties or nearby landuse is not compatible.

Given that this is only the visitor accommodation use proposed in this area, and that no other resource consents have been granted within close proximity of this site for visitor accommodation, it is considered that the cumulative effects would be less than minor.

The location of the dwelling on site is compliant with all internal setback standards and is located most appropriately to provide for decent screening by way of fencing for neighbouring residents. The effects on loss of privacy on all 66, 68 and 57 South Arm Drive is therefore considered less than minor.



(e) **Affected Party Approvals**

Written approvals in terms of Section 95E of the Resource Management Act 1991 have been obtained from the following:

- The owners of 60 South Arm Drive (Southland District Council)

In accordance with Sections 95D and 104 of the Resource Management Act 1991, Council cannot have regard to potential effects on any party who has provided written approval to the application. The owners and occupiers of 66 South Arm Drive, Te Anau (S C Groot and J N Groot and W M Groot) and the property owner / occupier situated at 57 South Arm Drive, Te Anau (R L Anderson and M K Anderson and B C Anderson) were not considered to be affected given the noise assessment provided to Council and that additional noise effects, utilisation of outdoor spaces and traffic movements are controlled by the Site Management Plan.

In terms of an assessment of the effects of the proposal on the wider environment and consequently persons beyond those identified above it is noted that the applicant has mitigated noise through the Site Management Plan and has demonstrated that activities on site are likely comply with the Urban Zone noise requirements. Council, therefore, does not consider any other parties to be affected by this activity

(f) **Flooding/Natural Hazard/Evacuation/Contingency**

The subject site is located within the Upukerora flood zone. The flood risk at the property was considered through Building Consent RBW/2018/101865/1 which recommended minimum floor levels for the dwelling.

(g) **National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011**

This application is not subject to the 'National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011' (NES) as the application site is not identified as containing any sources of potential contamination. This has been confirmed by Environment Southland, as administrator of the Hazardous Activities and Industries List. Accordingly, Council considers that this NES has been addressed and no further assessment needs to be undertaken.

(h) **Heritage**

There are no historical or archaeological sites on the property that are known to Council.

(i) **Access/Transportation**

Vehicular access to the site is off South Arm Drive, where there is an existing accessway to the property.

The application states that when the site is used for visitor accommodation, vehicle movements are limited to three cars at the property at a time. Due to designated parking spaces on site, offsite parking is not required or permitted, as stated in the Site Management Plan. The applicant has advised that carparking on site complies with the Southland District Council Subdivision, Land Use and Development Bylaw 2012 which outlines that the minimum number of car parks required for

travellers accommodation is one carpark per bedroom or one carpark per four occupants, whichever is greater. Therefore, given there is six bedrooms on site, six carparks are required.

The parking arrangement on site is considered adequate for the scale and nature of the visitor accommodation activity proposed. Council's Roading Contract Manager, Nick Lewis, has reviewed the application and has not raised any concerns with the proposal regarding to vehicle access, traffic movements or carparking.

(j) **Waste Generation/Disposal**

The applicant proposes to control waste management through ensuring rubbish bins go out on the specified collection day and that the bins are brought in as soon as possible after being emptied. A cleaning fee will be included in the booking fee, however, it is requested that the property be left by any visitors in a tidy state and that recycling and rubbish bins are utilised for all refuse.

(k) **Building Solutions**

Building Solutions Officer, Leslie Ladbrook assessed the application as Building Consent RBW/2018/101865/1 and approved the construction of the dwelling on the site and it was assessed on the basis that the dwelling would be used for residential purposes. Mr Ladbrook has proposed a condition of consent regarding the requirement of a change of use building consent for this current application.

(l) **Services and infrastructure**

Council's Water and Waste Engineer, Brian Forde assessed the application. As the dwelling on site is already connected to Council reticulated services, Mr Forde does not have any conditions or comments regarding the proposal.

Name	Address	Consent No.
<b>N J and V C Hamilton Family Trust</b>	<b>64 South Arm Drive, Te Anau</b>	<b>360/10/20/120</b>
	<b>Hours</b>	<b>Total</b>
Resource Management staff Prior to July 1st	3.25 @ \$150.00 per hr	\$487.50
<ul style="list-style-type: none"> <li>• vetting of application (1.5 hr)</li> <li>• lodgement of application (30 mins)</li> <li>• assessment of application (1 hr)</li> <li>• preparing further information letter (15 mins)</li> </ul>	15.25 hours @ \$160.00 per hr	\$2,440.00
Post July 1 <sup>st</sup>		
<ul style="list-style-type: none"> <li>• assessing further information (45 mins)</li> <li>• section 95 report (5 hr)</li> <li>• drafting decision (6 hr)</li> <li>• meeting with senior planner and RM team leader (1 hr)</li> <li>• senior review section 95 (1 hr)</li> <li>• senior review decision (1 hr)</li> <li>• issuing decision (30 mins)</li> </ul>		
Building Control staff	0.25 hours @ \$171.00 per hr	\$42.75
Environmental Health staff	0.25 hours @ \$160.00 per hr	\$60.00
Roading Contract Manager staff	0.5 hours @ \$120.00 per hr	\$60.00
	<b>Total</b>	<b>\$3,090</b>
	<b>Deposit</b>	<b>\$600.00</b>
	<b>Less 5% Discount</b>	<b>\$154.50</b>
	<b>Invoice</b>	<b>\$2,335.50</b>

Pursuant to the Resource Management Act 1991, Southland District Council grants to:	
<b>N J and V C Hamilton Family Trust</b>	
A resource consent subject to the conditions and term set out below:	
<b>File No(s):</b>	Resource Consent 360/10/20/120
<b>Purpose of the Consent(s):</b>	Land use consent is sought to establish visitor accommodation for up to 15 people, which breaches the permitted baseline as detailed in the Urban Zone of Southland District Plan 2018.
<b>Property Address:</b>	64 South Arm Drive, Te Anau
<b>Legal Description:</b>	Lot 6 DP 914 and Lot 7 DP 915 which are held in Record of Title SL8C/28
<b>Valuation Reference:</b>	3044057438
<b>Date of the Decision:</b>	2 November 2020
<b>Term of Consent:</b>	<b>This resource consent will expire <u>two</u> years from the date of the decision.</b>



**Jennifer Green**

Senior Resource Management Planner - Consents

As

**Authorised Officer**

### Schedule of Conditions:

1. That the proposed activity shall be undertaken in accordance with the application submitted to Council on 2 June 2020, the additional information received on 18 July 2020 and 5 October 2020, and the site plan as appended to this resource consent, except as varied by the conditions of this consent.
2. That the Visitor Accommodation activity shall be undertaken in accordance with the updated Site Management Plan, as forwarded to Council on 18 July 2020 except as varied by the conditions of this consent.
3. That upon arrival all guests must be provided with the House Rules as outlined within the updated Site Management Plan, as forwarded to Council on 18 July 2020 and a copy of the conditions of consent.
4. That prior to the building being occupied by visitors, the consent holder at the consent holder's cost shall successfully obtain a building consent to change the use of the proposed building from a Detached Dwelling to a Community Service Use.
5. That noise levels generated during the exercising of this consent shall comply with the Urban Zone requirements at the notional boundary of noise sensitive receiving activities on adjacent properties and shall not exceed 50dB(LAeq 15 mins) and 75 dB (LAF max) between the hours of 7.00am and 10.00pm inclusive and shall not exceed 40dB(LAeq 15 mins) and 70 dB (LAF max) during all other hours.
6. That the maximum number of persons to be accommodated on the subject site shall not exceed 15 at any one time.
7. While the site is being used for visitor accommodation, the use of outdoor stereos or outdoor sound systems is not permitted.
8. While the site is being used for visitor accommodation the use of all outdoor areas shall be limited to daytime hours only between 7am and 10pm.
9. Council's Team Leader Resource Management shall be provided with a copy of any complaint relating to Visitor Accommodation on site, including the subsequent investigation and actions taken. This shall be provided within five working days of the complaint being received.
10. That the Council reserves the right to review the conditions of this consent, within one month of the anniversary of the granting of the consent, as provided for under Section 128 of the resource Management Act 1991.

Specifically, this review condition is to enable Council to ensure that the conditions of this consent do not become irrelevant, outdated, or inadequate and to enable Council to address any unanticipated adverse environmental effects which may arise from the exercise of this consent.

Those aspects which the Council shall address with respect to this review condition are:

- The adequacy of, or necessity for, monitoring conditions
- Noise

- The number of visitors permitted on site at one time
- The management of the visitor accommodation activity on site

### Advice Notes

- A1. It is the consent holder's responsibility to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in Section 339 of the Resource Management Act 1991.
- A2. Building consent needs to be accompanied by an analysis under section 115 of the New Zealand Building Act 2004 to demonstrate how the building will comply with the new proposed use as an accommodation building. If the analysis under section 115 of the building work identifies construction work that will need to be undertaken for the building to comply with the new use, that construction information will need to be provided with the building consent application as well.
- A3. Section 16 of the Resource Management Act 1991 requires the consent holder to adopt the best practicable option to ensure that the emission of noise from this activity does not exceed a reasonable level.
- A4. If the applicant wishes supply alcohol or food on the site please contact an Environmental Health Officer at Council who will advise if any approvals are required for either the sale or supply of food or alcohol to guests.
- A5. No specific signage is authorised by this consent. Any signage to be erected on the site must comply with the District Plan requirements or a separate resource consent will be required.
- A6. **The consent holder should be fully aware that this resource consent approves the activity of visitor accommodation for two years only. A further resource consent will need to be obtained to use the site for visitor accommodation after the expiry of this resource consent. Further to this, Council would like to reiterate that approval of this application does not ensure that any future resource consent applications will be approved.**
- A7. It should be noted that this resource consent is approved on the basis of the information as detailed in the resource consent application and associated additional information. In approving this resource consent application, Council in no way authorises any activities not detailed in this current resource consent application. Further activities may require a resource consent application and any further developments should be discussed with Council's Resource Management staff.

5 Site Plans

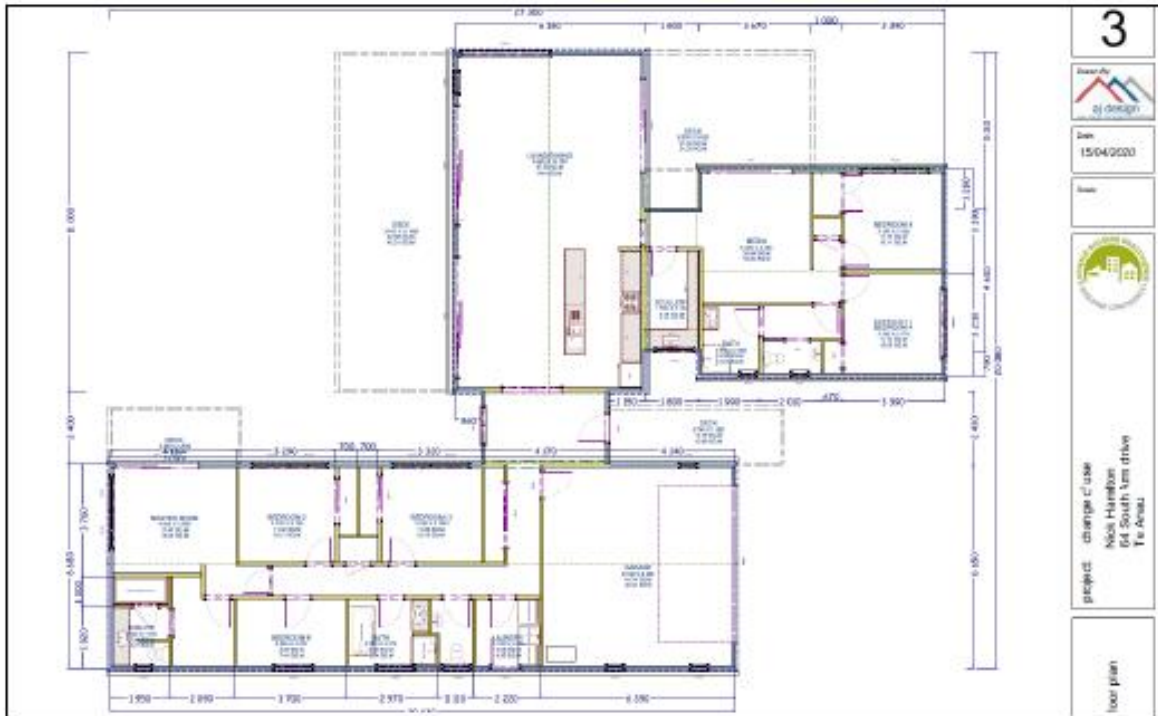


Figure 1: Floor Level Plan showing configuration of the Lake House (obtained from AJ Design Architecture, April 2020).



Figure 2: Allocated car parking spaces available at the property. Two disabled parking spaces are available in front of garage. One allocated car park in front of the house, and one other parking space is available in the garage.



**From:** Gareth Clarke [<mailto:Gareth.Clarke@wmcs.co.nz>]  
**Sent:** Thursday, 24 December 2020 8:57 AM  
**To:** Fran Mikulicic <[Fran.Mikulicic@southlanddc.govt.nz](mailto:Fran.Mikulicic@southlanddc.govt.nz)>  
**Subject:** Resource Consent Concerns

Hi Fran

I realise this is not a great time of the year to be doing this, right at the last minute, but I just wanted to raise a concern I have with some of the processes/capacity in the resource consenting area.

At the beginning of November we received resource consent for an application we'd lodged on behalf of our client for an Airbnb style visitor accommodation activity in Te Anau. The consent was processed by Olivia Stirling, and in her email she advised that if we had any concerns with the decision that was granted, we could direct those queries to the Duty Planner.

As it turned out, we did have some concerns, and I directed those to the duty planner in an email on 9 November. Two weeks went by and we had not received any response, so I sent a follow up on 23 November requesting a response. A further week passed without any response, so I tried again with a further email on 30 November. After another week of no responses I phoned Scott Dickson on 7 December who confirmed that the concerns we'd raised had been received and were being considered, and there would be a response in the near future. I then left it for a period while I went on leave, and have yesterday followed up again with Scott who advises that he thought someone was going to get in touch with us about it, but they had been "particularly busy over the last month or so and may not have had a chance to get to it".

Scott also advised that the feedback he had received from his Team Leader re our concerns was that he did not share them, and was happy with the decision that was made. While we disagree with his position, we accept it for what it is, and don't consider there is any value continuing to engage directly on the matter. We don't consider it to be a fair decision, however, and not in the best interests of Te Anau.

From our first point of inquiry on 9 November to finally being able to track down a (sort of) response yesterday, it has taken 6 ½ weeks. In that time all the objection and appeal timeframes under the Act have fallen over, which now leaves us a little bit stuck to challenge the decision. A more timely response might have avoided that situation and would have been fairer for everyone.

Our concern goes further than that, though. The consent we were given has only been given an extremely tight consent period (2 years), after which the client will have to go through another expensive and potentially fraught consent process. When considering some of the building work our client will need to do as part of his activity, and the current economic climate and ongoing uncertainty in the tourism sector, this tight timeframe makes the activity very high risk of being economically unviable, thereby almost making the consent worthless. The client will have to invest more time in money in getting the building work done, by which time he will have only a very short period left on the accommodation consent, with no guarantee that after paying to go through the re-consenting process he will actually get that replacement consent.

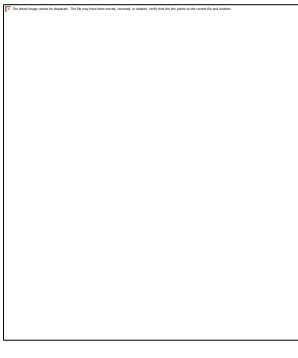
The reduced consent period appears unusually tight for this type of activity and we consider it is ultimately unnecessary as there are other conditions on the consent that provide the 'backstop' type control the reduced timeframe seeks to impose. We would, however, be happy to accept a slight longer consent period of 5 years. This is a much fairer timeframe as it provides the client a reasonable degree of certainty that they can operate long enough to recoup their investment and make the activity economically viable, all the while there are controls to deal with any residual effects that the Council is concerned may arise, as unlikely as that is. This is what we would have liked to have discussed prior to the consent being granted with such a tight timeframe. However, disappointingly we were not offered the chance to review the draft conditions. While, given the Team Leaders position, this might not have changed things at all, it is now a commonly accepted practice among consent authorities, and where it doesn't happen it can lead to issues down the line.



As far as I can tell, we may still have a chance to object to the decision under the Act despite now being well outside the regulatory timeframes to be able to lodge such an objection, though we would need your agreement to do so. Section 357C does allow an objection to be lodged “*within any longer time allowed by the person or body to which the objection is made*”. Given the circumstances outlined above, would the Council allow an objection to be lodged this far after receipt of the decision on the application? And in light of some of the communication issues described above, would the Council be willing to consider waiving the normal fee for lodgement of such an objection, being \$500.00.

Apologies again for springing this on you right at the close of the year. We look forward to your response when you’re back on deck in the new year.

Kind regards



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